

CENTRAL MARIN POLICE COUNCIL

HELD AT
CENTRAL MARIN POLICE AUTHORITY BUILDING
250 DOHERTY DRIVE
LARKSPUR, CA 94939
ON
THURSDAY, AUGUST 3, 2017
AT 6:00 P.M.

REGULAR MEETING MINUTES

ROLL CALL

The Central Marin Police Council Regular Meeting was called to order at 6:05 p.m.

COUNCIL MEMBERS PRESENT:

Diane Furst, Council Member (Acting Chair), Town of Corte Madera
Carla Condon, Council Member, Town of Corte Madera
Larry Chu, Council Member, City of Larkspur
Tom McInerney, Council Member, Town of San Anselmo

COUNCIL MEMBERS ABSENT:

Ann Morrison, Chair/Council Member, City of Larkspur
John Wright, Co-Chair/Council Member, Town of San Anselmo

STAFF PRESENT:

Dan Schwarz, Larkspur City Manager
Dave Donery, San Anselmo Town Manager
Michael Norton, Chief of Police
Tom Bertrand, CMPA Police Council Attorney
Cathy Orme, Police Council Finance
Hamid Khalili, Police Captain
Zaneta Feleo, Police Council Clerk

STAFF ABSENT:

Todd Cusimano, Corte Madera Town Manager

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93

OPEN TIME FOR PUBLIC EXPRESSION

Acting Chair Furst asked if any members of the public would like to address the Council, and there were no speakers.

REPORTS AND COMMENTS

A. COUNCIL MEMBERS

Acting Chair Furst commented that she attended the National Night Out at the Larkspur Police Station and she was glad to see the community and officers having fun.

B. MANAGEMENT COMMITTEE

There were no Management Committee reports or comments.

C. CHIEF'S COMMENTS

Chief Norton commented that the turnout of National Night Out was less than last year in Larkspur but greater attendance in San Anselmo. He is considering having the San Anselmo in its current location and try different locations for Larkspur and Corte Madera. Next year they will hold Corte Madera's National Night Out at Menke Park.

On August 16, 2017, "Chilling with the Chief" will be at Swirl in San Anselmo. It will be the same concept as Coffee with a Cop, but with chilled treats for summer.

Chief Norton also shared the preview of the Pink Patch Project and all officers participating will be wearing pink shoulder patches during the month of October to raise awareness for breast cancer awareness and as a fundraising effort. The Police Officers Association purchased all patches and will be selling them to the public for \$10 each. Proceeds will go to the Marin Health Care District Breast Health Center.

Chief Norton also mentioned that three new officers have joined CMPA; Officers Josh Hamilton and Tim Rich were recently sworn in, and Jeff Peterson is currently in the academy.

1. Lifesaving Medal Presentation

Chief Norton introduced Sgt. Toby Miller and read the proclamation into the record and awarded Sgt. Miller the Life Saving Medal for CPR and usage of the AED machine which saved a man's life. A round of applause followed.

Chief Norton stated Officer Dave Woo was also mentioned and will be awarded at a future Council meeting, as he could not attend due to injury.

CONSENT CALENDAR

94 Acting Chair Furst asked if any members of the Council or the public would like to remove items
95 from the Consent Calendar.

96
97 **A. Approval of Minutes: May 4, 2017.**

98 **B. Acknowledge Central Marin Police Authority's Warrant List –April 1 to June 30,**
99 **2017.**

100 **C. Resolution 2017/12 – Grant money through the Department of Alcoholic Beverage**
101 **Control**

102 **D. Resolution 2017/13 –Adopting a vehicle lease/purchase program**

103 **E. Grand Jury Response to “Marin’s Retirement Health Care Benefits”**

104 **F. Grand Jury Response to “The Budget Squeeze”**

105 **G. Report update regarding cash deficit payment for fiscal year 2015/2016**
106

107 ACTION: It was M/S/C (McInerney/Condon) to approve Consent Calendar Items A, B, C, D, E, F
108 and G, which carried by the following vote: 4-0-2 (Ayes: Chu, Condon, Furst and McInerney;
109 Noes: None; Absent: Morrison and Wright).

