

MINUTES OF AUGUST 20, 2019

**REGULAR MEETING
OF THE
CORTE MADERA TOWN COUNCIL**

Mayor Andrew called the Regular Town Council Meeting to order at Town Hall Council Chambers, 300 Tamalpais Drive, Corte Madera, CA on August 20, 2019 at 6:39 p.m.

1. CALL TO ORDER AND ROLL CALL

Councilmembers Present: Mayor Andrews; Vice Mayor Beckman and Councilmembers Kunhardt and Ravasio

Councilmember Absent: Councilmember Bailey

Staff Present: Town Manager Todd Cusimano
Town Attorney Teresa Stricker
Planning and Building Director Adam Wolff
Senior Civil Engineer Jared Barrilleaux
Town Clerk/Assistant to the Town Manager Rebecca Vaughn

SALUTE TO THE FLAG – Mayor Andrews led in the Pledge of Allegiance.

2. OPEN TIME FOR PUBLIC COMMENTS - None

3. PRESENTATIONS

A. Presentation of Citizen of the Year Award for 2019 to John Lister

Mayor Andrews and Councilmembers read and presented John Lister with the Citizen of the Year Award for 2019. They recognized his volunteer work with the Corte Madera Town Band, his presence at the Corte Madera Ocktober Fest as a strolling accordion player, as member of the Corte Madera Lions Club, member of NRG Advisory Committee and organizer of his neighborhood response group, and work to construct a giant turkey during the Thanksgiving season and donation/fundraiser. A round of applause followed.

Mr. Lister thanked the Town Council, NGR members, and spoke of his family's support.

B. PG&E Presentation on Medical Baseline Customers and Public Safety Power Shutoff Program Notifications

Presentation provided by Mark Van Gorder, PG&E Senior Government and Public Affairs, North Bay

Mark Van Gorder, PG&E Senior Government and Public Affairs Representative for the North Bay, gave a presentation on the Public Safety Power Shutoff. He covered the topics of high definition cameras, Nixel alerts, enhanced vegetation management for Tier 2 and Tier 3 high fire threat areas, various types of inspections of transmission towers, installing stronger poles and covered power lines, previous and future power shutoffs from red flag warnings, low humidity levels, forecasted gusts of winds of 25-45 mph, dry fuel conditions, and reports and communications, and a map of PG&E's service territory, 50% of which is in a Tier 2 or 3 threat area. There are 120 million dead, dying or diseased trees in the State of California and they are working to remove trees from the lines.

Mayor Andrews noted the high power lines will be shut off first and he asked what sort of spillover would occur to lower levels.

Mr. Van Gorder replied that on June 8th there was a wind event which was high 30's and 40's in eastern Napa County, parts of Solano and Yolo, and also in the Sierra Foothills. PG&E was able to isolate the lines of impact to 1,600 people for the County. The total shutdown was 12 hours.

He noted that Calistoga was in a Tier 3 zone and recently the entire City's power was shut down. Much depends on the weather and location, duration, strength of the event and PG&E provides a watch alert for 72 hours, 48 hours for the warning, 24-hour notification before power is turned off.

Once the event is over, they start restoring power as quickly as they can. They provide notification through television, radio, text, email, Twitter, Facebook, Instagram, and other social media. He encouraged people to listen to their car radio, purchase solar phone chargers, www.wildfiresafety@pge.com and their toll-free number is 866-743-6589.

Councilmember Ravasio applauded PG&E for taking the initiative but thought power could not be turned on until crews conduct visual inspections which will be difficult in some places.

Mr. Van Gorder confirmed but said it depends on the area impacted. He also confirmed the power outage could go on for 3-5 days but hopefully crews would have it back on sooner.

Councilmember Ravasio asked about people with medical devices.

Mr. Van Gorder stated he thought the slide was included in the presentation and agreed to forward the documents to the Town Clerk who could post them on the Town's website. For those who have doctor prescribed devices that require electricity, PG&E's baseline medical program will help those customers save energy and when enrolled in the program, whether or not they are a direct PG&E customer and have a need for the equipment, they will receive the notification.

There are some people who are not the customer of record. For those individuals, they ensure PG&E has a clear line as to where they live and PG&E will get them into their database, contact them by phone, and email and text and ask them to reply and respond. If they do not respond, PG&E will send someone out to knock on their door. If they are not at home or do not answer right away they will leave a door hanger.

Councilmember Ravasio noted that there was a temporary shutdown in Novato in the middle of the day. Traffic was locked in the shopping center due to traffic lights out, a restaurant's grill set off smoke alarms and he asked that the more notification that could be provided, the better. He added that the weather condition slide was identical to the months of September and October, and he asked if there was a high likelihood that power shut-offs would occur then.

