

MINUTES OF JANUARY 19, 2016

REGULAR MEETING  
OF THE  
CORTE MADERA TOWN COUNCIL

Mayor Bailey called the Regular Meeting to order in the Town Hall of the Town of Corte Madera on January 19, 2016 at 7:31 p.m.

**1. ROLL CALL:**

~~Councilmembers Present:~~ Mayor Bailey, Vice Mayor Furst and Councilmembers Andrews, Condon and Lappert

~~Councilmembers Absent:~~ None

~~Staff Present:~~ Town Manager/Town Engineer David Bracken  
Director of Administrative Services/Town Treasurer George T. Warman, Jr.  
Town Attorney Randy Riddle  
Director of Planning and Building Adam Wolff  
Director of Recreation and Leisure Services Mario Fiorentini  
Senior Planner Phil Boyle  
Associate Civil Engineer Kelly Crowe  
Corporal Jenna McVeigh, CMPA  
Town Clerk/Assistant to the Town Manager Rebecca Vaughn

**SALUTE TO THE FLAG:** Mayor Bailey led in the Pledge of Allegiance.

**2. PRESENTATIONS**

2.I. Presentation to Hartley West for Service to the Parks and Recreation Commission

Mayor Bailey, on behalf of the Town Council, presented Hartley West with a plaque recognizing her hard work, dedication and commitment while serving as a Parks and Recreation Commissioner for the Town of Corte Madera. A round of applause followed, and Ms. West thanked the Town Council.

2.II. Presentation of Proclamation Honoring the Town of Corte Madera on the Occasion of its 100<sup>th</sup> Anniversary of Incorporation.

Mayor Bailey stated this honor is part of a series of commendations the Town is hoping to receive, and the Centennial Committee is working on planning for the occasion. He asked that Councilmembers individually read aloud portions of the Proclamation into the record.

MOTION: Moved by Lappert, seconded by Furst, and approved unanimously by the following vote: 5-0 (Ayes: Andrews, Condon, Furst, Lappert and Bailey; Noes: None).

To approve the Proclamation Honoring the Town of Corte Madera on the Occasion of its 100<sup>th</sup> Anniversary of Incorporation

**3. OPEN TIME FOR PUBLIC DISCUSSION**

PATTY STOLIAR, Casa Buena Drive, announced that Corte Madera is the first to receive the grant created by the Marin Community Foundation and the County of Marin to encourage all jurisdictions in Marin to become age-friendly. Age-Friendly Corte Madera is excited to receive this grant and for being recognized by the World Health Organization.

Ms. Stoliar also discussed her call and the immediate response by the Town after she requested a traffic cone be placed in the area of a pothole.

BOB BUNDY, Golden Hind Passage, stated that on behalf of the Lions Club who hosted the New Year's Eve Party and kick-off for 2016, he appreciated the support of the Town Council. He clarified for the record that he asked Restoration Hardware to support the event in part so costs could be kept down. He thanked Councilmember Lappert for also sponsoring the event and other businesses which provided financial benefit, as well.

KAREN GERBOSI, Parkview Circle, referred to an article in the Marin IJ and messages to the Town Council regarding the theater being sold and replaced with another business. She asked that the Town Council not involve themselves in the theater, as it is a commercial enterprise. The theater was not viable and the owners chose to sell it. She said she would personally like a stationary store, drive-through restaurant, or something else and this is something the Town should not involve itself in.

DAVID LITWIN, Larkspur, countered the statements of Ms. Gerbosi, stating there are untold numbers of County residents who think the theater is a cultural and civic treasure. It is the only theater of its kind in the Bay Area and he noted George Lucas funded it to ensure that such a venue would be available to the community.