110
111 **BUSINESS ITEMS**

112
113 City Manager Schwarz stated the Auditor was running late and he suggested Item A be moved
114 to the end of the meeting.

115
116 **B. Resolution 2017/14 – Police Council Annual Performance Review of the Central Marin**
117 **Police Authority**

118 *Recommendation: that Council receives presentation, discuss, and pass resolution*
119 *2017/14, establishing a process for conducting an annual performance review of the*
120 *Management Committee, the Chief of Police, and the Authority.*

121
122 City Manager Schwarz stated Council Members had previously requested the Management
123 Committee develop a formal policy that incorporated the Police Council’s participation in the
124 review process for the Management Committee and Chief of Police. The Management
125 Committee has drafted a policy which is before the Council.

126
127 Acting Chair Furst asked for questions of the Council and/or staff, and there were none. She
128 asked if any members of the public would like to address the Council, and there were no
129 speakers.

130
131 Council Member Chu requested correction of a typographical error in the resolution for the
132 word “Resolve”.

133
134 ACTION: It was M/S/C (McInerney/Chu) to adopt Resolution 2017/14, as amended, establishing
135 a process for conducting an annual performance review of the Management Committee, the
136 Chief of Police and the Authority, which carried by the following vote: 4-0-2 (Ayes: Chu,
137 Condon, Furst and McInerney; Noes: None; Absent: Morrison and Wright).

138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181

A. Results of the Financial Audit of the Authority.

Recommendation: that Council hears and receives presentation regarding the audit report.

Cathy Orme provided an overview of the audit, stating CMPA went into a deficit cash flow situation which created anxiety for her and the auditors. She reported that for FY 2016/17 CMPA is in a positive cash position and is moving in a positive direction.

She explained that the deficit occurred due to a variety of things, which included use of funds to cover the Insurance Fund for the many workers' compensation claims, General Fund expenditures had increased and were over budget which also contributed to the deficit resulting in a reduction of the fund balance, and the Authority incurred increased unfunded liabilities, increased CalPERS liabilities and many change-overs in personnel, resulting in payouts.

She noted the Authority started paying the deductible for CalPERS and OPEB contributions and is setting money aside for retiree medical benefits. Additionally, some revenues which were thought to come in did not such as asset forfeiture funds. Not receiving anticipated funds can hurt the Authority, combined with the other items.

Mark Wong, Maze and Associates, said he will speak to the "Basic Financial Statements" and "Memorandum of Internal Control". He referred to the Basic Financial Statements report and reported that as of June 30, 2017, CMPA's cash balance is \$69,000 and the Authority's net deficit is \$6.9 million. This includes net pension liabilities and OPEB. Authority-wide expenses for FY 2016/17 exceeded revenues by \$805,000 and there was a net loss of \$800,000 in the General said the \$871,113 deficit was not a surprise. He is aware that the Management Committee is working on correcting this and commented that the Town of San Anselmo was now paying towards the funds.

Mr. Wong referred to page 2 and said part of the reason for the huge loss was that CMPA absorbed the Town of San Anselmo's pension liability of \$5 million.

Mr. Wong referred to page 10; the Statement of Net Position, and mentioned that the Authority's net cash balance is \$69,000 and he advised Ms. Orme that something needs to be done regarding this. He added that the net OPEB obligation is \$3.7 million and net pension liability is \$16.6 million. For the fiscal year ending June 30, 2018, all U.S. governmental entities are required to implement GASB75 which measures and changes OPEB liability. This will result in increase of the \$3.8 million.

Acting Chair Furst referred to Assets and Cash and Investments, \$68,575 and Note 3 on page 30 identifies this amount but she also sees over \$1 million in cash and investments in the Agency fund, and she asked where this shows up.