Mr. Van Gorder said in looking at some of the fires in 2018, it varies and can occur at any time. Conditions can be erratic which are driven by the weather and wind, and he was cautious to assume a certain month would have high winds and conditions for higher fire risk.

Councilmember Kunhardt noted fire season is now May through December and he asked what progress PG&E was making moving away from fossil fuels that are causing climate change.

Mr. Van Gorder said he was not prepared to speak with data on this tonight but said people's personal beliefs do not always necessarily coincide with LEED certified, electric vehicles, solar, green practices, retention of trees, etc. He believes in climate change and said PG&E is dedicated to supporting electric and hybrid vehicles, reducing the use of fossil fuels and doing everything it can.

Councilmember Kunhardt said people are buying one or another kind of generator and he asked for the best type of generator that will not itself contribute to the problem.

Mr. Van Gorder said PG&E's website has links about how to determine what the best generator is and there are many links to providers but people need to know the precautions and whether it is the best thing.

Mayor Andrews said in terms of stores and facilities, he asked if PG&E was making provisions to help them with power such as the thawing of frozen foods, etc.

Mr. Van Gorder said their objective is to restore power rapidly and the weather will determine the length of the outage, but they have no means to provide stores with power.

Vice Mayor Beckman said the concept of the outage is premised on the unfortunate fact that PG&E's infrastructure is in such a state that in certain conditions, it is not safe to transmit power. He asked if PG&E was focused on rectifying that situation and increasing the range of weather conditions in which it is safe to transmit power as a more strategic goal.

Mr. Van Gorder relayed a story about a large branch breaking last week, off of a tree at his neighbor's house, which took out his service line to his house. Luckily the branches were below the power lines above and the City removed the one branch. The challenge is that there is a lot of vegetation that has grown over time, a lot of development which has moved out to wildland urban interface areas, and PG&E is required to serve those customers.

PG&E is looking at some areas where they can provide some generation and the inspection and reconstruction program is part of the program to fix facilities that need to be repaired. Ultimately, trees fall and PG&E will not be the source of ignition again and they will have to shut down power or remove all possible threat of something falling on their lines and taking power lines down.

Councilmember Ravasio asked and confirmed with Mr. Van Gorder that about 2,000 households were in the wildland urban interface area.

Mayor Andrews opened the public comment period.

Public Comments:

A Larkspur resident asked in a case where someone lives in a forest and trees are trimmed in the public right-of-way, she asked what PG&E was doing to educate homeowners that they must also clear their private property lines.

Mr. Van Gorder replied that he would like residents to contact PG&E. The power lines on the wooden poles are the distribution lines. From there, the lines come down to each home and this is the service drop. PG&E does not remove vegetation around the service drop. By calling PG&E, they can schedule a team member to come to a person's home, disconnect the power and allow the homeowner's representative to remove the vegetation safely and then send someone back to reconnect the power.

He said it should not be the case that trees on a person's private property and growing into their lines running down the street from pole to pole are not trimmed, as PG&E's will address that and their primary objective is the Tier 2 and 3 areas.

BILL ROSTENBERG, Greenbrae, said over a year ago, a 40 foot live oak tree fell and it landed on PG&E's distribution lines. It did not hit the high voltage lines, and he contacted PG&E and crews and arborists came out and studied it. Before leaving, PG&E told him that since the tree originated on his property he should hire someone and have them remove the tree. No one offered to turn off the power, and he asked if this is something to expect if it occurs again.

LUCINDA SMITH, Alta Way, referred to the loss of power last week which was a surprise

and due to an on-going project. She went through the process of notifying PG&E. There is a huge lack of communication from a customer service standpoint because she never got a call back and she asked PG&E to address the problem.

Mr. Van Gorder replied that he will send the Town Clerk some links and said he did not know the specific history of the incident. He recommended that if residents see power lines down from a tree to stay away from them and call 9-1-1. The Dispatcher should contact PG&E to mobilize crews.

He also encouraged everyone to sign up and provide contact information and they will receive alerts to power outages and when they expect it to come back on. He said PG&E and the State have been working with cellular providers on coordination of the cell towers and he encouraged people to go to their radios.

Town Manager Cusimano explained that there will be many questions from the community and he asked residents to reach out with questions and visit the website, and staff can facilitate questions to Mr. Van Gorder. The first power shut-off will answer many questions and will also raise many questions and he asked that residents be as prepared as possible.

