

MINUTES OF FEBRUARY 17, 2015

REGULAR MEETING  
OF THE  
CORTE MADERA TOWN COUNCIL

Mayor Condon called the Regular meeting to order in the Community Center, 498 Tamalpais Drive, in the Town of Corte Madera, on February 17, 2015 at 7:30 p.m.

**ROLL CALL:**

Councilmembers Present: Mayor Condon, Vice Mayor Ravasio; Councilmembers Bailey, Furst and Lappert

Staff Present: Town Manager/Town Engineer David R. Bracken  
Administrative Services Officer/Town Treasurer George T. Warman, Jr.  
Director of Planning and Building Adam Wolff  
Town Attorney Jeff Walters  
Director of Recreation and Leisure Service, Mario Fiorentini  
Senior Planner Phil Boyle  
Police Lieutenant Theo Mainaris, Central Marin Police Authority  
Town Clerk/Assistant to Town Manager Rebecca Vaughn

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

**2. PRESENTATIONS** - None

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

To re-arrange the agenda as follows:

- 1) Item 7-I, the Housing Element item;
- 2) Item 7-II, Amendments to Adopted Town Budget FY 2015-2015;
- 3) Item 7-III, Proposed Parks and Recreation Fees for Fiscal Year 2015-2016;
- 4) Item 5, the Consent Calendar;
- 5) Item 3, Open Time for Public Comments;
- 6) Item 4, Town Manager and City Councilmember Reports;
- 7) Items 7-IV and 7-V, Approval of Minutes; and
- 8) Item 7, Adjournment

**7. BUSINESS ITEMS**

- I. Review of Draft of the Town of Corte Madera's 2015-2023 Housing Element and Consider Referral of the Draft to the California Department of Housing and Community Development (HCD) with Recommended Revisions, if Applicable.  
Report from Adam Wolff, Director of Planning and Building

Director of Planning and Building Adam Wolff stated before the Town Council is the second public meeting on the 2015-2023 Draft Housing Element which is a continuation of the Council meeting which began on February 3, 2015. He welcomed Contract Planner Christine O'Rourke and said staff's plan is not to present the PowerPoint presentation again as done at the last meeting, but instead refer to slides as a reference for discussion.

Mr. Wolff said the Town will send the draft Housing Element to the State Department of Housing and Community Development (HCD) and staff is hoping for the Council's concurrence given the maximum 60 day review period by HCD at which time the document would return to the Town with comments and then it would be up to the Planning

Commission to recommend adoption of the Housing Element to the Town Council and adoption by the Town Council. Staff hopes adoption is done prior to May 31, 2015 so it will be able to meet the streamlined review or review in 8 years.

Mr. Wolff provided a brief background on the timeline for review process of the Housing Element and stated there is a detailed outline in the staff report regarding Housing Element law, requirements of the Town to comply with law, the process, and ordinances required to comply with State law. He said the current discussion will focus on the need for zoning and adequate land available for 29 housing units made up of 18 very low income units and 11 moderate income units out of the total of 72 units assigned to Corte Madera's Regional Housing Needs Assessment (RHNA).

Town staff has proposed retaining some of the existing sites in the 2007-2014 Housing Element, carry over these sites into this cycle and by doing so, staff believes they will have a greater chance of success with certification by HCD. However, as heard on February 3 and in June and July, the Town wants to hear and consider comments from the public. Staff evaluated the implications of taking the Wornum Drive Extension site out of the Housing Element, and returned to the conclusion that it is better to maintain that site in Corte Madera's 2015-2023 Housing Element. As discussed at the February 3<sup>rd</sup> meeting, a revision was made to reduce the capacity on that site from 25 units to 20 units which are reflected in the revised document this evening.

Mr. Wolff stated after review of alternative sites, the minimum number of units was 12 very low income units at the Wornum Drive Extension site if there was HCD concurrence that second unit production they were looking at and all other development they were anticipating in the other parts of the Housing Element would be accepted by HCD. Staff looked at other land for development and did not find suitable sites that could be developed without potential rezoning sites to a higher density of 20 units per acre. These units would have to have a minimum capacity of 16 units and would have to permit owner occupied and rental multi-family residential use by right and 50% of the units would have to be on sites designated for residential use and for which non-residential uses or mixed uses were not permitted.

Staff also recognized at the last meeting that the other currently zoned area was Old Corte Madera Square; however, there were several constraints in that area given existing occupied uses, some of the historic nature of the site, and parking issues and it is more constrained than the Wornum Drive Extension site. Therefore, the rationale for the basis of switching the site was a much greater challenge for the Town. And, the Town would have to identify specific sites within Old Corte Madera Square that had the potential to achieve the 12 very low income units. Staff also felt the Wornum Drive Extension site had relatively few development constraints and therefore provided the greatest opportunity for meeting the remaining RHNA requirements because the Town owns it which ensures a greater level of control for development than if a private piece of property were to be rezoned elsewhere in town.

Additionally, Mr. Wolff said there was significant discussion regarding second units at the last Council meeting and their level of production over the next several years and how HCD would view these numbers. The staff report outlines that if they want to remove the Wornum Drive Extension site and meet the remaining need for 12 very low income units through the production of second units, it would take an over 500% increase in second unit production as compared to the last 8-10 years. Staff took the direction from the Town Council, followed up on public comments and redrafted the Housing Element. He stated that Attachment 2 of the staff report outlines section by section the exact changes made since February 3<sup>rd</sup> and said he was available for any questions of the Council.

Mayor Condon stated one topic of discussion is Robin Drive and because she lives within 500 feet, she must recuse herself. She asked the Town Council to discuss first Robin Drive and she will recuse herself and then return to the dais after discussion and deliberation is

completed.

Recused:

At 7:50 p.m., Mayor Condon asked that Vice Mayor Ravasio chair the meeting. She left the dais and announced her recusal from the Robin Drive segment of the Housing Element discussion.