182 Mr. Wong referred back to Page 24 and asked about the measure E funds. Both Ms. Orme and
183 Mr. Wong explained that these funds are the taxes the agency collects to pay the bonds for the
184 building and should be kept separate from CMPA. This is restricted to bond payments and it
185 cannot be included in operating.

186
187 Acting Chair Furst asked where this shows up on the Statement of Net Position. Mr. Wong said
188 accounting standards state that because that is an assessment, it is not part of CMPA and it is
189 counted separately. CMPA is acting as an agent and because it is an agency, it cannot be co-
190 mingled with CMPA's funds.

191
192 Mr. Wong then referred to the General Fund on page 14 and said the balance sheet is basically
193 the fund in total of CMPA without the net pension liability and without the OPEB component,
194 so cash investments will remain the same.

195
196 He said page 18 shows the Budget Actual Statement for the General Fund and said this shows
197 the operation without pension and OPEB funds. To determine how budget expenditures
198 compare to the actual performance, revenue actually was better than budgeted in 2016 and
199 expenditures were exceeded by \$390,000.

200
201 He then referred to the next section on page 18; Other Financing Sources. The transfer out of
202 \$1.3 million was needed for the Insurance Fund, and there is no expectation of paying this back
203 because it has been on the books for several years and the agency will record this as a transfer.

204
205 Acting Chair Furst asked how long the General Fund was carrying that deficit, and Ms. Orme
206 said she believes it has been since 2012, but then verified it was since 2011.

207
208 Council Member McInerney asked and confirmed with Ms. Orme that the City of Larkspur was
209 reimbursed for the "loan" to pay the deficit of approximately \$280,000. There was a credit
210 shown in this year and Larkspur was paid back.

211
212 Mr. Wong referred to page 20 and said this is the Insurance Fund which is not part of the
213 General Fund. CMPA and the Management Committee recognized this deficit of \$871,000
214 which started in 2011.

215
216 Mr. Wong then referred to page 21 and said because last year the deficit was \$1.7 million. In FY
217 2015, the financial statements showed a deficit of \$1.7 million and a payable to the General
218 Fund in 2016. Management decided it was more correct to show a transfer in of \$1.35 million
219 which is shown on page 21.

220
221 Acting Chair Furst clarified that on page 21, it is for the year ending June 30, 2016 which shows
222 the net position at the end of the year with a deficit of \$871,000. She referred to page 20, she
223 sees the total net position deficit and the \$871,000; however, the title of the page indicates
224 "Statement of Net Position of June 30, 2015", and Mr. Wong stated this should be corrected to
225 state "2016" and he will correct this.

226
227 Acting Furst stated that even after the transfer, there still was a deficit of \$871,000 as of June
228 30, 2016, and stated Item G on the Consent Calendar addresses this.

229
230 Mr. Wong stated lastly in looking at Page 57, this shows the CIP Reserve Fund which has no
231 assets. On page 58, this shows revenue coming in from the Town of San Anselmo, but because
232 of the cash deficit, governmental accounting standards requires the agency not to have cash in
233 any fund. In this case, it was transferred out so at the end of June 30, 2016, the fund balance is
234 zero.

235
236 Council Member McInerney asked Mr. Wong to return to the discussion regarding impact of
237 employees retiring and/or leaving the agency and what has led to the shortfall.

238
239 Ms. Orme replied that they had increases expenses, 7 officers leave which cashed out their
240 vacation and comp time balances on the books, they had a few workers' compensation claims
241 which were paid out and not budgeted for.

242
243 City Manager Schwarz stated typically a savings is realized after the employee has left by filling
244 the position at a lower salary and benefits package.

245
246 Council Member McInerney further asked for the reason so many officers left, and whether
247 these were isolated incidents.

