

MINUTES OF OCTOBER 17, 2017

REGULAR MEETING
OF THE
CORTE MADERA TOWN COUNCIL
AND THE BOARD OF SANITARY DISTRICT NO. 2,
A SUBSIDIARY DISTRICT TO THE TOWN OF CORTE MADERA

Mayor Furst called the Regular Meetings to order at Town Hall Council Chambers, 300 Tamalpais Drive, Corte Madera, CA on October 17, 2017 at 6:30 p.m.

1. CALL TO ORDER AND ROLL CALL

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

~~Councilmember Absent:~~ None

~~Staff Present:~~ Town Manager Todd Cusimano
Town Attorney Teresa Stricker
Director of Planning and Building Adam Wolff
Senior Planner Phil Boyle
Town Clerk/Assistant to the Town Manager Rebecca Vaughn

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

1.I Report Out of Closed Session From October 3, 2017 Regarding the Following Item:

9.I CONFERENCE WITH LEGAL COUNSEL-POSSIBLE INITIATION OF LITIGATION
Pursuant to paragraph (4) of subdivision (d) of Gov. Code Section 54946.9: (3 potential cases)

1.II Report Out of Closed Session From October 10, 2017 Regarding the Following Item:

5. CONFERENCE WITH LEGAL COUNSEL-POSSIBLE INITIATION OF LITIGATION
Pursuant to paragraph (4) of subdivision (d) of Gov. Code Section 54946.9: (3 potential cases)

Mayor Furst announced that at the last Council meeting at the conclusion of the Closed Session of October 3 and October 10, the Council gave direction to staff and there was nothing further to report.

2. OPEN TIME FOR PUBLIC DISCUSSION

PATI STOLIAR, Casa Buena Drive, announced there will be a Senior Fair sponsored by the County on October 25 from 9AM to 3PM at the Marin Civic Center and said she attended Dennis Rodoni's office hours and held discussion regarding early alerts for disasters. She asked that the Town Council or Town Manager discuss this under Reports.

MITCHELL MARRIOTT, Sea Wolf Passage, voiced safety concerns at and around the corner of Sea Wolf Passage and Paradise Drive, said he has attended BPAC meetings, and asked that the Town install a pedestrian guardrail along the area.

Mayor Furst noted the Town is currently undertaking this segment of sidewalk, and Town Manager Cusimano confirmed the project would be completed within 12-18 months.

3. PRESENTATIONS

- 3.I Acknowledgement and Celebration of Pauline Angelman's 109th Birthday
(Ms. Angelman will be presented with a certificate and cake)

Mayor Furst and Town Councilmembers presented a Certificate of Honor in recognition of and appreciation for Ms. Angelman's admirable contributions to the community and to honor her on the celebration of her 109th birthday. A round of applause, photographs and a celebratory cake followed.

Pauline Angelman thanked the Council for their well wishes, spoke about her move from San Francisco to Corte Madera in 1958 and her love of the town.

4. CONSENT CALENDAR

4.I TOWN ITEMS

- 4.I.i ~~Possible Action to Waive Further Reading and Authorize Introduction and/or Adoption of Resolutions and Ordinances by Title Only.~~
(Standard procedural action - no backup information provided)
- 4.I.ii ~~Consideration And Possible Action To Adopt Resolution No. 50/2017 (1) Endorsing The Recreation Department's Events And Programs From November 17, 2017, Through December 13, 2017, (2) Allowing Temporary Signs In The Public Right Of Way From November 17, 2017 Through December 13, 2017; And (3) Determining That The Project Is Exempt From The California Environmental Quality Act (CEQA) Pursuant To CEQA Guidelines 15061(B)(3)~~
(Report from Douglas Bush, Associate Planner)
- 4.I.iii ~~Consideration And Possible Action To Adopt Resolution No. 51/2017 (1) Endorsing The Second Annual Thanksgiving Day Turkey Trot On November 23, 2017, (2) Allowing Temporary Signs In The Public Right Of Way From October 23, 2017 Through November 23, 2017; And (3) Determining That The Project Is Exempt From The California Environmental Quality Act (CEQA) Pursuant To CEQA Guidelines 15061(B)(3)~~
(Report from Douglas Bush, Associate Planner)
- 4.I.iv ~~Report on Progress of Shade Structure Installation for Town Park Playground~~
- And
- ~~Consideration and Possible Action to Approve a Request for Supplemental Appropriation In the Amount of \$20,000~~
(Report from Brian Hernandez, Recreation Supervisor)
- 4.I.v ~~Consideration and Possible Approval of Warrants and Payroll for the Period 9/07/17 through 9/27/17: Warrant Check Numbers 217008 through 217138, Payroll Check Numbers 5591 through 5613, Payroll Direct Deposit Numbers 32979 through 33179, and Payroll Wire Transfer Numbers 2210 through 2225.~~
(Report from George T. Warman, Jr., Director of Administrative Services/Town Treasurer)