4. **CONSENT CALENDAR**

- A. Authorize Introduction and/or Adoption of Resolutions and Ordinances by Title Only.
(Standard procedural action – no backup information provided)
- B. Second Reading and Possible Adoption of (1) Ordinance No. 988 Establishing A Residential Parking Permit Program To Restrict Non-Residents From Parking On Residential Streets The Town Council May Designate By Resolution From Time-To-Time, And (2) Resolution No. 32/2019 Establishing A One-Year Pilot Program In Madera Gardens.
- C. Approve an Agreement between the County of Marin and the Town of Corte Madera for the Highway Safety Improvement Program – Cycle 9
- D. Authorize The Public Works Director To Approve The Evergreen Hotel Grading And Drainage Permit Once Permit Conditions Are Met
- E. Approve Accounts Payable Warrants for July 2019
- F. Approval of Minutes of the August 6, 2019 Regular Town Council Meeting

MOTION: Moved by Ravasio, seconded by Kunhardt, and approved unanimously by the following vote: 4-0-1 (Ayes: Beckman, Kunhardt, Ravasio and Andrews; Noes: None; Absent: Bailey)

To approve Town Consent Calendar Items A, B, C, D, E and F.

5. **PUBLIC HEARINGS** – None

6. **BUSINESS ITEMS**

- A. Consideration And Possible Adoption Of Resolution No. 36/2019 Implementing Provisions Of Municipal Code Chapter 12.38 By Establishing Town Policy For Application Requirements, Review Procedures And Evaluation Criterial For Right Of Way Agreement Applications For Small Cell Wireless Communication Facilities

Director of Planning and Building Adam Wolff stated staff is requesting the Council consider and possibly adopt Resolution No. 36/2019. The resolution would implement provisions of the Municipal Code in Chapter 12.38. It would establish Town policy for

application requirements, review procedures, design standards and evaluation criteria for right-of-way agreements for small cell wireless communications facilities.

The Town Council provided direction at its October 2, 2018 Town Council meeting to explore opportunities to update policies relating to the evaluation of applications for small cell wireless facilities in the public right-of-way. The Town could not impose a moratorium and could not require standards or criteria that would have the effect of prohibiting the deployment or installation of small cell wireless facilities in Town or hold applicants to a stricter emissions standard than is required by federal regulations.

Applicants must submit applications and be subject to an approved right-of-way agreement. In January, staff confirmed the existing ordinance required applicants to indemnify the Town and also recommended that the existing ordinance be updated to first clarify that the owner of the facility, if different from the applicant, would be a responsible party to any agreement and allow the Town Manager or designee to deny or approve the right-of-way agreement as a way to comply.

The Council adopted Ordinance 982 on February 5, 2019 which updated Chapter 12.38 with these amendments. Staff has also monitored other jurisdiction's ordinance updates. The County of Marin moved forward with policy updates in July and staff felt this was a good time to move forward given primarily the Town's alignment with the County in on-going litigation challenging Federal Communications Commission (FCC) rules that drastically reduce local agency discretion in approving small cell facilities in the public right-of-way.

The County of Marin's policy is included as Exhibit A to Resolution 36-2019 in Attachment 1 and this policy sets the application requirements, review procedures, design standards and evaluation criteria specific to right-of-way agreements for small cell wireless facilities. The Town's ordinance already requires an application be made for a right-of-way agreement and this policy would supplement and implement those requirements specifically for small cell wireless facility right-of-way agreements. If adopted, the policy would become effective immediately and they feel it is advantageous.

Councilmember Ravasio asked and confirmed that the Town would evaluate where the small cell facilities would go, design standards, that an application the Town received had subsequently been withdrawn and that if the ordinance revisions be approved they would become effective immediately and subject to this policy.

Councilmember Kunhardt asked if the 1,500 foot buffer cell to cell was coming from the County's standard, noting that one example was a daycare center.

Mr. Wolff confirmed that it is a daycare center as defined by the State and not a family home facility.

Councilmember Kunhardt asked if the 1000 foot distance cell to cell is per provider so one provider is kept at 1000 feet and others at smaller intervals.

Mr. Wolff stated under the ordinance this would not be the standard. There is an exemption provision in the policy that allows, should an applicant say this effectively prohibits them from locating a facility in the Town, an applicant to apply for that exemption which staff feels is necessary. This is something the County has implemented as well.

Councilmember Kunhardt asked if the transmission devices were fed by fiber optic cable.

Mr. Wolff said he did not know. He thinks this is the case that some of them are. Staff has seen some applications for fiber optic cable in the public right-of-way recently and the applicants have let them know it is in anticipation of the small cell wireless facilities, but these are separate and apart from the actual facilities.