#### **4. COUNCIL AND TOWN MANAGER REPORTS**

- Town Manager Report:

Town Manager Bracken gave the following report:

- During high tides and heavy rains, the Town has held up well; however, there was ponding in Mariner Cove, the worst being on Golden Hind at Ebb Tide Passage which the Town will need to address in future budgets.
- There were electrical problems with the controller at San Clemente Gate but Town officials are still able to operate the gate manually.
- He met with the Managers of Tiburon and Belvedere last week and received an update on the Yellow Bus Challenge. Apparently the program has been successful in reducing traffic congestion. They are now considering different ways to continue and fund the program in the future.
- Larkspur City Manager Dan Schwarz and he met with Jim Irving to continue discussions on sharing fire services. They mainly discussed the financial implications of different scenarios of sharing a Chief, Battalion Chiefs, and/or full consolidation of the two departments. The next step will be to have the two subcommittees meet and ask that Mr. Irving present the study which would then come before the individual Councils. They expect this to occur at the beginning of April.
- He referred to the Marin IJ article regarding the sale of the movie theater site. He told the reporter that he thought a furniture store would be a good fit, but they failed to indicate that it would be a good fit based on the current zoning in that area. As to what he thought the best fit would be, he indicated this would come once the Corridor study is complete, which they also failed to include in the article.
- From Parks & Recreation, a successful Spaghetti Bingo was held last Friday where 85 people attended. The Daddy/Daughter Dinner Dance to be held on April 22<sup>nd</sup> was sold out by 9AM.
- From the Engineering Division, a Zero Waste Implementation Plan meeting will be held January 21<sup>st</sup> focusing on organic waste hauling requirements for commercial businesses. Requirements begin April 1<sup>st</sup> and phase through 2019. Businesses that generate more than 8 cubic yards of waste will be under the program, which include the Cheesecake Factory, Il Fornaio, and PF Chang's.

Mayor Bailey stated he had asked the Planning Director to provide an update on the Tamal Vista East Corridor Study.

Director of Planning and Building Adam Wolff provided the following update:

- The Town kicked off the Corridor Study in November to address the moratorium implemented in October 2014 with a community-wide meeting held at the Community Center.
- The Town held a meeting on December 19, 2015 during the busiest time of the year in terms of shopping and put up posters in front of Blue Barn and held a question/answer session at length with several people. This was done in conjunction with the consultant team, Metropolitan Planning Group, that has helped compile summaries of those meetings which are posted on the Town's website.
- This month the Town has been meeting with stakeholders, property owners, the Chamber of Commerce, the Beautification Committee, and outreach meetings will continue with the next larger community workshop scheduled for March which will get into the next phase of the study where policies and guidelines on specific land use regulations and types of uses the Town wants to see on that corridor will be discussed. Staff will then return to the Planning Commission and the Town Council for workshops as well.

Mayor Bailey asked if staff was on track for having a proposal for consideration before the moratorium expires next fall. Mr. Wolff said the report will be done in June/July 2016 which will identify next steps and staff will then work to amend the zoning code according to the outcome.

- Council Reports

Councilmember Lappert had no report due to cancellation of meetings.

- Vice Mayor Furst gave the following report:
  - She attended TAM's Executive Committee meeting. Corte Madera is not currently in compliance with MTC's Complete Streets requirements. The Town adopted its Complete Streets policies years ago, but MTC has changed their requirements. The Town will therefore need to include some new language before the unannounced deadline. For once, Corte Madera may have a change to receive funding through OBAG 2 which is part of Plan Bay Area.
  - The new OBAG 2 grant will take into consideration anti-displacement policies. As background, when the Planning Commission denied Bay Rock's application for condominiums on Casa Buena, much of what they cited was language in the Town's Housing Element and General Plan regarding anti-displacement and related issues.
  - On TAM's website is a lot of information about the Fairfax/San Rafael Corridor Transit Study. Bus service was reviewed to get people from San Anselmo and Fairfax to downtown San Rafael to meet up with the Smart Train. It is an attempt to look carefully at east/west connectivity to encourage ridership on the train.
  - She attended the Central Marin Sanitation Agency (CMSA) Board meeting. CMSA tracks inflow to the water treatment plant in total and also by agency. It spikes with wet weather because there are cracks in various sewer mains and laterals which causes inflow and infiltration (I&I) where rain water can percolate and enter sewers. This overwhelms CMSA and they had to expand the plant a few years ago. She presented a graph showing inflow from December 21<sup>st</sup> and the various agencies' flows. The Town has always prided itself on the condition of its pipes and she noted that the Town's peak is essentially the same as all others or about 5 times the regular flow. She said on December 18<sup>th</sup>, the Town's flow was 1 million gallons/day. On December 21<sup>st</sup> it peaked at 5 million gallons/day.