- 4.I.vi ~~Consideration and Possible Approval of Special Fire Payroll: Payroll Direct Deposit Numbers 33045 through 33064, Payroll Wire Transfer Numbers 2214 through 2217.~~
(Report from George T. Warman, Jr., Director of Administrative Services/Town Treasurer)
- 4.I.vii ~~Consideration and Possible Approval of Normal Payroll: Payroll Check Numbers 5599 through 5612, Payroll Direct Deposit Numbers 33115 through 33174, and Payroll Wire Transfer Numbers 2218 through 2222.~~
(Report from George T. Warman, Jr., Director of Administrative Services/Town Treasurer)
- 4.I.viii ~~Consideration and Possible Approval of Warrants and Payroll for the Period 09/28/17 through 10/11/17: Warrant Check Numbers 217139 through 217257, Payroll Check Numbers 5614 through 5621, Payroll Direct Deposit Numbers 33180 through 33242, Payroll Wire Transfer Numbers 2226 through 2229 and Wire Transfer of 11/01/17.~~
(Report from George T. Warman, Jr., Director of Administrative Services/Town Treasurer)
- 4.I.ix ~~Consideration and Possible Approval of Minutes of October 3, 2017 Town Council Meeting With Recommended Edits Received from Councilmembers as Noted in Red~~

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

To approve Town Consent Calendar Items 4.I.i, ii, iii, iv, v, vi, vii, viii and ix.

4.II SANITARY DISTRICT ITEMS - None

5. PUBLIC HEARING - None

6. BUSINESS ITEMS

6.I TOWN BUSINESS ITEMS

- 6.I Items related to Moratorium on Cannabis-Related Business Activities:
 - 1. ~~Consideration and Possible Approval of Resolution 52/2017 Accepting A Report Describing Measures Taken To Alleviate The Conditions That Led To The Adoption Of Ordinance No. 971; and~~
 - 2. ~~Consideration and Possible Adoption of Ordinance No. 972, Extending, For An Additional 10 Months And 15 Days, Ordinance No. 971, Which Imposed A Temporary Prohibition On Medical And Nonmedical Cannabis-Related Businesses From Locating And Operating In The Town Of Corte Madera, Pending The Analysis And Consideration Of New Zoning Amendments And Other Regulations Appropriate For This New Industry.~~
(Report from Adam Wolff, Director of Planning and Building)

Director of Planning Adam Wolff gave the staff report, stating the first item is the mandated report dated October 12, 2017 (Attachment 1; Exhibit to the resolution) issued by the Town with respect to efforts to alleviate conditions which led to adoption of the first urgency ordinance by the Council on September 19, 2017 which imposed the urgency ordinance for 45 days on all operation and location of medical and non-medical related businesses in the Town.

Mr. Wolff said the report describes that staff is researching the industry that is being created, discussing the legislation with colleagues and what the Town may expect from potential market reactions to the legislation.

Staff is requesting the Council consider and potentially approve Resolution 15/2017. The second part of the item which was noticed as a public hearing is for extension of Ordinance 971 for an additional 10 months and 15 days or until September 18, 2018. The Council will need to adopt by a 4/5 vote another urgency ordinance which is included in the packet as Draft Ordinance 972 which would give staff the requisite amount of time to conduct the necessary public hearings and workshops with the Planning Commission and return the item in the form of new zoning amendments and potentially other regulations to the Council for formal adoption. Therefore, staff recommends the Council also adopt Urgency Ordinance 972 and approve Resolution 52/2017.

Councilmember Bailey asked if two readings were necessary.

Town Attorney Teresa Stricker said ordinarily the Council holds two readings for regular ordinances; however, this is an urgency ordinance and one action taken. There is no 30 day waiting period and the ordinance takes effect immediately upon adoption. The procedure is described under Government Code Section as cited in the staff report. The moratorium would apply when time is needed to develop or adopt zoning regulations or zoning text amendment.

Mayor Furst asked staff to provide a brief overview of changes at the State level for the audience's information which led the Council to move forward with the urgency ordinance, and Mr. Wolff gave a brief explanation, stating that no medical or cannabis related businesses would be allowed in Corte Madera during the moratorium. Those items not subject to the moratorium are personal cultivation up to specific limits per State law and the mobile deliveries for businesses located outside the Town to specific locations to customers in Corte Madera.

Ms. Stricker clarified that the first item for adoption is the resolution which would accept the report by staff and the second is to adopt an ordinance extending the original moratorium, and this item needs to be opened as a public hearing. She noted the Council could choose to open the public hearing and undertake both items.

Mayor Furst opened the public hearing and take public comments for both items.