Vice Mayor Ravasio announced that the Council will ask questions pertaining to the Robin Drive section of the Housing Element, take public comments relating to Robin Drive, and then vote on whether or not to approve the sections of the Housing Element that include Robin Drive. The most relevant section regarding Robin Drive is located in 5.0; Goals, Policies and Programs are H-2.6.B on page 119.

Councilmember Furst asked Mr. Wolff to discuss the change made specific to Robin Drive since February 3<sup>rd</sup> and the reason for the change. Mr. Wolff explained there is a couple of different sections that describe Robin Drive; the Sites and Inventory Analysis Section on page 64 to 66. The only change made in this section was in response to a comment made by the public at the last meeting. It shows up in blue on the top of page 66; last sentence of the paragraph describing the zoning analysis which adds back in "market rate homes": "Accordingly, zoning would permit 8 second units in addition to 16 market rate homes permitted pursuant to General Plan density zoning for the property."

The next revision is contained on page 119; Implementation Program H-2.6.B; this has not changed since February 3<sup>rd</sup>, however, staff removed subsection B in the first paragraph because this did not reflect the surveys of second units that the Town is relying on for this Housing Element. Subsection C was a re-write to clarify the language.

Mr. Wolff said the most significant change was on Page 133 where the implementation of the policy that requires half of the single family homes to be developed at Robin Drive has second units. This is a policy stated in Implementation Program H-2.6; however in order to implement the policy, a zoning ordinance amendment would need to be adopted in the future because currently, anyone is permitted to build a second unit on a single family lot, but it is not a requirement. An ordinance to ensure that half of those homes build second units would be a requirement. This is consistent with discussion at the last meeting as to what policies could be encouraged for greater production of second units to meet affordable housing mandates.

Mr. Wolff said in consideration of a future zoning ordinance amendment, Subsection F was added which discusses owner occupancy for one of the units and this would require not having that requirement for Robin Drive or potentially other subdivisions of 5 or more single family homes. This is consistent in encouraging the production of second units, given the owner is a rental housing developer. However, after receiving comments on this subject, staff decided to remove it, as it is better left for discussion in the future when the proposed plans come before the Town for the zoning ordinance amendment and items which need to be requested.

Vice Mayor Ravasio clarified with Mr. Wolff that the Town will have to amend the zoning ordinance in the future and at that time, the Council will have the option if it wants to remove the owner occupancy stipulation, they could do so at that time but at this time it is staying in.

Councilmember Furst asked if a junior second unit qualify as a second unit at the Robin Drive location or would the Council need to specify this as a possibility. Mr. Wolff said this is another thing to be considered in the future, as the Town does not currently have an ordinance on junior second units and has not defined it in the zoning ordinance.

Vice Mayor Ravasio said much as what Larkspur did with Rose Lane, Corte Madera could stipulate that second units be attached versus detached, and Mr. Wolff said yes; he did not

see what would preclude this from occurring as they are second unit living spaces.

Vice Mayor Ravasio referred to the allocation of affordable units at Robin Drive, noting there are 2 very low, 3 low, 3 moderate for a total of 8 units. He asked if there is a deed restriction that regulates this on the developer. Mr. Wolff stated Ms. O'Rourke has been through a couple of rounds with HCD for other towns in how one would justify to HCD second unit production counting towards affordable housing requirements. In those cases, granted they have not been the sole source of affordable housing, HCD has not requested this be codified or deed restricted at this point in time. He thinks it is recognized that second units are actually without restriction or mandate; that they are occupied by lower income individuals and often times family members or people who assist with the family. It would be assumed that given their size and the fact they are going to be adjacent to a home, they would be rented by those who are qualified under affordable standards.

Vice Mayor Ravasio said by doing this, he asked if the developer would qualify for a density bonus. Mr. Wolff said staff can look into this further, but a deed restriction might raise the question of whether or not that would qualify for a density bonus. Vice Mayor Ravasio stated that based on his reading of the law, the only way a developer would qualify for a density bonus would be to do the deed restriction on the second units.

Town Attorney Walters stated that in order for the units to be counted as meeting the RHNA numbers and affordability requirements as set forth in the Housing Element, when the Council considers adopting its mandatory second unit ordinance, the issue of requiring deed restrictions will have to be addressed. It would not be unreasonable in his opinion for the Council to require deed restrictions to assure that affordability standards as set forth in the Housing Element are, in fact, met.

Regarding whether this would trigger the right of the developer to request a density bonus, Mr. Walters said he does not see in the law a distinction between an affordable second dwelling unit, an affordable apartment, or an affordable single family residence. So his preliminary opinion is that it would count in terms of the developer being able to seek density bonuses based on affordable second units. He said further research will need to be conducted on this, but he thinks for tonight's purposes, the Council should assume that an affordable second unit could trigger density bonuses.

Mr. Walters asked the Council to consider the fact that it just adopted an ordinance requiring that any developer who wishes to take advantage of density bonuses and incentives and reductions in development standards must supply requisite financial information outlining the economics of his/her development so the Town can determine whether or not by not abiding by those requests the developer makes will have an effect on the ability to provide affordable housing.

Vice Mayor Ravasio opened the public comment period, and asked speakers to limit their comments to Robin Drive.

Public Comments:

Anette Harris Lupe asked that what the Council is doing tonight is removing F from 18.31.050 which is the second unit regulations. She said she heard earlier 18 low income and 11 moderate income units and she heard different figures and asked for clarification of this.

Mr. Wolff clarified that yes, they are removing Subsection F and 29 units is the remaining RHNA allocation after accounting for units already under construction or occupied at this time.

Debbie Patane asked and confirmed that Corte Madera does not have a Design Review Board.

Vice Mayor Ravasio noted the Town has a 5-member Planning Commission where applications are reviewed by them in public meetings, with the ability for the public to provide public comments.