248
249 Chief Norton stated since 2016 and those officers leaving and having to cash them out, this
250 fiscal year looks better and delayed hires to offset the pay outs to those who left. Regarding
251 workers' compensation claims and payouts, these were from 2016 and there was a wave when
252 the agency merged the workers' compensation and retirements. CMPA has insurance to help
253 with those, but if it is a significant injury with settlements in the hundreds of thousands of
254 dollars, they must pay the initial cost of \$150,000, and two people left which resulted in CMPA
255 having to expend \$300,000. This is difficult to anticipate and budget for.

256
257 Regarding asset forfeiture, Ms. Orme stated they had budgeted for asset forfeiture, but given
258 changes at the state level, there is less and less grant monies.

259
260 City Manager Schwarz referred to a highly publicized incident that had four marijuana
261 cultivation operations in houses in the county and CMPA expected to be a major recipient of
262 the asset forfeiture funds; however, this did not come to fruition. They had planned and
263 budgeted for these monies, but it was a lesson learned and they will no longer budget for asset
264 forfeitures until it actually is received.

265
266 Mr. Schwarz added that the rule of thumb for the Insurance Fund is to have at least four claims
267 worth of money in the account, and at the time of the merger, they had this in the Insurance
268 Fund, but then they got significantly impacted over a two year period and this affected the fund

269 over time. He confirmed it had nothing to do with San Anselmo police officers coming into the
270 fund, and that they had two bad years in a row.

271
272 Chief Norton added that he and Ms. Orme discussed the revenues being significantly less in
273 years' past. They took out not only asset forfeiture but grants as well so as not to scramble for
274 funds unless they know they will be awarded them.

275
276 Council Member Condon said with the current figures, she asked if there was any comparison
277 amount of what it would have been had there not been a merger with San Anselmo or not.
278 Manager Schwarz said this deficit developed afterwards. He noted the Management
279 Committee and former Chief Cusimano were working very hard together to minimize the
280 charge coming out of the Authority to the individual member agency budgets, and some of
281 these decisions made resulted in softening some of their best practices to get through that
282 period so it was a bit easier for member agencies to fund the Authority. These are calculated
283 risks and unfortunately they were not flush at the end of the year.

284
285 Mr. Schwarz noted that the workers' compensation claims were the result of a combination of
286 agencies. He confirmed that overall, it was a bad couple of years, there were lessons learned
287 on reducing risks and not planning for asset forfeiture and grant funding. They will work to
288 build these funds back up to protect the agency moving forward and the Management
289 Committee has been working on a plan to do this in such a way for agencies to be able to afford
290 it. It likely will take up to three years to ramp up, and the Management Committee feels
291 comfortable this will happen so as not to incur deficits in the future.

292
293 Mr. Schwarz further clarified that there is no deficit in the current fiscal year because it has
294 been cured. What they do not have are the buildup of funds on hand if they start to be
295 affected with issues not budgeted for. If a large claim came in tomorrow that the Authority had
296 to pay, they would most likely ask member agencies to cure this rather than let it build up as a
297 deficit.

298
299 Acting Chair Furst suggested a quarterly update of activities in the Insurance Fund so the
300 Council Board is made aware, as well as a recap of what has occurred over the last 7 years to
301 have a better understanding.

302
303 Mr. Schwarz confirmed and said he can arrange to have their risk pooling agency to come and
304 provide a presentation to discuss trends.

305
306 Acting Chair Furst questioned whether a presentation was needed and suggested simply
307 receiving quarterly updates.

308
309 Council Member Chu supported quarterly updates and said he thinks it comes down to how
310 well the Authority Board can project the possibility of retirements and risk assessment of
311 officers' general health.