JANE LEVINSOHN, Tamal Vista, referred to the 60 Minutes show on Sunday evening regarding pharmaceutical companies' involvement in the opioid problem in the country and said until government restricts drug-related operations there will be problems. She noted that those dispensing cannabis products are not pharmacists and are involved to make money. The tobacco companies are also becoming involved and she was opposed to the Town allowing it at all.

LAURA BERTOLLI, Marin 420 Citizens Group, said she is attending all Council meetings in Marin and said this is something similar to alcohol and the state is coming out of prohibition. She encouraged the Town to think about legitimizing cannabis and taxing it. She read today that in Denver, overdoses from opiates are down by 6.5% because marijuana is available. She noted cannabis can help fight the opioid war, it helps Veterans with PTSD, helps cancer patients and it shrinks cancer, helps Parkinson clients, those with epilepsy and seizures and helps people sleep, relax and helps with headaches and migraines. She said the sooner cannabis is regulated and allowed to be legal, the sooner the black market will go away. She also recommended what San Anselmo did which was to put a clause in stating that they will review operations on a case-by-case basis and impose conditional use permits.

Vice Mayor Condon referred to Ordinance 972, page 2, and asked if the first 'Whereas' clause was correct which states, "...but does not currently expressly prohibit non-medical marijuana dispensaries or any other business related to medical or non-medical cannabis from operating in the Town."

Mr. Wolff stated this is correct. The Council discussed this early January 2016 regarding the Town's permissive zoning ordinance. Because non-medical cannabis businesses are not listed as a permitted use in the zoning ordinance, it is not allowed. However, there is a difference between that which the League of California Cities recommends not relying on that as a prohibition; that it would prohibit a non-medical cannabis business from the Town. The Town must expressly prohibit such a business in its zoning ordinance if it actually wants to prohibit the use.

Mr. Wolff said the difference is that there are medical marijuana dispensaries which the Town already prohibits. The Town indicates it does not expressly prohibit non-medical marijuana dispensaries; however, there are 18 other businesses related to medical and non-medical marijuana which the Town does not regulate or cover.

Vice Mayor Condon questioned whether this was correct, and Mayor Furst noted staff is discussing three things: medical dispensaries, non-medical dispensaries and any other kind of non-dispensary business related to marijuana.

Vice Mayor Condon suggested the language be modified and list the 18 other businesses.

Mayor Furst asked staff if the Council prohibited all of the businesses under Ordinance 971, and Ms. Stricker said this ordinance simply extends Ordinance 971 for an additional period of time. The scope of this ordinance is identical and that 'Whereas' clause was copied from the original Ordinance 971.

She asked for a moment to draft wording as another suggestion to address concerns and make it clear that the only expressed prohibition the Town currently has with respect to cannabis businesses relates to medical cannabis dispensaries. The operative provisions, to be clear, are exactly the same. The only thing this ordinance does is extend the period of time that the original moratorium is in place.

Mayor Furst asked if the Council needs to acknowledge that Ordinance 971 prohibits all temporarily.

Ms. Stricker referred to the top of page 3 of the proposed ordinance, the first 'Whereas' paragraph, and said she will prepare a revision of what she read into the record, as follows:

"Whereas, on September 19, 2017 the Town Council of Corte Madera adopted an urgency ordinance Corte Madera Ordinance No. 971 pursuant to California Government Code Section 65858 temporarily prohibiting all medical and non-medical cannabis-related businesses from locating and operating in the Town of Corte Madera pending the analysis and consideration of new zoning amendments and other regulations appropriate for this new industry. Ordinance No. 971 was to remain in effect for 45 days from its adoption until November 3, 2017."

There were no public comments, and Mayor Furst closed the public hearing.

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

To adopt Resolution 52/2017 accepting a report describing measures taken to alleviate the conditions that led to the adoption of Ordinance No. 971.

Ms. Stricker suggested replacing the first “Whereas” clause at the top of Page 2, to state:

“Whereas, currently the only cannabis-related business type expressly prohibited in the Town’s zoning ordinance is medical marijuana dispensaries.”

She stated her suggested language explains that the only type the Town expressly prohibits. Under the permissive zoning ordinance principle in the Town, if there is a use that is not allowed under the current zoning ordinance it is banned. The difficulty here is that the League of California Cities is strongly urging cities not to rely on permissive zoning because there is an argument and current litigation in other jurisdictions that are getting at the issue of the fact there was not an expressed ban. The argument is that it is close enough to something else cities do allow. Therefore, what this moratorium does is it removes that argument entirely, allows the Town time to create a more permanent zoning structure without subjecting the Town to the type of argument and potential litigation.

Vice Mayor Condon asked that when the moratorium period is over, the Town can vet all alternative and decide if there are permanent bans on the 18 items.