Ms. Patane said at the last meeting there were comments about mistakes made by the State for Corte Madera's RHNA, and Vice Mayor Ravasio noted in the last RHNA cycle the Town was mandated to zone for 244 units. After the Housing Element was approved by the State and after zoning changes were made as a result and the Town withdrew from ABAG in protest, ABAG attended a Council meeting and a senior planner on ABAG staff stated that the 244 units was a mistake. However, nothing has been received from ABAG since that time. The Town is already in the new cycle and the number is much lower, as they were originally given 120 or more units, but it was reduced to 72 units, but the Town has received nothing formally from ABAG.

Councilmember Furst said the planner did indicate ABAG would correct it going forward, but the Town cannot go back now given it is a new planning cycle. Mr. Wolff briefly responded to another question of Ms. Patoni regarding the Town's response to the requirement for half of the homes having second units.

Town Attorney Walters announced that tonight's forum is for the Council to take public comment and staff can attempt to answer questions after the public comment period is over.

Jennifer Larson, Willow Avenue, confirmed that Robin Drive is being left in the Housing Element and said in her view it is a positive thing because she would hate to think that the only place people are putting a target is on the bike path on the Wornum Drive Extension. At the same time, she asked to remove any type of buffer from the Housing Element.

David Zeff, Alta Way, applauded staff for their work, said it seems that the Town is in a rush to get the Housing Element done by May 31<sup>st</sup> and asked what would be wrong with going into a 4-year cycle since everybody is so sensitive about development. He said there may be a number of homes with existing second units that are not in the Element but are being used as vacation rentals. He asked if the City has looked into eliminating illegal uses and counting them as new second units.

Vice Mayor Ravasio closed the public comment period on Robin Drive and returned discussion to the Council.

MOTION: Councilmember Lappert made a motion to adopt the Robin Drive portion of the Housing Element. Councilmember Furst seconded the motion.

Councilmember Furst encouraged people to visit the Town's new website and stated there is a link to sign up for notifications on particular projects. In clarifying what the Council will be voting on, what is being voted on is whether the Council will accept the current version. She said edits were made after the February 3<sup>rd</sup> meeting on Robin Drive that strikes any requirement that the homes and second units would not be subject to owner occupancy requirements. Part of the Housing Element is to identify how the Town will meet affordability requirements. There are also implementation policies which the Town will address in the future.

Vice Mayor Ravasio said given the Council is not going to change the owner occupancy requirements, he can support including Robin Drive as a property to be included in the Housing Element, as well.

MOTION: Moved by Lappert, seconded by Furst, and approved unanimously by the following vote: Ayes: Bailey, Furst, Ravasio and Lappert; Noes: None; Recused: Condon (4-0-1)

To approved all proposed revisions to those sections of the Housing Element regarding Robin Drive only, as presented.

Noted Present:

Mayor Condon returned to the dais and was noted present at 8:18 p.m. to participate in the remainder of the meeting.

Mr. Wolff summarized the following additional changes made since the February 3<sup>rd</sup> Council meeting:

- Many changes directly came from Councilmember Furst and Mayor Condon who had specific requests. They requested amending land area sizes, noting how much is under water which was addressed.
- There was a request to add and specify Government Code sections as reference points which was added in various locations.
- Staff modified some tables to make them more clear and readable.
- Staff added language about Age-Friendly Corte Madera.
- The Council asked to see capacity reduced on the Wornum Drive Extension site from 25 units to 20 units.
- Staff modified language in the description of the site analysis to indicate to HCD the type of project envisioned for the Wornum Drive Extension site as 20 units, all one-bedroom units which is down from a combination of one and two-bedroom units in the previous draft. Unit sizes are smaller at about 800 square feet, the building height is reduced to a two-story versus three-story building, and they specified that there is an easement for the bike/pedestrian path so this would be something that reduced the net area of land developable.
- Staff updated information on pages 62 to 64 related to 1421 Casa Buena to indicate that the project was approved on January 20, 2015.
- Staff made some clarifications to some of the sentences for program elements.
- Staff changed the language related to Program H-2.7.A; Old Corte Madera Square. Staff found that some of the language in the prior draft under the AHO District in the previous Housing Element was not accurate. Previously it stated the AHO District allows mixed use development with housing up to 25 units per gross acre and a commercial FAR of 1.0 if the housing is affordable. Staff struck this and changed some of the language. In addition, the last sentence was re-written to reflect what was actually in the AHO District.
- Staff struck a program that was completed; adoption of the public nuisance ordinance during the last Housing Element cycle.
- Miscellaneous edits or typographical errors.

Councilmember Furst then requested two small edits:

- Page 1, last line, under “4.5 square miles in total land area”;
- In Appendix B, page 8 (Page B-8), at the bottom, Policy H-2.19 and H-2.20 both mention second units using the number “17” which should be revised to state “16”.

Councilmember Furst thanked staff for editing the document. She pointed out that at the last meeting, she requested a revision to point out to HCD that the Town is 4.5 square miles; however, 1.25 square miles is submerged under Bay waters and .67 square miles is protected marshland, leaving a net area of 2.55 square miles. Parks, open space and flood control areas comprise .38 square miles. She noted it is extremely difficult to justify to HCD that the Town will build all of the second units when the Town’s track record has been so few. The Town is going to be aggressive about pursuing second units and one way to do this is grandfathering them in. In the next cycle, the Town can reflect how great they are doing and can claim them.

Councilmember Furst asked Mr. Wolff to address the question of why the Town should not

go to a 4 year cycle, what is the rush, and what are the consequences. Mr. Wolff said the most significant consequence by not adopting the Housing Element by May 31<sup>st</sup> is that the Town is subject to a 4-year cycle whereby in another 4 years the Town would have to adopt another Housing Element. Also, not having an adopted Housing Element does not qualify the Town for certain grants, and it may open up the Town for lawsuits relating to not having a Housing Element in compliance with State law.