312

313 Chief Norton stated he did not want to violate anyone's HIPPA rights, and this would be difficult
314 to project, as officers are constantly in danger of harm. Mr. Schwarz added that some injuries
315 span over various agencies of an officers' career, which he briefly described.
316

317 Council Member Chu recognized it is difficult, but suggested there be some way to do some
318 form of risk assessment and analysis. Chief Norton briefly discussed the range of officer
319 careers, retirement, medical retirement, injuries, and said sometimes officers are never able to
320 recover from injuries. Mr. Schwarz suggested scheduling a presentation with risk pool
321 representatives to better understand how they come up with an actual dollar amount that
322 ought to be in the insurance fund. He noted that all member agencies receive this risk analysis
323 and the pool comes up with a recommended dollar amount as what they think would be a
324 reasonable amount to set aside.
325

326 Acting Chair Furst commented that Corte Madera has begun similar risk analysis and
327 commented that it would be important to have a placeholder in the budget of a projected cost
328 for personnel potentially retiring or leaving the agency. Council Members concurred.
329

330 Mr. Wong continued his presentation and stated funds should be built back up within the next
331 three years, which Ms. Orme and Chief Norton reiterated was occurring now with the increase
332 to the Insurance Fund. He noted that internal controls are explained on pages 3 through 8.
333

334 Acting Chair Furst asked and confirmed with Mr. Schwarz that the deficit was only CMPA and
335 not also TCPA.
336

337 Mr. Wong then referred to the Memorandum of Internal Control which outlines main
338 comments and conduct tests of the agency's financial condition, cash balance, deficits, internal
339 controls, and material witness. Page 3 is the schedule of material witness comments and
340 Management has provided a responses. From pages 3 to 8, financial conditions and long-term
341 liabilities of CMPA was discussed in 2015 and includes the deficit of the Authority as a whole,
342 General Fund balance which increased from \$360,000 in 2014 by \$68,575 two years later. He
343 discussed the bullet which shows the Authority paid down from the General Fund to the
344 Insurance Fund. Management deemed there was no likelihood of pre-payment and transferred
345 the \$1.3 million.
346

347 As of June 30, 2016, CMPA has a reserve requirement, and he confirmed with Ms. Orme that
348 they lowered this from 10% to 5% which she believes was brought to the Council last year.
349

350 Mr. Wong stated the OPEB liability is \$3.8 million and CMPA has set aside \$100,000 annually.
351

352 Acting Chair Furst asked if this was just for the CMPA or was there carry-over from TCPA. Ms.
353 Orme clarified it is just CMPA. They are now prefunding and setting aside money for their OPEB.
354 Mr. Schwarz said when the three agencies combined they recognized the vested seniority of
355 existing officers and created one OPEB.
356

357 Mr. Wong referred to the last bullet point on page 3 for the OPEB retiree health care benefits,
358 stating the actual real accrued liability is different from OPEB liability because it is a
359 measurement used differently. This liability is \$15.2 million so in FY 2018 when GASB75
360 becomes effective, the expectation is that \$15.2 million will be seen on the face of the financial
361 statements of net position.

362
363 Mr. Wong referred to page 4 and said this is San Anselmo's \$5 million of pension liability. The
364 Insurance Fund has a net deficit of \$871,113. He said the Management Committee meets
365 monthly and he suggested they review the budget versus actual revenues and how much are
366 budgeted expenditures and how much are actual expenditures.

367
368 Mr. Wong referred to page 5 and said Resolution 2016-02 was adopted and this relates to the
369 JPA amendment which added San Anselmo's pension liability. Auditors review the JPA
370 agreement from 2013 and he said the agreement states that all parties agree that pre-existing
371 employer funds shall remain with respective parties and shall not transfer to the newly
372 constituted parties. He suggested going back to revise and update the JPA agreement as to
373 what is the actual practice of CMPA.

374
375 Acting Chair Furst asked for clarification regarding the last statement. Mr. Schwarz said when
376 they created the CMPA their understanding was that PERS was going to handle the fact that
377 there would no longer be officers with the Town of San Anselmo which turned out to be
378 different than how it ultimately was implemented. They began to see inequities in a way they
379 had combined and separated different pots in the CalPERS' liabilities.