Councilmember Kunhardt stated they can serve home computers, and he noted one provider has put fiber optic cable at the top of Christmas Tree Hill and one person in the crew performing the work told residents it had nothing to do with 5G and another person told them it was absolutely in preparation of 5G.

Vice Mayor Beckman said given the FCC's restrictions placed on the Town's ability to regulate the deployment of 5G and small cell facilities within their municipal limits, he asked if the policy protects to the fullest extent enforceable under current law Corte Madera's prerogative over its public right-of-way.

Mr. Wolff said he did not believe staff knew exactly but they believe it is in line with what they are attempting to do and consistent with another jurisdiction that was part of the same on-going litigation.

Town Attorney Teresa Stricker added that there is pending litigation over the validity and scope of the FCC Order, and the Town is one of many municipalities across the nation challenging the FCC Order. The Order does impose significant limitations and she thinks the County has crafted something that allows the jurisdictions to proceed in a way that works with the Order currently in effect. At the same time, the Town is proceeding to challenge that Order.

Vice Mayor Beckman asked if staff would say this is an aggressive small cell wireless facilities policy being proposed based on what has been seen with most municipalities and nationwide.

Mr. Wolff said he would say it is relatively strong and something much stronger than what they currently have and he believes it is important to be aligned with others.

Vice Mayor Beckman referred to page 15 of the policy in Exhibit A to the resolution, under the list of least preferred locations in the public right-of-way, they are looking for a 1500 foot radius around locations. He would request adding "medical facilities" to the list.

Mr. Wolff said staff calls out the others because they are specifically tied to certain definitions in the Health and Safety code or the California Department of Education, so he would recommend finding a specific definition to tie this to because it could lead to ambiguity. Also, it can be relatively easily amended by resolution in the future.

Ms. Stricker clarified that this is a rapidly changing area of the law with active litigation. By structuring this through a resolution, should there be a change in the law or the Council requests an addition or revision, the Council will be able to make changes after staff is directed to research items further.

Councilmember Kunhardt asked if Vice Mayor Beckman was thinking of private and public hospitals, dentist or doctor offices, and Mayor Andrews suggested the Council determine whether they could adopt it as is and at a future Council bring refinements. He agrees medical facilities would be a useful refinement.

Councilmember Kunhardt asked if other jurisdictions are approving similar revisions.

Mr. Wolff stated he could bring back samples of their ordinances, as they have adopted variations on similar policies with application requirements, setting criteria and review standards.

Mayor Andrews referred to daycare centers and said these are referred to in the cannabis ordinance, and he asked if that definition was the same, and asked if the Council should make them consistent as defined in the code.

Ms. Stricker said she was uncertain; the definition in the cannabis ordinance is driven by certain legislation and she would need to research this. There are requirements in State law to the degree there has to be an offset for purposes of cannabis-related businesses. If the Council decides to adopt this resolution and direct staff to return with options, this can be something staff can do.

Mayor Andrews referred to ADA problems, noting that it is not uncommon to have a sidewalk with a telephone pole in the middle of it. He asked if the Council could include something on siting any equipment to require moving these poles which is already out of ADA compliance.

Mr. Wolff stated for facilities proposed in any right-of-way agreement has the ability to review placement and location of facilities and its effect on ADA. This would be something staff would need to research further as many of the poles are owned by PG&E and there are also federal regulations regarding the agreements with PG&E and small cell wireless facilities.

Ms. Stricker agreed and said staff would need to review this to determine if there is an option to attain that leverage, as well as streetlight poles.

Mayor Andrews referred to page 18, 7-4 Design, and asked if this is “instillation” or “installation” and Mr. Wolff stated staff will correct this error.

Mayor Andrews opened the public comment period.

Public Comments:

A resident asked if facilities can be within 1500 feet from a home or asked if there was no limitation for those in a public right-of-way. She also asked why there are protections from daycares and schools and not from residential homes.

Mr. Wolff said there is no ability to outright prohibit a facility from a residential area entirely. However, there are most preferred and least preferred locations and when an application is submitted, every attempt would be made of applicants to explain why it could not be in a preferred location. Regarding facilities near residential homes, this is on the least preferable list. For schools and daycares, there are less of those as compared to homes.

Councilmember Ravasio moved and Vice Mayor Beckman seconded to adopt the resolution with amendments.

Ms. Stricker asked that the Council direct staff to fix the typographical errors involving “installation” and she noted the Clerk found a typographic error on the first page, Section 1.1.a, the word “small” at the beginning of the paragraph should be deleted.