Councilmember Furst noted having a 4-year cycle subjects the Town to more cost, noting that environmental review is also required. She asked the Town Manager about costs and Mr. Bracken responded that the contract planner cost is \$35,000 for the streamlined version and approximately this amount would be spent in another 4 years, as well as environmental review costs which can cost anywhere from \$10,000 to over \$100,000 depending on the level of review.

Vice Mayor Ravasio referred to page 137 under Implementation Program H-3.4; "Review and as necessary, revise the zoning ordinance to regulate the demolition of multi-family rental housing in order to conserve the existing multi-family rental housing stock." He asked staff to talk more about the intent of this, and Mr. Wolff said the way the previous policy was written, it discusses that the Town would discourage the conversion of residential units to other uses and regulate to the extent permitted by law conversion of rental developments to non-residential uses to protect and conserve the rental housing stock. He noted it states it would "seek to preserve the existing quantity of housing and will discourage the demolition" so it is not a hard and fast rule. There may be reasons why a particular complex needs to be demolished and rebuilt. However, at the same time the Town would want to put in place relocation plans or other mechanisms to help replace rental housing, and the program states "review and as necessary" so it will be on a case-by-case basis.

Mayor Condon asked for the following clarifying revision:

- Page 107, the first paragraph, third line; "There are 79 privately managed affordable units in the community at San Clemente Place". She also asked that the sentence be started as a new paragraph.

Mayor Condon opened the public comment period.

#### Public Comments:

David Baird, Larkspur, said most people are concerned about larger developments like the WinCup project. To this effect, Larkspur will become a much bigger problem as they also have grocery chains and more residential units. He believes the community-owned parcels like the Wornum Drive Extension site are a good way of addressing numbers which also protect other sites. He noted this is the reason the Town of Ross uses their Art and Garden Center as their mechanism to bury quota. Therefore, he did not believe there needs to be a buffer at all for HCD as it has no basis in statute or law and this is inappropriate. He asked the Town to legitimately negotiate the Best Western Hotel site as it reminds everybody of WinCup where traffic is terrible next to it. He asked the Town to honor its moratorium noting that it is the Tamal Vista Corridor.

Phyllis Metcalfe referred to page 2 there is a chart that relates to edits to pages 59-61 for Wornum Drive. Before, when it was at 25 units it was 13 one-bedroom and 2 two-bedroom and now when looking at 20 units which she supports, they are all one-bedroom units. In looking at categories of income levels, she asked if there were figures about the distinction between one-bedroom, two-bedroom or other sized units, as low income people are single parent families and need more than one bedroom.

Mr. Wolff said while conceptual, some of the thinking behind one bedroom units was that it could be an apartment complex for single elderly individuals. While he agrees there is a

need for multiple bedroom sized complexes, this is a conceptual project that could work with a limited footprint of all 800 square foot units on a small site with parking requirements.

Jennifer Larson, Willow Avenue, said people should either decide they want housing on the Wornum Drive Extension site because the Town controls the property or, they do not want it there and worry that the Town may partner with an EAH or affordable housing group and be forced to sell it. She asked whether the Town is able to hold onto that site in the face of a developer or an affordable housing group proposing development there. If not, then she thinks everybody must ask themselves whether or not they want to build on the last stretch of the Sandra Marker Trail and she would say not.

Lucinda Smith, 46 Alta Way, voiced concern with the three development areas of Wornum Drive, Robin Drive and Casa Buena Drive and asked what other buildable sites are planned. She said she is particularly concerned with the theater area even though there is a moratorium in place. She also would hate to see the Old Corte Madera Town Square developed. She asked whether zoning controlled the General Plan or the opposite for the theater site which has not yet been clarified. If it is the General Plan, zoning would be considered later. Also, if the Town is rushing to avoid a 4 year cycle, she asked if the RHNA allocation would cover 4 years or 8 years, thinking the Town may be subject to additional units in the next 4 year cycle. She asked that questions asked in previous meetings be answered.

Mr. Wolff noted that the cinema site was not included in this Housing Element. The basis for the moratorium is intended to clarify the regulations for that site and the rest of the sites along Tamal Vista East. Currently, the General Plan states the area is a mixed use commercial zone; however, the zoning itself is not consistent with that mixed use land use designation. He believes after the Housing Element is certified, the Town can come up with a mixed use zone that is compatible and consistent with the General Plan which is the overriding document. Regarding other sites in the Housing Element, there is several scattered single family housing sites most of which have not yet been developed given their steep hillside locations. There is also a discussion about second units throughout the Town that are not necessarily located currently in R-1 and R-1A districts in existing residential areas.

Town Attorney Walters said regarding what happens if the Town were required to comply with the 4-year Housing Element cycle and whether the Town must address the 72 unit RHNA allocation in that 4 year cycle, the Implementation Programs and Housing Element itself also must be revised to focus on a 4-year horizon instead of an 8-year horizon. Mr. Wolff added that his understanding is HCD would not necessarily assign a new RHNA requirement for another 4 years, but that the Town restructure and accelerate its program to meet its RHNA allocation in the next 4 years or in 2019 versus 8 years or in 2023. Many of the sites the Town is relying on for its allocation is based on an 8 year cycle; however, HCD has not provided much guidance with respect to these points.

Mayor Condon referred to the concerns regarding the Town being responsive to questions, if some of the questions cannot be answered immediately and accurately, she asked public speakers to email Councilmembers or staff.

Mr. Wolff referred to comments by Ms. Larsen about the ability of the Town to require or not be required to build on Wornum Drive, and said his understanding is that the State cannot mandate the Town to develop the property in a certain way. He also referred to the revised language on page 120 to indicate "the Town partnering with a non-profit developer and select a qualified non-profit organization to develop the site as an affordable housing project acceptable to the Town's terms and conditions." Therefore, it must be acceptable to the Town.