Mr. Bracken noted that the Town's peak has been reduced from 10 times to 5 times and more than any other agency part of CMSA. He pointed out that the Town has been dealing with I&I long before other agencies and has done more to reduce it than some agencies in CMSA and they continue. He commented that inflow is the surface water getting into the system mainly through the tops of manholes and infiltration is from groundwater getting into the system mainly from joints and pipes.

- Vice Mayor Furst added that there are two bio-gas (methane) capture facilities at CMSA near Andersen Drive. Methane is burned and it runs generators, and this system provides about 95% of CMSA's entire energy needs. They also bring in food waste to boost the amount of gas they are able to produce.
- She attended CMPA's Board meeting and the Board approved a new part-time Public Information Officer on a contractual basis, Margo Rohrbacher.
- Councilmember Condon gave the following report:
  - She attended the LAFCO meeting wherein Keene Simonds presented the first part of the water study. The consensus with the study was that additional storage facilities are needed to catch more water. One of LAFCO's roles is to make government more efficient which sometimes equals consolidation of sanitary districts. This issue might come up again and she has made it evident that the Town could not support consolidation and will keep the Council up to date.
  - She also attended the CMPA Board meeting and she announced that the Board appointed Vice Mayor Furst as its Chair. The meeting included awards for life savings and an update on traffic sting operations.
  - She attended the Chamber of Commerce Board meeting wherein various projects were highlighted. She commented on significant support of the Chamber of Commerce for various programs throughout Corte Madera and they are currently planning the State of the Town Luncheon and have secured March 30, 2016 as the date.
  - The Centennial Committee is busy working. She reported there will be a slide show at the Library tracing the history of Corte Madera. For more information, she asked those interested to visit the website [www.cortemadera100.com](http://www.cortemadera100.com).
  - On January 30<sup>th</sup> there will be a free event and presentation on the development of rag-time music held at the Recreation Center with slides, live music, an old time movie and refreshments. Doors open at 6:30 p.m. and the program will start at 7:30 p.m.
  - She received an email that Earl Hart had passed away on January 9, 2016. His wife Donna Hart, was Corte Madera's Citizen of the Year in 2009. She was ill at the time and had passed away July 30, 2009, but Earl rode in her place in the 4<sup>th</sup> of July parade. A memorial service will be held in February and she asked that the meeting be adjourned in both their memory.

Councilmember Andrews gave the following report:

- He attended the ABAG meeting held in the Town Council Chambers. He reported that the merger with MTC is on-going and ABAG has hired a consultant to recommend how they would merge planning of ABAG and MTC.
- In 2023 the Town will receive its new RHNA numbers and between now and then, ABAG will present three scenarios they will use to develop those numbers. ABAG staff is willing to come and brief the Town on what those are. One scenario is to spread the numbers across all 9 counties, one to spread numbers along the transportation corridors and the third, to put housing numbers in the main cities where job growth is highest and with connection to transportation corridors. He thinks the Town should agendaize the matter prior to ABAG making its assumptions.

Mayor Bailey gave the following report:

- He congratulated and thanked the Corte Madera Lions Club and the Community Foundation for the New Year's Eve party.
- He was approached by Councilmembers from both Belvedere and Tiburon about the Yellow Bus Challenge and the take-away that those Councils are very much in favor of continuing the program but are facing serious challenges from the school district and funding. They are considering a parcel tax to raise funds and he wanted to make

the Town aware that the Council should expect to hear more about the matter in the near future.