Ms. Stricker stated the Town is going to do this while the moratorium is still in effect. She did not think staff is anticipating the Town will need to do it, but if the process ends up being slower than anticipated, State law will allow the Town to return next year and extend the moratorium for one additional year if the Town still needs time to sort through permanent zoning ordinance and regulations. At this time, the Town can only extend for 10 months and 15 days, but there is an opportunity for one more year if needed.

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

To adopt Ordinance No. 972 extending for an additional 10 months and 15 days Ordinance No. 971 imposing a temporary prohibition on medical and non-medical cannabis-related businesses from locating and operating in the Town of Corte Madera pending the analysis and consideration of new zoning amendments and other regulations appropriate for this new industry, as modified by the Town Attorney.

6.II ~~Consideration and Possible Action to Approve a Single, Publicly Available Pay Schedule for all Town Employee Positions to Bring the Town into Compliance with California Public Employee Retirement System (CalPERS) Regulations. The Council will not be considering any changes to current salary levels.~~

(Report from Daria Carrillo, Finance Director)

Town Manager Todd Cusimano stated this item is an item required by CalPERS. The resolution will allow the Town to comply with the CalPERS regulations requiring a single publicly available pay schedule for all Town employees. The Council will not be considering any changes to current salary levels.

He said the information contained in the attached salary schedule is available in the SEIU contract and various Town resolutions and contracts. However, CalPERS regulations require all of this information be included in one document and the attached document will meet CalPERS’ requirements, and if approved, staff will place the resolution on the Town’s website.

Councilmember Andrews asked if staff could regularly include a copy of the schedule and resolution whenever the Council is considering and voting on pay schedules and job titles.

Mr. Cusimano stated this is a good practice and staff will do this.

Councilmember Bailey stated he thought the Mayor's pay was \$350 per month.

Mr. Cusimano stated the Mayor receives an extra \$50 stipend for various meetings attended, but this stipend is not covered by CalPERS and does not go towards retirement.

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

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

To approve a Single, Publicly-Available Pay Schedule for all Town Employee Positions to Bring the Town into Compliance with California Public Employee Retirement System (CalPERS) Regulations.

~~6.III Consideration of Proposed Revisions to the Corte Madera Town Council Rules and Procedures and Possible Direction to Staff to Prepare Resolution Adopting Revised Rules and Procedures for Consideration at the November 7, 2017 Town Council Meeting~~
(Report from Todd Cusimano, Town Manager)

Town Manager Cusimano stated this is a follow-up item from the August 21, 2017 Council meeting where the Council reviewed Council Rules and Procedures and the Council provided feedback which the document includes. It also reflects some additional changes he described as follows:

- Section 3.3 was discussed and the Council directed Open Time should stay as is and to restrict speakers to 3 minutes and allowing the Mayor discretion to allow for more time during public hearings and business items as the need arises.
- Section 4.1; Rules of Order was discussed, and the most recently revised revision of Rosenberg's Rules of Order was recommended.
- Section 5.1 speaks to the Start Time and the Council meetings now begin at 6:30 p.m. Also, a hard stop time of 9:30 p.m. would be added with the option to extend by half-hour increments with a majority vote required to continue to 10:00 p.m. and a unanimous vote to move beyond 10:00 p.m.
- Closed Session can be held at the beginning or end of meetings. There may be a Councilmember that could find it difficult to attend Closed Sessions prior to the 6:30 p.m. start time and as a practice, the Town Council will hold Closed Sessions at the end of Council meetings.
- Section 7.1; Order of Business. This has been underway for items 1-9 from start time to adjournment and this seems to be working.
- Section 6.5; Public Hearings put in place the practice followed over the last two years which has worked well.
- Section 7.5; this is a new item that relates to placing an item on the agenda. The Town Council is being asked to provide direction regarding this section should changes be warranted. Current practice is to have the requestor work through staff and the Town Manager who may bring the Mayor into the discussion as necessary. As a practice, the Mayor is brought into the discussion at the start of the conversation in order to determine if a mutually agreeable resolution can be achieved prior to bringing any item for a Council meeting. He said the current language allows anyone to place something on the agenda and it must be scheduled within 22 days. This is sometimes problematic, given time requirements and there is related discussion in Section 7.5

- Section 7.9; Adjournment. This was revised to reflect the change under Section 5.1 pending adoption of the ordinance to change the start time of regular Town Council meetings.
- Section 8.3: Currently the Town Attorney approves all resolutions, contracts and documents, and in discussions with the Town Attorney, staff is recommending some leeway on what should and should not be reviewed and approved by the Town Attorney. This allows flexibility for staff and how this process should occur.
- Outdated information was replaced throughout the document.