Town Attorney Walters stated there is no requirement by the State to mandate the Town

sell the property to a particular developer, develop it in a particular way. Housing Element law however does require that the Town as part of its Housing Element include programs that the local government is undertaking or intends to undertake to achieve its housing goals. He noted that the Wornum Drive Extension has been included in the last two Housing Elements dating back over a decade and in each, the site was targeted as an opportunity site for affordable housing. Developing affordable housing is complicated in a Town that is almost built out. The Town does not intend to give away the property to EAH or sell it to the highest or lowest bidder, and developing a partnership to develop the parcel will be complicated and may not be possible even though the Town exercises good faith and due diligence in attempting to do so and this is not a violation of the law.

David Sapp said his concern is rather than have high density development like WinCup it would be better to look at dispersed development through second units. Most people left San Francisco to get away from high density housing and if the Town is going to do that, it should rename Tamal Vista Boulevard to Van Nuys Boulevard or Camino Real.

Councilmember Bailey said in the staff report, the recommendation is to send the Draft Housing Element to HCD even if further discussions are deemed necessary and he asked what is meant by this. Mr. Wolff said his suggestion is to send the draft to HCD as is and if discussion needs to be continued on certain topics, the Council could do so during this 60 day period. It would return to the Planning Commission and Town Council and if at that time it was deemed necessary to change the document, staff could do so.

Councilmember Bailey said if Councilmembers cannot agree on the Wornum Drive Extension, he confirmed Mr. Wolff would want to send it anyway knowing that this one critical element might still be outstanding. Mr. Wolff said while not ideal, it is up to the Council that it has a document it feels comfortable forwarding to HCD.

Councilmember Bailey referred to the standard by which the designated sites must be for development and the words used in the staff report are "sites that could reasonably be developed." He asked Mr. Wolff how realistic or developable does a site need to be to qualify under that standard, and he is thinking exclusively about the Wornum Drive Extension site realizing it has survived challenges over the last couple of cycles. Mr. Wolff said this is one thing heard about the advantages of the streamlined review. If there is a site HCD has accepted in the past, it will not be questioned. Staff tried to maintain the language about the site as in the past so there is no question by HCD, but at the same time he thinks this is an advantage of keeping it included. There is specific language in Housing Element code that talks about various ways in which the Town must discuss the ability of a site to be likely developed and specific actions that need to occur, and this is what the Town has tried to do in addressing those.

Councilmember Bailey said lastly with respect to second units, he said the figure used as a 500% increase which would be needed in order to meet the necessary standard troubles him. He said this is an extraordinarily small sample. If only one or two units have been approved under that category in the couple of years, he is not sure it is a fair statistical extrapolation to take one or two units and expand it to four or five and less of a challenge than it is to increase 500% if the base number was a higher number to begin with. He said he believes there was some discussion years ago when he was on the Planning Commission about some stock already available in the Town where they could make a concerted effort to approve which might satisfy the number in a more meaningful way in a shorter period of time. He asked if Mr. Wolff has seen such data.

Mr. Wolff said at some point in early 2000 there was a program which attempted to address this through an amnesty program where there were 12 to 14 units that were recognized. He said this is why the Town hired the expertise of Ms. O'Rourke who has gone through HCD certification with other jurisdictions about second units and she has seen what is feasible through their perspective.

Councilmember Furst asked to display the PowerPoint slide that shows the requirements for designating affordable units, given the comment from the speaker regarding renaming Tamal Vista. She said it is important to realize that the State has requirements for the density of affordable units and asked Mr. Wolff to describe this.

Mr. Wolff said per State regulations, if the Town needs to rezone a property in order to meet its RHNA requirements, one standard is to zone at the default density where if done so at 20 units per acre, the Town can count the capacity of any and all projected units at a site as meeting low and very low income affordable requirements regardless of whether they actually get built. The site must have a minimum capacity of 16 units if zoned at the default density and the Town must allow owner occupied and rental multi-family housing by right. There is also a requirement that 50% of the very low and low income housing need be on sites designated for residential and not mixed use development or not a site that also allows other residential uses. He said the only other location in town that has these densities is the Old Corte Madera Square and otherwise, the Town would have to rezone the property at something that is less than the current density to allow more to at least 20 units per acre. In doing so, there is also the question of the level of environmental review.

Councilmember Furst said she does not want to rehash information from the last meeting, but many of her comments related to the Wornum Drive Extension site. Everybody recognizes it is beautiful, has a beautiful view corridor, there are definitely constraints to development there; however, as stated clearly, this property has been in the Town's Housing Element for well over a decade and what the Town is required to do is partner with a non-profit developer to see if they can come up with a plan to build there. She thinks it is valid for the Town to designate the site as a potential housing site and she has ideas about what she would want development there to look like and would want it to project minimal impact and maintain the bike path and the question is whether a non-profit housing developer would be able to come up with a project that satisfies the Town's needs and over the last two housing cycles this has not occurred. But she wants to be clear that adopting it in this cycle, the Town is agreeing to make a good faith effort. It is not an easy decision but she is supporting it because it is the least bad option the Town has at this time. If the Town misses the deadline and ends up having to go to a 4-year planning cycle, not only would it be very expensive but also detrimental in being able to proactively plan the Town the way it wants. She would like to be able to fully review the cinema site and determine what is best for everybody and if they have to address work for another Housing Element in 4 years, the Town will never get to these kinds of planning activities. Therefore, she supports including the Wornum Drive Extension site, supports the Town making a good faith effort to follow through with pursuing housing there given its complexities, and in the meantime, she supported the Town aggressively pursuing second units. When they get to the next cycle, the Town can point to a solid track record which means fewer other units the Town will have to develop and comply with under onerous HCD requirements.

Councilmember Furst said lastly, regarding a speaker's comment about using public lands to designate housing, it is not an easy decision. For HCD's requirements, the governing body must show good faith and to do otherwise would call into question whether or not certain sites are actually being designated to meet a RHNA quota. She thanked Mr. Wolff for his work in revising the document, as well.