MOTION: Moved by Ravasio, seconded by Beckman, and approved unanimously by the following vote: 4-0-1 (Ayes: Beckman, Kunhardt, Ravasio and Andrews; Noes: None; Absent: Bailey)

To Adopt Resolution No. 36/2019, as amended, Implementing Provisions Of Municipal Code Chapter 12.38 By Establishing Town Policy For Application Requirements, Review Procedures And Evaluation Criterial For Right Of Way Agreement Applications For Small Cell Wireless Communication Facilities, with direction to staff to return with additional information as discussed by the Town Council.

B. Update On Current Bicycle/Pedestrian Grant Applications Submitted And Approval Of An Amendment To The Capital Improvement Program (CIP) To

Include Three Additional Projects: Larkspur Class I Path Hart Street Connector, Pixley/Redwood Intersection Improvements, and High Canal Path Paving

Senior Civil Engineer Jared Barrilleaux gave the staff report and reviewed the five grant applications, stating these were presented to the Bicycle Pedestrian Advisory Committee (BPAC) last week and received good feedback for the designs. He noted the attachments are concept plans. Staff foresees returning to the Council and revising these as these involve submittals of grant applications. The request is to approve the amendment to the CIP for the three additional projects because the first two projects are included in the CIP.

He then provided an overview of projects and grant information per the staff report for the Casa Buena Complete Streets Project and the Redwood Highway Path Rehabilitation project. The three new projects not in the CIP are: 1) Pixley/Redwood Intersection Improvements, 2) Class I Larkspur-Corte Madera Path Hart Street Connector grant; and 3) the Pixley/Redwood Intersection Improvements project; and the High Canal Path Paving project.

Councilmember Kunhardt noted that all projects have been reviewed by the Safe Routes to School representatives and BPAC and considered a priority.

Vice Mayor Beckman asked if the Town stipulates the use of permeable paving for projects which is sustainable and asked if it aligns with the Town's policies.

Mr. Barrilleaux said he would have to defer this to R.J. Suokko, noting that while permeable paving is great, it is an expensive product and the wear ability is not as good as traditional hot mix asphalt.

Mayor Andrews said he recalled that about 4 years ago there was \$220,000 earmarked that was returned for this project. He asked what the Town's legal authority was to build a paved path along this property.

Mr. Barrilleaux said staff has not reviewed the legal authority at this time. This request is to just apply for the grant. Should it be awarded, staff will return with a legal opinion as to the feasibility of it.

Mr. Cusimano stated there is no payback or embarrassment for returning the grant funding. They believe there are strong arguments and felt it was important to submit the grant. They are going through records to engage the two or three residents who have concerns and think they have a strong path forward.

Mayor Andrews asked for the amount of outreach done for the neighborhood, and Mr. Cusimano stated none was done but historically, this came down to two or three neighbors. They were time constrained with 10 days. He agreed they have work to do but wanted to submit the grant application because these are important funds and an important project.

Mayor Andrews opened the public comment period.

Public Comments:

JIM ROBINSON said he attended the BPAC and participated in discussion. This project goes back 20 years and each time it was met with opposition from the west side of the project. This also was part of the Corte Madera Bike and Pedestrian Plan in 2016. He voiced support applying for grant funds, agrees with Councilmembers comments about decomposed granite which had been the preferred plan but there is a legal question as to whether the site can be improved and hoped to find out more.

His other concern is getting expectations up by Safe Routes to School and those along the fence line. When the High Canal Pump Station was built there were certain environmental issues with work being done at certain times because of nesting seasons, but he supports

the application and asked that research be done and to proceed with engagement of residents along the fence line.

DAVID MCPHEARSON asked to display a Google map showing Birch to Lakeside and the path from Pixley going to Lakeside and homes on Birch and South Birch to the Sandra Marker Trail, paved and unpaved sections.

He said his comments do not address the legal issues some homeowners feel they have the right to block paving or improvements, but he pointed to the existing path and neighbors on Birch and said the Town was able to pave that without opposition. These homeowners now enjoy the benefit of having a paved accessible path. He then pointed to a section that is rutted and not accessible for several people. So some people feel any improvements to their perceived backyard will interfere with enjoyment of their homes, but none of the other people with existing pavement deal with that issue. He asked for outreach to homeowners and to indicate that any improvements are good for the community as well as them as homeowners.