Councilmember Bailey said he did not see the language under Section 7.5 in the redlined version. It states it is consolidated with Section 6-7.4, but he did not see this included.

Ms. Stricker clarified that the part included does not pertain to the public but to other Councilmembers. Section 7.5 states, "Any person may request an item to be placed on the agenda." What staff moved was that concept to a Councilmember may raise it at the time that the agenda for the next meeting is being reviewed. There is a place on the agenda to raise potential items for future meetings and the Council by motion could direct staff to bring that forward at a time appropriate, given other priorities and the amount of work. She stated the rule does not discuss members of the public.

When the Town Manager receives a request from a member of the public, he will work with the Mayor to try and bring it forward. Members of the public can also speak under public comment and ask that the Council consider putting an item on a future agenda. At that time, the Council would be able to discuss it. The difficulty with Section 7.5 as written is that it would allow either one Councilmember to perhaps, against the wishes of the majority, demand staff bring forward an item for a future meeting, and there is a tight timeframe under this rule for doing so. The only way to get out of it is to actually have the person making the request grant an extension. She has never seen this before and in her view, it would allow a single Councilmember or a member of the public to perhaps trump the priorities that are being set by the Council.

Therefore, the re-write would allow Councilmembers time on the agenda to raise an issue that has not already been raised and to have a brief discussion about whether that item should be agendaized for a future meeting or not.

She stated Councilmember Bailey is correct in that the process of staff working with the public and bringing in the Mayor is not reflected in this rule. If the Council wished to formalize that process, it would need to be added to the rule.

Councilmember Bailey said he would rather it be included.

Vice Mayor Condon asked if there was a specific regulation regarding the number of days the Town is supposed to abide by for a public member requesting an item.

Ms. Stricker said the Council rules do not make a distinction. It states an item may be placed on an agenda by submitting a request to the Clerk or Town Manager or their designee by a certain deadline which "is 21 days or not less than 21 days prior to the Council meeting during which the item is sought to be considered". Therefore, it does not call out a member of the public or a councilmember. It states requests can be submitted. One interpretation of this is that members of the public could submit their request, and this is historically what has been done. The 21 days is drafted into the current rules and she thinks this is very problematic because there are many items that could not be brought forward within that time period.

An example is that if a tenant were to ask for a rent control ordinance within 21 days. She said drafting a rent control ordinance is an enormous task and not something that could be done within 21 days. While not all requests are this extreme, even if a request could be

done within 21 days, there could be staffing limitations, holidays, the Council's own calendar and pressing priorities which would need to be weighed as to when staff could bring in another request.

Vice Mayor Condon asked where the 21 days came from, and Ms. Stricker said she was not sure. It is not mandated anywhere and she has never seen it elsewhere. In her mind, this ties the Council's hands and gives too much control to a single requestor potentially against the will of the majority of the Council. Therefore, she would recommend this piece of it be removed.

Mayor Furst asked for public comments, and there were no speakers.

Councilmember Bailey said he was in favor of the concept and the idea that the Town Manager enjoys broad discretion and consultation with the Mayor, Town Attorney and the Town Clerk to place items on the agenda. However, there are also the members of the public and the rest of the Town Council, and suggested the following:

1. Have the Council's rules in a prominent location on the website so members of the public's first resource can be to first request the matter by contacting the Town Manager. As an alternative, the member of the public could come and speak during public open time and make their request. He asked to insert this into the rules per comments by the Town Manager.
2. He asked to supplement what is in the Council Rules and put something on the first page of the website instructions on how a member of the public can ask that the Town Council consider something.
3. He asked that a copy of Rosenberg's Rules be available at every Council meeting to refer to. Ms. Stricker stated this also could be available on the website which can easily be referred to at a meeting, and she said she carries a copy in her binder, as well.

Councilmember Andrews referred to Section 2.2; the Revote on naming the Mayor and Vice Mayor in July. This supposes that the primary elections will occur in June; however, the Council will be shifting back and forth in March and June. He asked if this needed to be changed or not, depending on what occurs in Sacramento. He also asked if changing Mayors during this time would cause any problems in terms of the budget cycle.

Mr. Cusimano stated the Finance Subcommittee is in place, the Town has an election coming up in June and the November 2019 election depending on what the State does so he thinks this area should be a bit flexible in what they do between now and the June election.

Ms. Stricker also pointed out that if the Council's practice is to reset the committees after there is a changeover with the Mayor, the Town could end up with a different make-up of the Finance Subcommittee. She referred to page 6; her note on the far right column that there are two ways to go; one is to extend the current term or provide for a shortened term. This could be done by a rule change. The other way would be for the Council to leave the rule alone and suspend the rule according to the procedure. The Council would need to decide whether it is lengthening or shortening a term at that time.