Councilmember Condon referred to recent problems involving poor school bus service which delayed students. Mayor Bailey commented that apparently the switch to a new bus company is more expensive, but Belvedere and Tiburon strongly believe the program relieves traffic congestion and recognize there have been administrative problems, higher costs, and management of the bus company.

Vice Mayor Furst spoke briefly about routes that were late, given her child is in the district, but she said over the last three months it has worked well. She tied the problems to high turnover of bus drivers.

- Mayor Bailey said he serves as the Town's representative to the MCCMC Legislative Committee; however, due to the holidays there were no meetings.
- The Marin Clean Energy meeting will be held on January 21<sup>st</sup> and he will provide a report at the next meeting.
- He filmed a public service announcement for Coolcalifornia.org which is a challenge and involves cities who have populations which are the most energy efficient. He encouraged people to visit [www.coolcalifornia.org](http://www.coolcalifornia.org) and be energy-efficient.

## 5. CONSENT CALENDAR

Mayor Bailey requested removal of Item 5.II. from the Consent Calendar.

- 5.I. ~~Waive Further Reading and Authorize Introduction and/or Adoption of Ordinances by Title Only.~~ (Standard procedural action - no backup information provided)
- 5.III. ~~Approve Warrants and Payroll for the Period 12/10/15 through 12/31/15: Warrant Check Numbers 212595 through 212692, Payroll Check Numbers 5084 through 5098, Payroll Direct Deposit Numbers 28478 through 28601, Payroll Wire Transfer Numbers 1946 through 1954, and Wire Transfer of 12/16/15.~~  
Report from George T. Warman, Jr., Director of Administrative Services/Town Treasurer
- 5.IV. ~~Approve Warrants and Payroll for the Period 1/01/16 through 1/14/16: Warrant Check Numbers 212693 through 212799, Payroll Check Numbers 5099 through 5107, Payroll Direct Deposit Numbers 28602 through 28679, Payroll Wire Transfer Numbers 1942 through 1945, and Wire Transfers of 01/14/16 and 2/01/16.~~  
Report from George T. Warman, Jr., Director of Administrative Services/Town Treasurer

MOTION: Moved by Condon, seconded by Furst, and approved unanimously by the following vote: 5-0 (Ayes: Andrews, Condon, Furst, Lappert and Bailey; Noes: None).

To approve the Consent Calendar Items 5.I, 5.III. and 5.IV

~~Item Removed from the Consent Calendar:~~

- 5.II. ~~Transmittal of Final June 30, 2015 Summary Financial Report~~  
(Report from George T. Warman, Jr., Director of Administrative Services/Town Treasurer)

Mayor Bailey stated he thinks the report is a significant entry into the budgeting process

and he asked Mr. Warman to provide a summary of the documents.

Director of Administrative Services/Town Treasurer George T. Warman, Jr. stated the report is of the last fiscal year. It will be referenced in the back of the Town's audited financial statement for June 30, 2015. The report is divided into 4 sections of what occurred last year. All funds in the first grouping are in the General Fund. The second grouping is capital projects other than sewer projects. The third grouping is all sewer funds and the fourth grouping is miscellaneous categories.

On the back of the report (page 14) is a summary of all funds. On June 30, 2014 the total balance was about \$6 million on a modified accrual basis. At the end of the year the total balance was about \$10.846 million, a great deal of which relates to capital projects in the sales tax override, sewer fund or the storm drainage tax funds. He then referred to Attachment 2 which is a 4-year summary of all funds. To note here is that the undesignated deficit in the General Fund is continuing to decrease. When the General Fund is closed, the Council has a reserve policy of 10% which is \$1.5 million which will increase at the end of this year by another \$200,000. If there is a balance, he said it goes into the undesignated deficit and the Town ended the year better and has gone from about a \$5.3 million deficit down to about a \$3.9 million deficit.