380
381 Therefore, in 2015, the Police Council reviewed an agenda item to discuss this situation and
382 agreed that one pot of money in particular that they said was San Anselmo which could only be
383 the Town's responsibility should be blended in the Authority. San Anselmo agreed and
384 recognized they were also picking up some of the liability that had come in from the TCPA and
385 never really left the organization and this created a better equity across all member agencies.

386
387 What the auditors realized is that they passed the resolution and implemented it and they have
388 been auditing it that way, but no one remembered that they actually wrote something different
389 in the JPA itself. Therefore, the auditors are now saying they need to go back and make the JPA
390 document read the same as what they are doing, and this will be brought to all three member
391 agencies in the future.

392
393 Mr. Wong referred to page 7, Segregation of Duties, he said because of the structure of the
394 Finance Department in Larkspur, as auditors they bring this up so it is transparent, and he said
395 Ms. Orme has implemented mitigating controls for this practice of segregation of duties.

396
397 Lastly, Mr. Wong referred to page 12 and said GASB75 is defined in the report. In summary,
398 auditors want to see CMPA as successful, sustainable, but at times there is bad news which
399 they must convey. He asked for questions or comments from Council Members.

400

401 Council Member Chu commented that some of the footnotes that are related to pension and
402 OPEB, the anticipated returns of CalPERS do not come anywhere close to what the current
403 discount rates are. He questioned how this gets presented and addressed. In looking at some
404 of the dates and accrued liabilities, they go back to 2013 and he asked how this gets presented
405 in a way that effectively gives a better estimation that it is not the agency's reporting but the
406 way the agency receives their information from CalPERS.

407
408 Mr. Wong said in 2017, CalPERS will be reducing the discount rate by ¼% from 7.75% to 7.5%
409 over the next three years. Therefore, in 2017, all pension liabilities will be increased by 25%,
410 and slowly the discount rate will go down.

411
412 Council Member Chu noted that this places the burden on local agencies. Mr. Wong agreed and
413 stated at times cities hire outside actuaries to perform their own analysis to try and perform
414 their own projections. Council Member Chu said the information is not accurate and he
415 discussed CalPERS' blended formulas for different years, and this is how agencies should be
416 measuring its liabilities.

417
418 Mr. Wong and Councilmember Chu discussed the lowering of the discount rate to 7.25%,
419 amortization and CalPERS actuaries, and Councilmember Chu voiced the need to plan better,
420 set policies, and contribute to an OPEB trust.

421
422 Acting Chair Furst shared that the Town of Corte Madera set up OPEB Trust as well as a fund for
423 pensions, with the goal to be putting money aside in its budget to accommodate for any
424 negative financial effects if CalPERS went to a discount rate of 7%.

425
426 Acting Chair Furst asked if any members of the public would like to address the Council, and
427 there were no speakers.

428
429 ACTION: It was M/S/C (Chu/Condon) to accept the Audit Report, which carried by the following
430 vote: 4-0-2 (Ayes: Chu, Condon, Furst and McInerney; Noes: None; Absent: Morrison and
431 Wright).

432
433 **ADJOURN TO CLOSED SESSION**

434 The Council adjourned to Closed Session at 7:30 p.m. to consider the following matter:

435
436 **Closed Session with Legal Counsel / Pending Litigation (Government Code Section**
437 **54956.9(b)(3)(C))**
438 Receipt of Claim Under Tort Claims Act From Raymond Buddie

439
440 **OPEN SESSION**

441
442 Acting Chair Furst announced that there was no reportable action taken in Closed Session.

443
444 **ADJOURNMENT**

445 The Council adjourned the regular meeting at 8:36 p.m. to the regular meeting on November 2,
446 2017 at 6:00 p.m.

447

448

449

450 _____
Lisa Harper, Minute Taker

451 c/o Central Marin Police Council