If the Council indicates which direction to go, staff can draft it in a way so as to not commit it to the exact term but instead driven by what the State law deadline is. She thinks staff needs some direction as to whether the Council would like it changed in the rules now. If so, staff would need to know what concept preferred. If the Council does not want to address it and move forward, the Council will be in a position of suspending its rules.

Councilmember Bailey asked what rule allows the Council to handle the unanticipated situation such as timing of the term so that the Council can vote to do something.

Ms. Stricker referred to page 16 of the redlined version; Rule 10.1; Suspension of the Rules, and said the Council can suspend its rules by majority vote. The only change is that if the rule is suspended to extend the regular meeting beyond 10:00 p.m., the vote to suspend the rule would need a unanimous vote of the Council.

Councilmember Andrews noted that right now Sacramento has moved the primary from June to March. In the past they have changed it back.

Councilmember Bailey stated his own preference would be to enact some procedure that provides flexibility rather than specifically deciding this one thing. Ms. Stricker noted that Rule 10.1 currently exists and there were no proposed changes to it, and it goes to any rule and allows flexibility.

Mayor Furst asked what Ms. Stricker recommends for Section 2.3. Ms. Stricker said if the Council wishes to deal with it later by suspending its rules as needed, she suggested leaving it as is.

Councilmember Bailey asked Ms. Stricker if she foresaw any problems with this, and Ms. Stricker stated the only issue is the Council may want to think about its timing for coming back and making this decision to the extent it has impacts on staff and not knowing whether the current Mayor is going to continue in her role, or whether there will be a change in Mayor. She suggested the Town Manager speak to whether there is a transition notice needed for staff. Other than that, she did not foresee this being a problem.

Vice Mayor Condon asked how it was going to be reflected.

Ms. Stricker said she would place an "x" on the margin note in the box on the side and she will leave it exactly as it is; that the Council has not addressed this odd problem with the term of the Mayor for the coming term and the Council is agreeing they will address it when the time comes by suspending the rule.

Mr. Cusimano asked and confirmed this would happen at the next November 7th meeting. Ms. Stricker stated it would be left out so it will not be a drafting issue. The Council does not have to decide it tonight to move this item forward for the next meeting. If the Council sees it as a benefit, the Council does not have to decide on it tonight and draft language to implement it and necessarily define what the legislature is currently doing. But, the Council would have to address it at the next meeting.

Councilmember Andrews referred to Section 7.4 and asked if PDF documents could be sent to Councilmembers or other engineering drawings. Mayor Furst said this could be an informal policy.

Town Clerk Rebecca Vaughn asked if it could state "an electronic copy of engineering documents or plans". Mayor Furst stated yes, but the Council is simply requesting it be done and not included in the section.

Councilmember Andrews referred to Section 8.3 and asked if this referred to dollar amount or duration of the contract.

Ms. Cusimano stated this will be a separate item coming to the Council at the next two meetings. This allows a bit of flexibility between the Town Attorney and Town Manager to make sure they are comfortable as to what will go before the Town Attorney, using the Risk Pool and what types of items can be reviewed and approved by the Town Manager. His thought would be all ordinances would be approved by the Town Attorney but allowing flexibility on certain resolutions and contracts, and whether to utilize review by the Risk Pool or Town Attorney. He stated staff can draft some language and have it ready at the next meeting.

Mayor Furst referred to Section 3.3 and said she preferred not to have to take a vote every 30 minutes to extend the meeting and asked if the Council would be willing to have votes every hour.

Councilmembers voiced support to maintain the 30 minutes and Councilmember Andrews noted that the Council could vote to extend the meeting 60 minutes and suspend the rules by unanimous vote.

Mayor Furst referred to Section 4.4b and said there was a question from Ms. Stricker as to whether this was the intent or what type of resolution this was, noting that most resolutions require a majority of those voting and did not understand why this paragraph was necessary.

Councilmember Bailey posed the question of having only two Councilmembers able to vote with two or more recused or some absent.

Ms. Stricker said this speaks as to whether a majority of those present or for the majority of the full composition of the Council. She explained that initially she had a question regarding resolutions "approving orders for the payment of money shall require the affirmative votes of at least three Councilmembers". Therefore, if only three Councilmembers were present, all three votes would be needed to approve those things. For other things it would be two votes if three Councilmembers were present, and an urgency ordinance requires four votes.

Mayor Furst referred to Section 11 and while she did not foresee any problems, her reasons wanting to have a certain level of decorum, respect, etc. by each Councilmember is because it is not included anywhere in the document nor is the ability to censor a Councilmember should there be some violation of policies or confidentiality. The City of Novato's policies and procedures has a couple of paragraphs that might be included in Corte Madera's.

Ms. Stricker likened this as a code of conduct/code of ethics plus an abbreviated censor procedure.

Councilmember Bailey suggested options to discipline each other and he asked if there was Councilmember's authority to do this.