Mr. Warman clarified that the deficit amount has been carried over from prior years which occurred mostly during the economic downturn in 2008/09. The Town addressed this by reducing its workforce by about 30% and is now in the process of refilling some of the position, as well as eliminating the replacement of equipment and cancelling all studies.

Vice Mayor Furst said the Town realizes that the Town cut its expenditures in the economic downturn, and she asked Mr. Warman to explain the mechanism as to how that number became a negative. Mr. Warman said the decrease in revenues caused expenditures overspend in what was available which resulted in the deficit. He noted the sales tax override money is specifically designated even though it is in the General Fund as well as other designated funds. Overall, the Town does not have a deficit but internally they are carrying the deficit which is being reduced over a period of time.

Vice Mayor Furst asked if there is any mechanism by which that number can be zeroed out versus paying it over time. Mr. Warman said it is being reduced by keeping on-going recurring expenditures down when adopting the budget. When the consultants were retained to put together the sales tax override, he suggested a bullet point be deficit-reduction which was rejected because they said it would not be a good selling point for the tax to pass.

Mayor Bailey asked if the deficit could be zeroed out in 7 to 8 years. Mr. Warman said yes, this is the hope unless there is a recession.

Mayor Bailey opened the public comment period. There were no speakers.

MOTION: Moved by Furst, seconded by Lappert, and approved unanimously by the following vote: 5-0 (Ayes: Andrews, Condon, Furst, Lappert and Bailey; Noes: None).

To approve Consent Calendar Item 5.II

## **6. PUBLIC HEARINGS - None**

## **7. BUSINESS ITEMS**

- 7.I. ~~Consideration and Possible Action to Approve a Resolution Affirming the Existing Prohibition on Commercial Cultivation of Medical Marijuana in the Town of Corte Madera.~~  
Report from Adam Wolff, Director of Planning and Building

Senior Planner Phil Boyle stated before the Council is consideration of a resolution which affirms that the existing language in the zoning ordinance already prohibits the commercial cultivation of medical marijuana in the Town of Corte Madera. The Medical Marijuana and Safety Act was passed in the fall of 2015 and went into effect January 1, 2016. This legislation set up a dual licensing system for businesses associated with the industry such as dispensaries, delivery, and transportation services, cultivation operations that require that businesses obtain a state license and local license in order to operate within California.

Specifically for cultivation operations or commercial cultivation, the law stipulated that cities that wish to prohibit the commercial cultivation and not allow issuance of local business licenses, the Town's local ordinance must reflect that specific regulation by March 1, 2016 or it would lose its ability to retain local control and the state would become the sole licensor for medical marijuana cultivation businesses.

Given that fact, staff prepared the proposed resolution and recommends the Council adopt the resolution confirming the Town's existing prohibition on the commercial cultivation of medical marijuana exist and affirming that the Town's ordinance based on the principles of "permissive zoning" prohibits this use and further that the Town's zoning ordinance prohibits any use that is in violation of federal law. Those two points are in the current zoning ordinance, Section 18.02.050, which states that "The requirements of this title are to be interpreted so that if a use or activity is not listed as permitted or conditionally permitted, that use shall not be permitted." The zoning ordinance has lists of many uses in various different zoning districts that are permitted and the commercial cultivation of medical marijuana is not listed in any districts.

Mr. Boyle said staff recommends the Council adopt the resolution at this time in order to preserve the option to prohibit at a local level the commercial cultivation of medical marijuana. It does not preclude the Town if it wishes in the future to discuss the merits of whether or not to allow it or not allow it in the future, but at this time, given the March 1<sup>st</sup> deadline, staff believes it is prudent to adopt the resolution.

The Planning Commission at its January 12, 2016 meeting also recommended that the Town Council adopt the resolution and affirmed his comments as relayed in the zoning ordinance. Staff also included some information from the League of California Cities which recommends that jurisdictions which have a permissive zoning ordinance take this route and explicitly affirm that its zoning ordinance is permissive. Mr. Boyle stated Attachment 1 is the recommended resolution proposed for adoption.