Councilmember Kunhardt stated one of the reasons Hart and Pixley are connected is that the improvement of the little Hart connection between the major north/south bike and pedestrian trail is a route for most of the Larkspur students who attend Neil Cummins. It is a way to focus those students on smaller streets other than coming down the center of Town, and they feed right into the Pixley/Redwood connection to the back of Neil Cummins School. The crossing guard from Pixley/Redwood has been pulled and switched for the much busier road. These physical improvements go a long way in making this busy pedestrian/bike intersection much safer. They also allow the Town to not replace the \$15,000 a year crossing guard expense.

Councilmember Ravasio stated BPAC reviewed this last week and endorsed all projects, and he recommended doing the same. The Hart Street issue may need more work but the Town needs to submit the grant application. Regarding the High Canal issue, there is history as well but there are new learnings and experience as well as new staff members, and he would highly encourage pursuing this and working with homeowners.

Vice Mayor Beckman echoed his support.

Mayor Andrews stated he supports all of the projects except for the High Canal and recommended doing more research before adding it to their CIP.

Councilmember Kunhardt asked if this involves discussion with those who have fence lines along this area, and Mayor Andrews stated no; it is based upon comments he has heard that people do not want Lakeside to Hickory paved because it is primarily used as a pedestrian path. If paved, the Town will encourage bicyclists who tend to travel at high speeds to go along there. If it is put in the CIP, the next time the Council hears, they will want to start paving it and he would also like better outreach to the neighborhood. It is possible they will support it at 6 versus 8 feet wide, but the groundwork has not been laid with the neighborhood to move forward, given previous opposition.

Mr. Cusimano explained that the project does not move forward without a grant and return to the Council with what the project will even look like. It is securing grant funds and is all a matter of negotiation with those who have had issues.

Mayor Andrews said it is more a matter to him about the fact that once the project is put on this list and someone will tell him the Council approved it in 2019 by putting it on the list.

Mr. Cusimano said staff will know in 6-8 months if they get the grant and if they do not get the grant, they cannot move forward with the project. As they engage the community over this time and they see the path and get the grant, they can move forward with the project.

There are also other issues in that this is a different time than the last time this came before the Council.

Councilmember Ravasio understands Mayor Andrews' reservations, but noted that the Town got the grant before, were set to go and they did not build it. So, he did not think the Council is setting in stone they are doing this but this allows getting the wheels in motion and having staff work on it. He met with staff at length. This is a very different staff that he thinks is more capable of working and listening to the public and coming up with creative solutions and there are also safety concerns to consider.

Councilmember Kunhardt questioned whether he had a conflict, stating today is the day his spouse was walking on the High Canal Pathway to work and home and would feel safer when passed by pedestrians and bicyclists if it was a more completed pathway. The bike population has increased greatly and they also believe it is an important project.

Mr. Cusimano said staff will engage neighbors immediately after this meeting and let them know they are only submitting a grant application and indicate they want to work together and engage with homeowners.

Mr. Stricker stated his wife's use of the path does not create a legal conflict.

MOTION: Moved by Ravasio, seconded by Kunhardt, and approved unanimously by the following vote: 3-1-1 (Ayes: Beckman, Kunhardt and Ravasio; Noes: Andrews; Absent: Bailey)

To Approve an Amendment To The Capital Improvement Program (CIP) To Include Three Additional Projects: Larkspur Class I Path Hart Street Connector, Pixley/Redwood Intersection Improvements, and High Canal Path Paving

C. Discussion And Possible Direction To Staff Regarding Policy Framework, Draft Zoning Ordinance, And Environmental Analysis For Creation Of A Floor Area Bonus For Hotels In Certain Zoning Districts

Mr. Wolff stated this item began in February 2018 when the Council discussed whether to permit additional floor area for hotels in Town, and the ordinance is rather complex as developed by staff and the Planning Commission. Staff is not asking for action but direction and affirmation for support of the draft ordinance and policy, as well as to receive comments on the draft ordinance and policy. Lastly, staff was looking for direction on implementation and the environmental review process.

The staff report includes attachments from all staff reports on the matter. Staff worked with the Planning Commission and presented a conceptual framework regarding a floor area bonus for hotels. The Commission recommended incorporating more specific guidance and to include objectivity as to how to achieve the bonus. Staff returned and developed the floor area or a point system schedule for assigning floor area based on certain amenities of a potential hotel project. The Commission reviewed this on November 18th, made some revisions, and in April 2019 staff drafted a zoning ordinance amendment that the Commission has recommended for approval.

Since that time, staff has looked to better clarify the ordinance and have made some additional tweaks and clarifying language, which are identified in Attachment 1. The Commission Resolution is in Attachment 2 of the staff report.