Vice Mayor Ravasio said he speaks for all Councilmembers and all participants when he states he wishes he could approve zero units, but unfortunately this is not an option. The Town is in a difficult position by state mandates to accommodate affordable housing needs, have been working on the Housing Element for over a year and he said the Council can either approve the revisions or start over which will take time and money which he has no problem with if they can get to a place where everybody can feel good about this and get behind it. Having been through this a few times, he does not believe that would be the outcome and the Council might be able to identify other sites but they would also have issues as well, such as units to the Village, more units at Town Center, or Old Corte Madera

Square. Therefore, he looks at the advantages of this versus the opportunity the Town has to include a site already approved by HCD and keep the Town on an 8-year cycle. The advantage of the Town getting into an 8 year cycle is to be able to take more control over the process. He thinks the Town is making progress by putting a moratorium on the cinema property in the Tamal Vista Corridor and he likes the idea they can plan and get ahead of this development. Lastly, he thinks the Town is making a good faith effort if Wornum Drive works and said he would much rather have a site the Town has control over and will vote for what the Council has before it.

Councilmember Bailey likened Vice Mayor's points as fair but he is not sure the Town has exhausted its options. He recognizes the pragmatic result and persuasive points, but he just does not agree. He thinks the reality is that they could do a more exhaustive review of alternative sites and if they end up in the same place, the Town has at least done its due diligence. He thinks before reaching judgment, the Town must do the work to get there. He does not have the experience of multiple previous Housing Elements other than his service on the Planning Commission and knowing that the sites do not exist and he is not satisfied they have exhausted options available to them. The reasons these options are significant is because there is real meaning to designating the Wornum Drive site. He recognizes it has not been built, but the Town is not designating it because it cannot be built, but if it can be built. This further means the Town must live with what it does and he does not think the Council can have complete confidence that a future Council will be the same and have the same decisions. He thinks they could set up unintended consequences like the property could be sold, the Town may experience a significant recession or financial problem which will require it to take some action, it could be on the brunt of litigation the other way with insistence on development of that property and once entitled for development which is currently is, it would be a change to not have it there. Nevertheless, he would instead do the more aggressive review of second and junior second units. He does not agree it could never be acceptable as an allocate-able way to fill the quota because it seems to him the Town could pull out those units which would be sufficient enough or at least anecdotal evidence.

Councilmember Bailey said he is also not persuaded that the consequences are more important going the other way. He said he is not minimizing the extra cost and staff time and thinks the spread is between \$40,000 and \$140,000 by doing this. He does not give a lot of weight to hypothetical grant qualifications which the Town may be sacrificing by not having a certified Housing Element and has yet to have someone point to something concrete enough to make it meaningful and he is not persuaded for the potential of lawsuits, as that consequence flows from the legitimacy of the Council's position and not fear of what the litigation might result in. Therefore, he does not think it is a bad decision, but he is definitely on the other side and does not agree the Town should include Wornum Drive Extension and would encourage his fellow Councilmembers to re-evaluate this in 4 years, thinking the Council is rushing hastily into a decision that may have something it cannot back out of.

Councilmember Lappert said he is restless with the subject, does not believe in the process and thinks it is a scam foisted on the Town by the State who is promulgating laws they pass onto cities where cities must abide and pay for them so they can be on some egalitarian election campaign. The fact is the limiting factor to all of this is resources. The Council can talk until it is blue in the face about transit corridors and other key terms that are thrown in the Council's faces and they are supposed to simply accept it. At the same time, these people are telling us the sea level is rising and to put all high density where the ocean will be. What upsets him is the State gives the Town rules, makes us play and everybody thinks they are doing their due diligence to play this according to their rules. The fact is, it is all a scam based on ideological key words that are not based on reality at all. The fact is that the second units are not going to be used by renters, but by grandmother who will make no money. Therefore, the idea is a scam and the Town needs to stop it. He has gone through this for 12 years and railed against ABAG who is just the entity cities have to address this from mandates from the State. He insisted getting out of ABAG and all of a sudden, other

cities did the same thing. He said it is amazing what the State can do to little towns like Corte Madera and sway the state mentality, so the Town is at the cusp where it should just keep pushing back. He did not want to rehash the Housing Element and asked why waste another moment of staff time. He noted Councilmember Furst is correct in that the Town is wasting so much time on this instead of talking about the real issues important to the Town. He suggested passing on the Housing Element to HCD, let them certify it and be done. The next time around in 8 years he suggested the Town push back harder, as he will not be on the Council, and he thinks what will happen is MMWD will not allow any more water meters because the State is out of water, which will be the new limiting factor.

Mayor Condon said this is her fourth Housing Element she has worked on and it never gets less frustrating because it has always been a fight for local control. She is hoping that it seems like the Town is finally getting traction with the group of representatives up and down the State that have had it with RHNA. They are getting in the same position as Corte Madera is by getting a "WinCup" project because the developer came in, said they must have density bonuses, they must reduce setbacks, make it higher and they see what is happening.

She said she agrees with Councilmember Bailey regarding 500% and would rather leave out that language because she does think that with the push of junior second units and incentives people will come forward. And, the Town will be able to satisfy the requirements for second units without changing the character of the community. She thinks the Council is in a safe position with the Housing Element and feels that whatever comes, it is not going to change the Town. They are not going to allow another WinCup and now the Town knows how to avoid it. She thinks to go through this in another 4 years there will be the same dialogue and spending over \$80,000 just to satisfy the State. Therefore, she thinks it is prudent not to forget the other sites. If HCD accepts the Housing Element, the Town will have 8 years to investigate the other sites and while she deeply resents the State's requirements, she suggested knowing candidates before voting for them because they are the ones supporting this and it is hard to find the minority of the legislators willing to stand up for the locals. She recognizes Councilmember Bailey's concerns, but supported the Housing Element and said the Council will fight to resist the State. She hopes that given her representation on Age-Friendly Corte Madera, she can work with representatives taking on housing element reform and give control back to local communities.