Councilmember Andrews stated with the permissive zoning rules, he asked which commercial crops are authorized in Town. Mr. Boyle stated there is no commercial agriculture allowed in the zoning resolution and the Town is reaffirming what it has been doing.

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

Councilmember Condon stated she has heard discourse on how the Town got to this point, and she believes the resolution helps to ensure local control and she would support it.

Councilmember Lappert echoed Councilmember Condon's comments and supported local control.

Vice Mayor Furst concurred and likened the matter to a housekeeping issue because the State legislature blundered in their wording. If the Town does not act on this, it potentially gives up its ability to make changes the future.

Mayor Bailey concurred and thanked staff for bringing the matter to the Council.

MOTION: Moved by Condon, seconded by Furst, and approved unanimously by the following vote: 5-0 (Ayes: Andrews, Condon, Furst, Lappert and Bailey; Noes: None).

To adopt a Resolution Affirming the Existing Prohibition on Commercial Cultivation of Medical Marijuana in the Town of Corte Madera

- 7.II. ~~Consideration and Possible Action to Appoint David Bell to the Flood Control Board to Fill a Vacant Seat With A Term Expiring June 30, 2017~~  
Report from Rebecca Vaughn, Town Clerk

Town Clerk Rebecca Vaughn recommended the Council approve the appointment of David Bell to the Flood Control Board. She was originally recommended he be appointed to the term expiring June 30, 2017, but at this time the Town has 2 vacancies; one expiring June 30, 2016 and one expiring in 2017. Given that Mr. Bell is unable to attend tonight and cannot attend on February 2, 2016, another option can be offered whereby the Council can appoint Mr. Bell to the term expiring in 2016 and ask that he re-apply and go through an interview process. Alternatively, the Council could appoint Mr. Bell to the 2017 seat and Flood Control Board Member Bob Bundy is present to speak on his behalf to explain to the Council the virtues of appointing Mr. Bell to the Board and how his background in engineering will help the Board.

Bob Bundy, Flood Control Board, stated he learned Mr. Bell had a background in engineering and was interested in serving on the Flood Board. He noted he has been desperate to find someone with a background on engineering since the vacancies were created by those who moved out of town. Therefore, Mr. Bell's expertise will be very helpful. Mr. Bell is excited about being on the Board and he supported his appointment.

Mr. Bundy added that it has been difficult to get interest on the Board in part because Public Works and Engineering has done a good job of resolving flooding issues in the vast majority of the Town. The Town fared well with high tides and rains. He suggested changing the Flood Control Board to Climate Adaption Commission or Climate Action Board in the interest that there would be more individuals in the community that would like to be involved in issues of climate change, sea level rise, and other things which contribute to flooding.

Ms. Vaughn added that the Town has an open application period each spring and interviews are conducted in June to fill vacant seats coming up in the following year. When the Town held its last open application period, the two vacancies existed and no applications were received at which point she declared that the Flood Board would be open to be accepting applications on a rolling basis. In that sense, there is no issue with the Council accepting Mr. Bell's application at this time.

Vice Mayor Furst asked and confirmed that if the Council appoints Mr. Bell to the term expiring in 2016, he would be filing the remaining term of 5 ½ months and he would have to go through the interview and reappointment process again for two years. Ms. Vaughn noted there are two seats to fill on the Board.

Councilmember Lappert said if the Town has a committee no one is interested in, it might need to be eliminated or allow it to be populated by people as they come and go. He thinks the Director of Public Works can report to the Council and he supported Dr. Bundy's recommendation. Mayor Bailey noted that the matter to change the name of the Board can be agendaized for a future meeting.

Councilmember Andrews asked which term Mr. Bell interviewed for. Ms. Vaughn said none in particular, but she simply suggested the 2017 term, assuming he might be able to attend tonight's meeting. She said he is very interested and this is a good fit for him, as well as given his residential location on the marsh. It simply seems a waste of a resource to wait

another month or two to appoint him when the opportunity exists to appoint Mr. Bell to the short-term seat if the Council is interested in going that route or the Council could also appoint him to the 2017 seat.