Mr. Wolff then provided an overview of the ordinance, bonus floor area a hotel could receive up to .7 FAR or what is double than what the current ordinance allows, applications would be limited to the C-3, C-4, and MX zoning districts and sites greater than 1 acre in size. Applicants would be required to hold a community meeting and hold a preliminary

hearing at the Planning Commission prior to the application submittal. Enhanced findings would be required to be made by the Commission under a list of categories which are outlined in the scoring system.

He then displayed the C-3, C-4 and MX zoning districts by color. The C-4 district does not currently allow hotels and this would need to be amended to allow hotels as a conditional use. He then displayed the variety of uses in each district and discussed specific conditions for hotels. Under the current parcel sizes, there could be additional parcels opened up through lot mergers which must be at least one acre or greater.

Regarding findings, the Commission felt the top two bullets should be weighted findings, and all findings must be made to approve a bonus for floor area for a hotel. The top two bullets would be a maximum of .12 FAR for architectural design and environmental sustainability which is weighted twice as much as the other two findings of community integration and realm. The Commission then defined how to get to those maximum FAR bonuses for each find of the findings, which he described.

Staff and the Commission looked at the General Plan and in the Planning Commission resolution for consistency and throughout there is the concept of all areas are in the mixed use land use designation which is a mix and hotels is one of those uses that belong here. In addition, there are some specific policies that talk about infill floor area and allowing bonuses for infill development that demonstrates substantial compliance with infill policies.

Regarding next steps, he asked for comments and questions from Councilmembers. If the Council provides direction to proceed with implementation, staff recommends undertaking additional environmental analysis prior to returning to the Planning Commission and thereafter, the Council with the proposed ordinance. Staff would return to the Council with a contract with an environmental consultant for approval.

Public comment was received from Bob Silvestri of Community Venture Partners regarding the inadequacy of utilizing the CEQA exemption for the ordinance. Based on follow-up discussions with staff, they believe the potential environmental impacts disclosed, adequately addressed through an Initial Study and Negative Declaration or Mitigated Negative Declaration which would be confirmed with the environmental consultant.

Councilmember Kunhardt said if the Town did not prepare a high level environmental analysis but required it of any individual project that comes forward he asked if the developer would be paying for it.

Mr. Wolff said yes; there is project-specific analysis always required for any one site, but this is required more for potential sites that may be developed under this ordinance and how it might affect density-related impacts.

Mayor Andrews provided an example, stating if all of the yellow squares were maxed out as hotels, would traffic grind to a stop.

Mr. Wolff said part of the reason why environmental analysis is done at the ordinance level first is that it may reflect back and provide some potential alternatives to the ordinance. There are some ways they can think about the ordinance and limit the potential number of applications to make it easier to analyze for impacts.

Councilmember Kunhardt stated most adjacent jurisdictions allow higher FAR for hotels and he asked if any have this very creative and careful segmented incentive program designed for the many ways of getting to a .7.

Mr. Wolff said no; but for Larkspur, the 1.0 FAR is through a Specific Plan. In general, the other FARs lump hotels in with their other commercial uses like Corte Madera currently uses.

Councilmember Ravasio asked if the language precludes the clustering of too many hotels or if staff would need direction to add this. He said the whole idea is to incentivize hotels, so the potential is that the Town may have more hotels all next to each other with impacts which may be something they do not want.

Mr. Wolff said this is something he will be looking at in conjunction with the environmental analysis. He thinks it is worth having discussions about adjusting environmental impacts while also implementing something like a de-clustering provision. This might still implement the goal of the actual ordinance.

Mayor Andrews thanked Mr. Wolff and the Planning Commission, noting this is what the Council has requested and it shows a great deal of creativity. He referred to the category of Community Integration and said this should be tangible, noticeable benefits the residents can easily see. The Public Realm generally helps the Town out but residents might not directly see the benefits even though the Town benefits. He thought about moving the Workforce Housing category from the Community Integration to the Public Realm because if done well, it would help with RHNA and residents would not notice it is there.

Mr. Wolff said one of the reasons it was not in Community Integration was because it was going to be on private property. Some part of the project was to be opened up and integrate with the community in some ways whereas the Public Realm was dealing more specifically with something out in the CIP where there was a direct contribution to bike and pedestrian facilities. However, technically it could work either way.

Mayor Andrews said the Town has lost a couple of amenities available from hotels which was the swim club and the restaurant and it would be nice to encourage them to think about adding one of those two back.

Mayor Andrews opened the public comment period, and there were no speakers.

Vice Mayor Beckman said he thinks this is great policy and he applauded staff and the Planning Commission. Councilmembers concurred.

Mayor Andrews referred to page 2 of Attachment 1, Findings 1.A, second to the last line which states "fenestration". He asked and confirmed this means windows.