MOTION: Moved by Furst, seconded by Mayor Condon, and approved by the following vote: Ayes: Condon, Furst, Ravasio and Lappert; Noes: Bailey (4-1)

To direct staff to forward the Draft Housing Element to HCD with the addition of the following additional revisions:

- Page 1, last line, under "4.5 square miles in total land area";
- In Appendix B, page 8 (Page B-8), at the bottom, Policy H-2.19 and H-2.20 both mention second units using the number "17" which should be revised to state "16".
- Page 107, the first paragraph, third line; "There are 79 privately managed affordable units in the community at San Clemente Place" and she asked that this also be started in a new paragraph.

## **BREAK**

Mayor Condon called for a break at 9:52 p.m. and thereafter reconvened the meeting at 9:59 p.m.

- II. Consideration and Possible Action to Approve Amendments to Adopted Town Budget FY 2015-2015  
Report from George T. Warman, Jr., Director of Administrative Services/Town Treasurer

Director of Administrative Services/Town Treasurer George T. Warman, Jr. gave the staff report, stating the item is a routine budget amendment. Given that the final tax roll from the County was about 5% more than estimated, the General Fund will have a positive increase of approximately \$125,000 and the Sewer Fund will have a positive increase of approximately \$150,000. Also, the Recreation Outdoor Facility Fund increased by 62.50% because of the expansion of adding the Competitive Soccer League. He said he was available to answer questions.

Councilmember Furst referred to an \$8,000 amount for an appraisal for Park Madera Center and he asked for an explanation of the possibility of refinance debt.

Mr. Warman explained that the Town discussed this for several years and when the center was at a point where all anticipated improvements had been done and at the 10 year mark, which was primarily restriping the parking lot, staff would look at possibly refinancing the center to see if the Town could save any money. He discussed his inclination to get a direct loan from a bank, noting that the loan for the Central Marin Police Authority site was a direct loan from a bank. The loan for the property next door to Town Hall which will be paid off in a couple of months was also a loan from a bank. He discussed this with the Town's financial consultants who said much of this depends on the market.

The Town has an extremely favorable interest rate on the existing loan it has and most likely will not end up with such good rates on another Certificate of Participation (COP). Both of the other properties are considered being used for government purposes so the interest rate is very low. However, nothing in Park Madera Center is being used for government purposes, as it is a private undertaking. He discussed the appraisal last done in 2008, commented that the prior owners had special arrangements with tenants, and the gas station site cannot be changed until 2033.

Mayor Condon called for public comment.

Public Comments:

David Andrews said he believes the fiscal year ends on June 30<sup>th</sup> and questioned the timing of the Town's audit.

Mr. Warman said the auditing firm will have the complete draft soon and once this is received, it will be sent out in two to three weeks afterwards or by the end of March. He noted that the deadline for completion by the accounting standard is one year after year end.

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

To approve the Amendments to the Adopted Town Budget FY 2014-2015.

III. Consideration and Possible Action to Adopt Resolution No. 05/2015 for Proposed Parks and Recreation Fees for Fiscal Year 2015-2016.  
Report from Mario Fiorentini, Director of Recreation and Leisure Services

Vice Mayor Ravasio stated that the last time the matter was presented, he recused himself on the volleyball item as his wife is an unpaid Athletic Director for CYO Volleyball which is one of the fees identified. However, he does not believe there is a material conflict of interest.

Director of Recreation and Leisure Services Mario Fiorentini said before the Council is a fee resolution for FY 2015-2016. Every couple of years fees for the Parks and Recreation Department's use of its facilities and programs are reviewed and recommendations are

made to the Town Council. Staff has made its recommendations to the Parks and Recreation Commission and they have recommended two changes in addition to the previously discussed item of St. Patrick's Volleyball.

Regarding the addition of the fees assessed for use of the athletic fields, there are two groups which currently receive a reduced rate; the Twin Cities Little League and Tiburon/Mill Valley Soccer. They would like to include Twin Cities Softball in addition to Twin Cities Little League at their \$15/hour rate for use of the fields. It should be noted that Twin Cities Softball does not use the fields heavily, but in the interest of equality of those two groups, it is prudent to make this change.

As also noted, staff wishes to formally include St. Patrick's CYO Volleyball into the fee resolution at a rate of \$25/hour that was previously voted on by the Town Council. And, the last change is in Section IX (C); Town Civic Organizations and involves the addition of discretion of staff to be able to provide Town facilities for informal, non-political community groups that are interested in using facilities at no charge. He explained there were a couple of groups that were able to use the Town's facilities specifically geared towards disaster preparedness. There were a couple of community neighborhood groups that wanted to discuss issues regarding SMART meters, PG&E bills, the drought, and staff and the Commission supported this and makes these recommendations for Council consideration and approval.

Councilmember Bailey disclosed that he and his family use the facility for CYO basketball, volleyball and soccer, and supported the recommendation.

Councilmember Furst referred to the resolution which discusses San Clemente Park and School and asked that these names be officially updated to "The Cove Park" and "The Cove School", and Mr. Fiorentini stated he will make these revisions.

Councilmember Furst referred to the non-political, informal community groups that, at staff's discretion, may be eligible for a fee waiver. She asked Mr. Fiorentini to identify the kinds of groups and whether or not they currently use the facilities. Mr. Fiorentini said he is part of the Twin Cities Disaster Council and the Community Center serves as a shelter and a building for emergency purposes. He found it prudent to be able to provide a space for individual groups in the community barring they do not displace users. There were some groups holding informal meetings and groups holding more fundraising type of meetings. Staff assessed fees for their fundraising events, but allowed them to use the facility at no charge for their informal meetings.

He said a community group staff who requested a fee waiver was a group of concerned parents that wanted to discuss the path of education standards in the community, yet there was no representative from Corte Madera in the group and staff indicated they could meet per the fee schedule.