Ms. Stricker suggested a censor and the Council could vote to censure a Councilmember, but the Council cannot kick out an elected official from office. She cited issues with political motive and recommended Robert Rules or Rosenberg's Rules of Order be used or that the Council have a clear rule or policy regarding egregious or extreme behavior. A censure would be more than this. She suggested adopting a rule regarding some orderly process and notice to the person affected.

After hearing options, Mayor Furst suggested taking up the question further into the meeting.

Councilmember Andrews referred to Section 7.2; Changes in the Order of Business. In the past the Mayor has used discretion to shift an item to be heard earlier in the meeting. The way the rule is written did not seem to allow for this.

Ms. Stricker stated she will revise this so it is in the discretion of the presiding officer to shift items around as appropriate.

Councilmember Bailey said he recalled from Robert's Rules of Order is that the Mayor can reorder the meeting in any fashion by a vote of the Council. Ms. Stricker agreed and said with all rules the Council can move to suspend, take a motion that has the effect of

suspending, but she was not sure the rule was even needed for the Mayor to move items around, and she suggested adding verbiage to the agenda to state this.

Mayor Furst suggested the section state that “The presiding official may change the order of business to otherwise facilitate the conduct of the meeting.”

Vice Mayor Condon said there is a “y” somewhere in the document that should be removed. She also asked to simplify the phrase on page 19, Section 8.8 to state “If a Councilmember recuses because there might be a possible conflict of interest, that member shall not be counted as part of the quorum.” Ms. Stricker stated this can be shortened.

In response to Councilmember Andrews, Ms. Stricker added that if a Councilmember has a conflict, it is as though they are absent and they should leave the room or alternatively stay to make public comment. If a Councilmember is abstaining because they were absent for a set of minutes where they were absent and did not read or see the meeting, they would still be counted towards the quorum but abstaining.

Councilmember Andrews asked if the recusing Councilmember is just enough for a quorum. Ms. Stricker said the Council may not be able to act on the item at the meeting. If there were 3 Councilmembers all of whom had a conflict of interest and there are 2 remaining Councilmembers, there is an FPPC procedure for drawing straws so enough Councilmembers are brought back to act, which is called a rule of necessity. They would need to proceed to vote due to the legal necessity to move forward with an item and this is governed by State law.

Mayor Furst asked to add a brief code of conduct with or without allowing for the censure.

Vice Mayor Condon asked if a code of ethics or conduct was included in Rosenberg’s Rules of Order, and Ms. Stricker recited the section pertaining to this. She said there are broader codes of conduct and said she could review the City of Novato’s.

Councilmembers directed Ms. Stricker to draft a code of conduct and allowing censure into this section.

Mayor Furst then concluded the item and confirmed staff had direction.

6.IV ~~Discussion and Update on Planning Commission Design Review Guidelines~~ (Verbal report from Adam Wolff, Director of Planning and Building)

Mr. Wolff said this item is intended to be a brief update, as there was some discussion in the past regarding design guidelines. The Planning Commission discussed the importance and moving forward with developing design guidelines for more formal adoption as well as existing guidelines at the Commission’s August 22 meeting.

He said Chair Chase appointed a subcommittee of himself and Vice Chair Metcalfe to work on development of draft guidelines that would return to the Commission for further discussion. All Commissioners supported this and some focused on the need for commercial design guidelines versus residential design guidelines and their minutes and meeting video is available.

The next step will be to return with draft guidelines and discussion points and receive public input and thereafter to present them to the Town Council at some time in the future.

Councilmember Andrews asked if incentives would be offered to those following guidelines. Mr. Wolff said the intent of the Commission is to focus on design guidelines and not development standards. He said it is not intended to replace development standards or zoning codes that may get into Floor Area Ratio (FAR) or other things. It is expectations for

design quality that can be focused on in one document.

Vice Mayor Condon voiced her appreciation and said she looks forward to reviewing and becoming familiar with the design guidelines.

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

6.II SANITARY DISTRICT BUSINESS ITEMS – None

7. COUNCIL AND TOWN MANAGER REPORTS

- Town Manager Report

Town Manager Cusimano gave the following report:

- Regarding the County's early warning system in Marin, many lessons have been learned and implemented in cities. Emergency notification systems operate in counties and each city has different variations of this. Some use 9-1-1, Nixel alerts, or other types of notification systems. He noted the Town is under the AlertMarin system and this will be highlighted in the Town's Newsletter under their Disaster Preparedness page and described the Town's fire alarm system which refers people to the Town's website to register their contact information.
- He discussed the neighborhood response teams and Councilmember Ravasio's work and the recent fires in Sonoma County, stating 5-8 employees affected by mandatory evacuations but luckily no one lost their homes. He said 3 engines and 10 firefighters working from Monday morning throughout the week protecting neighborhoods in Sonoma County. Police sent a contingency of 4 officers through today on 12 hour shifts and rotated them through the events.
- Regarding speaker concerns on Paradise Drive, Mr. Marriott has discussed his concerns over the years, and he will follow-up with him and provide him with a specific timeline for the improvements.
- Staff has received positive comments and feedback with the Town's newsletter and through requests, they will highlight Town staff.
- There is a Drive Up and Donate event Wednesday at 4PM at the Village Shopping Center, sponsored by Senator McGuire, the Press Democrat and Redwood Credit Union to help those affected by the North Bay fires.
- The Governor vetoed SB 649 which is legislation to scale back or eliminate local control over permitting processes on small cellular antenna towers and wireless equipment in cities' rights-of-way.

Mayor Furst commented that sirens cannot be heard from her home and noted that some residents will not be able to hear these.

Mr. Cusimano said the siren shuts down the 9-1-1 system and reminded the Council that staff will cover appropriate parts of Town and will provide public outreach.

- Council Reports

Councilmember Ravasio gave the following report:

- He suggested including in the Newsletter a reminder for people to sign up for emergency notification.
- He stated he received a call from someone who was trying to get 70 beds together for housing firefighters at the Seminary. He thanked the Town Manager and Recreation and Leisure Services Director for their quick assistance in responding with 35 cots and blankets delivered to provide to firefighters.

Councilmember Andrews had no report, but echoed the Town Manager's comments of SB 649.

Councilmember Bailey gave the following report:

- He reported attending the MCCMC meeting and there were professional lobbyists watching proposed legislation and reported on large issues this coming year:
 - Legislators will be resisting federal government
 - Trying to locate taxes to fund disadvantaged communities.
 - Unions will work hard to prohibit local governments from contracting out for services.
- The League of California Cities reported that SB 1 passed which relates to funding for transportation.
- Assemblymember Marc Levine's staff member pointed out that he was still focused on infrastructure bills and CalPERS.
- Senator McGuire spoke at length and said he does great things for Marin and noted he could provide this report. He will be at the Village Shopping Center on October 18 from 4-6PM to receive contributions for fire victims.

Vice Mayor Condon gave the following report:

- Tomorrow is the third Wednesday Speaker Series on "Downsizing Your Home and Your Stuff" from 1:00 to 2:30 p.m. at CMPA's Community Room.
- She presented a picture and said she was among a crowd of 300 to 400 people that yelled "649 is Over the Line" on the Capitol's steps in Sacramento. She thanked MCCMC's Legislative Committee for their letter and the demonstration which she thought led partially to the Governor's veto.

Mayor Furst gave the following report:

- She attended Coffee with a Cop at Starbucks. She believes this will be held every few months and rotate officers.
- The Sephora store is now open at Town Center.
- Oktober Fest was wonderful which was held on Saturday and the air was almost completely clear of smoke. The Lion's Club and Beautification Committee was recognized for their sponsorship and work putting it on.
- A program will be held called, "Living with Coyotes" at the Mill Valley Library's Creekside Room on October 24 at 7:00 p.m.

8. REVIEW OF DRAFT AGENDA FOR UPCOMING TOWN COUNCIL MEETING

8.I Review of Draft Agenda for November 7, 2017 Town Council Meeting

Mr. Cusimano provided the following updates:

- He referred Business Items and the study session on the noise ordinance update and leaf blower regulations is scheduled. The thought would be to have a discussion regarding best practices and a menu of options; however, he will meet with staff regarding projects coming up before the end of the year and said the noise ordinance and the Montessori School project may flip flop.
- He thanked the Council for holding the Retreat and will provide a summary on the Consent Calendar.
- He discussed with the Mayor placing as a Business Item a discussion regarding facilities in the Community Center and an Intergenerational Center.
- He confirmed there was an item to be scheduled regarding the change-over in Mayor and Vice Mayor given that the election would be in June. The Council and Town Attorney briefly discussed options and action which may need to be taken to address Councilmember direction.

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

9. CLOSED SESSION

The Town Council adjourned to Closed Session at 8:43 p.m. to discuss the following item:

9.I CONFERENCE WITH LEGAL COUNSEL-POSSIBLE INITIATION OF LITIGATION

Pursuant to paragraph (4) of subdivision (d) of Gov. Code Section 54956.9:
(3 potential cases)

10. RECONVENE IN OPEN SESSION

10.I Report out of Closed Session

Mayor Furst reconvened the regular meeting at 9:20 p.m. and announced that there was no reportable action from Closed Session.

11. ADJOURNMENT

The meeting was adjourned at 9:21 p.m. to the next regular Town Council meeting on November 7, 2017 at Town Hall Council Chambers.