MOTION: Moved by Andrews, seconded by Beckman, and approved unanimously by the following vote: 4-0-1 (Ayes: Beckman, Kunhardt, Ravasio and Andrews; Noes: None; Absent: Bailey)

To direct staff to move forward regarding Policy Framework, Draft Zoning Ordinance, and Environmental Analysis for Creation of a Floor Area Bonus for Hotels in Certain Zoning Districts, as amended.

Mr. Wolff stated the next step would be to reach out to environmental consultants and once they have selected one, an RFP will be done and staff will return with a contract, scope of work and cost.

Councilmember Kunhardt stated he was not persuaded that the MND is a good use of money and time. Vice Mayor Beckman said he thinks there is legal risk to not doing it.

Mayor Andrews said if the Town moves forward and gets sued, he asked the Town Attorney if the Town would end up paying for the Town's attorney, their attorney and an environmental consultant to handle it.

Ms. Stricker said if the lawsuit was successful, this would be the pathway.

Vice Mayor Beckman said if environmental work was not done, the Town may be sued.

Mr. Cusimano stated based upon facts known today, he would not recommend moving forward if the Town does not prepare environmental documents and the Negative Declaration is the middle ground. There are multiple parties that would challenge the Town and he believes the Town would lose that legal challenge. While he does not want to spend unnecessary money, if they move forward with this project, the Council should consider staff's recommendation.

Mr. Wolff said also the economic development goal is to attract potentially another hotel of a significant size and in the meantime, the time and energy put into an environmental document is something that will be worth it in the long run to achieve that objective.

7. COUNCIL AND TOWN MANAGER REPORTS

- Town Manager Report – Mr. Cusimano deferred to the Council Reports.
- Council Reports
 - Councilmember Kunhardt reported the following:
 - Eastman/Tamalpais intersection will have a crossing guard tomorrow morning. He met with representatives from the Transportation Authority of Marin (TAM), consultants and Mr. Brown and none of the tweaks to the rules would result in it being automatically funded. Controlled intersections that have lights that stop traffic are rated as safe. Uncontrolled intersections that do not have lights and do not stop traffic are considered unsafe and deserving of crossing guards. He is working with TAM to tweak that which will take time.
 - The recruitment for Executive Director of TAM was being finalized and there are still two candidates.
 - He attended the meeting of the MCCMC Legislative Committee and listened to their Senator and Assemblymember David Chiu on the topic of housing finance techniques which is being advanced.
 - He attended his first meeting of the Marin Telecommunications Agency (MTA) and is getting up to speed. They reached the MTA's position on the Grand Jury's report and he asked if the Town Manager has received the Grand Jurys' response for the Town to take a position.

Mr. Cusimano stated it is a very similar report which is being drafted and it will be ready to go on September 17th and can forward it to the Council. The Town received an extension to September 20th.

- Councilmember Kunhardt asked and confirmed with Ms. Vaughn that staff has not received any response for request to assignments to the revitalized Climate Change Committee and that a reminder would be sent.
- Vice Mayor Beckman reported that Age-Friendly Corte Madera held their annual celebration this past weekend for residents aged 90 and above. He was not able to attend but heard it was a fantastic event.
- Councilmember Ravasio reported on the following:
 - Attended the BPAC meeting last week.

- He and the Marin Ready Together group met yesterday and they are discussing forming a Fire JPA.
- He attended a CMPA Police Council meeting where a new salary plan was approved and gave the Police Chief an extension and raise. They also had a Fire Council meeting where a trust was established to invest pension funds, and they approved a response to the Grand Jury Report on Fire Prevention.
- Mayor Andrews reported the following:
 - There were 25 honorees of 90+ in age at the Age-Friendly event held at the Community Center.
 - On August 12th the Flood Control Board met with new members and he suggested anyone wanting a good overview of the Town's flood system should watch the presentation.

8. REVIEW OF DRAFT AGENDA FOR UPCOMING TOWN COUNCIL MEETING

- A. Review of Draft Agenda for September 17, 2019 Town Council Meeting (September 3, 2019 Town Council meeting was canceled by Council action taken at the May 7, 2019 meeting)

Mr. Cusimano stated they will have a presentation from the Fire JPA which will be added to the agenda.

Staff is trying to agendize a discussion about forming a Sustainability Commission and merging that with the Flood Control Board, and the more substantive item will be a review of the noise ordinance.

9. ADJOURNMENT

The meeting was adjourned at 9:30 p.m. to the next regular Town Council Meeting on September 17, 2019 at Town Hall Council Chambers.