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

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

to Adopt Resolution No. 05/2015 for Proposed Parks and Recreation Fees for Fiscal Year 2015-2016, as corrected to reflect The Cove School and The Cove Park.

## **5. CONSENT CALENDAR**

- I. Waive Further Reading and Authorize Introduction and/or Adoption of Ordinances by Title Only. (Standard procedural action – no backup information

provided)

- II. Permit Approval for AVON Walk for Breast Cancer Event Scheduled for July 10-12, 2015  
Report from Mario Fiorentini, Director of Recreation and Leisure Services
- III. Approval of Necessary Funds to Attend League of California Cities Policy Committee Meeting April 9, 2015 in Ontario, California  
Report from Rebecca Vaughn, Town Clerk
- IV. Approve Warrants and Payroll for the Period 1/15/15 through 2/11/15: Warrant Check Numbers 210240 through 210340, Payroll Check Numbers 4830 through 4837, Payroll Direct Deposit Numbers 26211 through 26278, Payroll Wire Transfer Numbers 1814 through 1817, and Wire Transfer of 3/02/15.  
Report from George T. Warman, Jr., Director of Administrative Services/Town Treasurer

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

To approve Consent Calendar Items 5-I through 5-IV.

**3. OPEN TIME FOR PUBLIC DISCUSSION** - None

**4. COUNCIL AND TOWN MANAGER REPORTS**

- Town Manager Report

Town Manager Bracken gave the following report:

- The State's Triple Flip is ending in 2016. Mr. Warman would make himself available to answer questions and the Town should be receiving back funds the State.
- The Town's Senior Engineer will start next week and she will be introduced at a Town Council meeting.
- Corte Madera is participating in a grant through the County in the Marin Climate and Energy Partnership. The Town will incur staff time only to create a Climate Action Plan and Mr. Boyle will be staff assigned to be developing the plan.

- Council Reports

Councilmember Lappert gave the following report:

- He said there is an interesting development occurring with neighborhood groups. Neighborhoods are being reformed and renamed based upon their disaster preparedness groups. A request has been made to use the GIS system to be able to assign a representative from the Disaster Council to work with staff to update the GIS map to identify homes and neighborhoods by color overlays.

Councilmember Bailey gave the following report:

- He attended the Marin Clean Energy Board meeting and noted:
  - The City of El Cerrito is now approved as a member;
  - MCE is financially solvent and has reserves in excess of \$9 million which will increase in excess of \$4.5 million this coming year but this is only one month's of energy purchases.
  - Rates will go up and the average household will see about \$1.50/month increase but it will still be less than households served by PG&E by about \$1.29.

Vice Mayor Ravasio gave the following report:

- The Bicycle and Pedestrian Advisory Committee met and unanimously passed a resolution he will bring to the Town Council for support. The resolution supports construction of the bike path along with the SMART Train. Currently, tracks are being placed through San Rafael but they are not planning to build a bike path. Advertisements being run by SMART depict a person on a bike at the same time because the path was approved at the same time but this is not going to be built. Therefore, Marin County will be asked to pass a resolution to ensure SMART delivers on their promise to the voters.
- They have exciting new ideas on the Bicycle/Pedestrian plan they are putting together and received a preview of pedestrian improvements specifically near the Cove School on Paradise Drive, as well as on Tamalpais Drive, with improved crosswalks, lighting and other items to make the areas safe in time for the new school year.

Councilmember Furst gave the following report:

- She attended a meeting of the MCCMC, the Sea Level Rise Subcommittee. The County has committed \$250,000 for a Countywide Vulnerability Assessment. They are seeking another \$250,000 in grant funds from the State Coastal Conservancy. The Coastal Conservancy announced they have become a finalist for a total of \$500,000 to look at the entire county's flooding as well as other vulnerabilities like sewer impacts, power, and water main impacts.
- She attended CMSA's board meeting and reported there was a Closed Session to discuss the potential settlement of the Ross Valley Sanitary Agency lawsuit.
- She attended a meeting of a subcommittee on the Centennial Gala Celebration and asked for participation to plan various events.

Mayor Condon gave the following report:

- She attended the LAFCO meeting and under discussion is the Water Study throughout the County to determine each district's capacity and how long it will remain. They are working its way southward and West Marin is almost completed. Mr. Simond's hope is he will be able to begin with MMWD in April.
- She met with a gentleman who represents service line warranty programs and she invited feedback on this. The program is developed jointly between the National League of Cities and the Service Line Program and is an insurance company. For about \$ 175/year, it pays for insurance for water and sewer line repairs that are outside the home and pays up to \$4,000 per incident with no deductible, includes street and sidewalk repairs, and she asked that the program include local contractors in the area for work. There is no cost to the Town to participate and they offer a 10% return to the Town, but she suggested giving it to the subscriber. There are over 200 cities participating nationwide and they only provide the insurance if the Town Council agrees and they end up as the insurance representative for the entire City for both water and sewer repairs.

6. **PUBLIC HEARING** – None

7. **BUSINESS ITEMS**

IV. Approval of Minutes of January 20, 2015 Town Council Meeting

MOTION: Moved by Furst, seconded by Lappert, and approved unanimously by the following vote: Ayes: Bailey, Condon, Furst and Lappert; Noes: None; Abstain: Ravasio (4-0-1).

Councilmember Furst requested the following amendment:

- Page 20, line 39; replace "Corte Madera's" with "this neighborhood's" to read:

“Councilmember Furst reminded people that it was the County that originally designed this neighborhood’s roads and the Town inherited them.”

To approve the minutes of the January 20, 2015 Town Council Meeting, as amended.

V. Approval of Minutes of February 3, 2015 Town Council Meeting

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

To approve the minutes of February 3, 2015 Town Council Meeting, as submitted.

**7. ADJOURNMENT**

The meeting was adjourned at 10:20 p.m. to the next regular Town Council meeting on March 3, 2015 at 7:30 p.m.