Vice Mayor Furst asked and confirmed with Mr. Bracken that his recommendation would be to appoint Mr. Bell to the 2017 seat. Councilmember Andrews voiced his support for this recommendation, as well.

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

MOTION: Moved by Furst, seconded by Lappert, and approved unanimously by the following vote: 5-0 (Ayes: Andrews, Condon, Furst, Lappert and Bailey; Noes: None).

To appoint David Bell to the Flood Control Board to Fill a Vacant Seat with a term expiring June 30, 2017

#### 7.III. ~~Approval of Minutes of December 15, 2015 Town Council Meeting~~

Ms. Vaughn pointed out an error on page 22 which she stated she will correct.

MOTION: Moved by Lappert, seconded by Furst, and approved unanimously by the following vote: 5-0 (Ayes: Andrews, Condon, Furst, Lappert and Bailey; Noes: None).

To approve the Minutes of December 15, 2015 Town Council meeting, as amended.

#### 7.IV. ~~Review of Draft February 2, 2016 Town Council Agenda~~

Mayor Bailey stated he requested that the upcoming agenda be placed on the current agenda so the Council can have an opportunity to decide what the Council wishes to discuss. He did not need a formal report, but this provides the opportunity for the Council and the public to weigh in on potential upcoming items. He asked Ms. Vaughn to explain the running list on the website.

Ms. Vaughn displayed the location on the website on the overhead, noting it is a running list of upcoming agenda items for the upcoming two months or longer. What is contained in the packet is the February 2<sup>nd</sup> agenda and the Council can discuss together which items it wants to agendize.

Town Attorney Riddle commented that the focus should be on whether the Council wants the items to appear on the agenda or to add other items and not involve a discussion as to the merits of the items.

Councilmember Lappert voiced his support for agendizing the future agenda, which he thinks gives the public and Council to be able to review it.

Mayor Bailey noted there were two items he asked to see agendized for February 2<sup>nd</sup>. First is the gravel lot with Macerich. Mr. Bracken stated this item is listed under Closed Session. Mayor Bailey asked to agendize an item for open session so the public can discuss the items from Closed Session.

Mr. Bracken stated this may be subject to staff being able to prepare the body of a report. Mayor Bailey said he did not need a report, but simply a discussion. Mr. Bracken said staff could agendize discussion but reiterated that the agenda is draft and is subject to change.

Councilmember Andrews said he has fundamental questions about the gravel lot and he

asked how he could communicate this with the Town Manager.

Mayor Bailey suggested simply not communicating to any outside party any action taken or discussed in Closed Session. Secondly, he said Mr. Bracken and Mr. Riddle can be contacted at any time. If it is a public policy or quasi-judicial issue, it would be useful to discuss it in a public forum.

Mr. Riddle stated he could schedule a conference call with Councilmember Andrews and the Town Manager. He clarified that if any communication is sent to direct it only to the Town Manager and Town Attorney.

Mr. Riddle clarified that a Closed Session will be held where the Council will provide direction to the Town Manager as the negotiator and he asked what would the open session separately involve. Mayor Bailey said separate from reporting on what action is taken if any from the Closed Session, that the Council invites input from the public about their perspective and on-going dealings regarding the gravel lot. It also might be useful for the Council to hold discussion about what they are thinking. He thinks it might be important to vet with the public, separate and additional to, any negotiations they might be having. Mr. Riddle asked if this would involve the real estate transaction.

Mayor Bailey said one item would be a land use issue, potential sale of property and other items, all of which are separate and each has a process. He said he did not think that the Council has a clear path and it is important as soon as possible to make evident to the public what the timeline and path is to discuss these things in order to frame the discussion so all residents know what the Council is doing.

Mr. Riddle clarified this is defining the process itself, which he noted must play out with the Planning Commission and other actions. Councilmember Lappert stated it is a way for the Council not to be accused by the public of not letting them know what is happening. The public can talk and Councilmembers can listen without making any commitments or votes.

Vice Mayor Furst stated last month the Council heard clearly that the public does not want any decisions made behind closed doors. This is impractical when dealing with real estate negotiations to have everything out in the open, but the Council pledged they would be as open and transparent as possible. Therefore, it will take some balancing. She is, however, nervous about having two items on the agenda on the same topic when one is Closed Session and one is Open Session without being extremely clear about the topic. Therefore, perhaps it would make sense for the following meeting to allow for comments.

Mayor Bailey said he thinks the process can be discussed by the Council and this is not as substantive but it is the beginning. Once the Closed Session is held, some substantive discussions can occur after negotiations are made. Therefore, in addition, he would like to agendize an item where the Council can begin to solicit input from the public about potential negotiations relating to the gravel lot or processes by which Restoration Hardware seeks to expand, etc.

Vice Mayor Furst suggested this be the direction to staff who can work with the Town Attorney to determine how to agendize this. Mr. Riddle concurred.

Councilmember Condon noted it is too early to seek public input regarding negotiations, but agreed that the process could be conveyed.

Councilmember Andrews said one concern is that by entering into negotiations, the counter party to the negotiations will think that certain land use decisions have or could be made even though this is not the Council's intentions.

Mr. Riddle suggested sticking to the agenda item and not about its merits.

Mayor Bailey stated the other items related to agendizing a discussion regarding Airbnb's, as well as the noise ordinance for future meeting(s).

Mr. Riddle noted that his office is working on a draft noise ordinance.

Vice Mayor Furst asked that an item on the Complete Streets Update be agendized, as well.

Mayor Bailey opened the public comment period.

**Public Comments:**

PATTY STOLIAR said she has served for 2 years on the Accessibility Commission and they have met only 2 or 3 times. Meetings are canceled and rescheduled, and she questioned if this is a requirement of the settlement or she asked if the Council should roll in the Commission into the BPAC.

PHYLLIS METCALFE referred to the RH Gallery and the gravel lot and said if the item on the public agenda for discussion, she advised that it be removed from the Closed Session agenda. While no official decision might be made, Councilmembers have an idea as to how to proceed but can only state certain things to the public. She suggested holding the Closed Session after it receives comments during the public discussion item or hold discussion at the following meeting.

SHERI VIGNERON, Westward Drive, asked if the traffic study for the gravel lot was completed over the holidays, and asked that it be on the agenda for discussion.

PHYLLIS GALANIS, Prince Royal Drive, said the last time the Council discussed the gravel lot, the Council did not know who owned it. She hopes before any more public discussion is held that this be clarified to the public. She also said she thought there was going to be discussion regarding the theater but it was not agendized. She asked that this be put on the agenda so the public knows what is going on with the moratorium and whether there is anything in the General Plan that would not allow it to be a furniture store or not.

Vice Mayor Furst commented that an update on the Tamal Vista East Corridor Study is on the draft agenda under Item 4 on February 2, 2016.

DAWN MATHISEN, Larkspur, asked if the petition was presented or not.

Vice Mayor Furst said letters were received, but this was not on the agenda. She clarified that if a member of the public would like to talk about the petition this would be held during open time at the beginning of the meeting. She noted that Mayor Bailey mentioned under Item 4, the Planning Director will provide an update on the Tamal Vista East Corridor Study at every upcoming meeting in the near future, but this does not allow for public comment.

Mr. Riddle stated the actual theater is not mentioned on the agenda, so the public could comment under open time and he thinks this would be preferable.

Vice Mayor Furst asked if public comment must be taken under Town Manager and Council Reports. Mr. Riddle stated this issue has come up and the general consensus is that given the breadth of the Brown Act, the safer course is to allow people to comment if they wish to do so.

Mayor Bailey asked if there were further comments, and there were none.

**8. ADJOURNMENT**

The meeting was adjourned in memory of Earl and Donna Hart at 9:11 p.m. to the next

regular Town Council meeting on February 2, 2016 at Town Hall Council Chambers.