

CENTRAL MARIN POLICE COUNCIL

HELD AT
CENTRAL MARIN POLICE AUTHORITY BUILDING
250 DOHERTY DRIVE
LARKSPUR, CA 94939
ON
MONDAY, MARCH 27, 2017
AT 6:00 P.M.

SPECIAL MEETING MINUTES

ROLL CALL

The Central Marin Police Council Regular Meeting was called to order at 6:02 p.m.

COUNCIL MEMBERS PRESENT:

Ann Morrison, Chair/Council Member, City of Larkspur
Larry Chu, Council Member, City of Larkspur
Diane Furst, Council Member, Town of Corte Madera
Carla Condon, Council Member, Town of Corte Madera
John Wright, Council Member, Town of San Anselmo
Tom McInerney, Council Member, Town of San Anselmo

COUNCIL MEMBERS ABSENT:

None

STAFF PRESENT:

Dave Donery, San Anselmo Town Manager
Dan Schwarz, Larkspur City Manager
Todd Cusimano, Corte Madera Town Manager
Michael Norton, Chief of Police
Cathy Orme, Police Council Finance
Zaneta Feleo, Administrative Assistant

STAFF ABSENT:

None

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PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

OPEN TIME FOR PUBLIC EXPRESSION

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

REPORTS AND COMMENTS

A. COUNCIL MEMBERS

Chair Morrison stated she was impressed when she recently attended the Marin Teen Girl Conference, organized by the Marin Women’s Commission. She was highly excited to see that the girls were interested in Belvedere Chief Tricia Seyler’s comments and the girls engaged in her presentation by asking the Chief many questions.

B. MANAGEMENT COMMITTEE

There were no comments.

C. CHIEF’S COMMENTS

Chief Norton reminded everybody that the Citizen’s Academy will be graduating this Thursday with ceremonies to commence at 6pm. All present are invited. Also, this graduating class will be invited to apply to become a volunteer with the Authority.

CONSENT CALENDAR

A. Approval of Minutes: February 2, 2017

B. Acknowledge Central Marin Police Authority’s Warrant List –January 1 to February 2, 2017

ACTION: It was M/S/C (McInerney/Furst) to approve Consent Calendar Items A through B, which carried by the following vote: 6-0 (Ayes: Chu, Condon, Furst, McInerney, Morrison and Wright; Noes: None).

BUSINESS ITEMS

A. Central Marin Police Authority’s practices and policies regarding citizenship in the context of state and federal law

86 *Recommendation: that Council receives verbal presentation from staff and comment*
87 *on the practices and policies of CMPA regarding citizenship in the context of state*
88 *and federal law.*
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90 Chief Norton gave a PowerPoint presentation regarding CMPA’s practices and policies regarding
91 citizenship in the context of state and federal law which was requested to be discussed at the
92 last meeting by the Board Member McInerney. He presented the U.S. Code §1373 which
93 states:
94

95 *Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or*
96 *local government entity or official may not prohibit, or in any way restrict, any*
97 *government entity or official from sending to, or receiving from, the Immigration and*
98 *Naturalization Service information regarding the citizenship or immigration status,*
99 *lawful or unlawful, of any individual.*
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101 He said federal statute prohibits local agencies from enacting laws or policies that limit
102 communication with the Department of Homeland Security about immigration or citizenship
103 status. If ICE contacts CMPA, CMPA’s policy is that they would need to notify the on-call Lt. so
104 the Chief is aware of it right away.
105

106 President Trump signed on January 25, 2017 the Border Security and Immigration Enforcement
107 Improvements and Enhancing Public Safety in the interior of the United States. Under the
108 previous Administration, certain classes were exempt from immigration laws which this
109 removed. It states that anyone in violation of immigration laws is subject to deportation. U.S.
110 and ICE will no longer release violators.
111

112 It also had language regarding hiring more agents, putting in a wall, expanding the 287 (g)
113 program with local law enforcement, whereby some officers would be deputized as ICE agents.
114 Sanctuary cities that fail to comply with federal law will not be eligible to receive federal
115 funding. Attorney General Jeff Sessions came out today and reiterated what President Trump
116 has mandated.
117

118 Recent media stories regarding ICE practices this year include:
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- 120 • Coordinated nationwide Coordinated nationwide raids
 - 121 ◦ 75% were “criminal aliens”
 - 122 ◦ Collateral arrests of non-criminal aliens
 - 123 • Santa Cruz Gang raid
 - 124 ◦ Local government later claimed ICE lied to them about collateral arrests
 - 125 • ICE agents identifying themselves as “police” when contacting individuals in Los Angeles
- 126

127 Chief Norton also explained California State Senate Bill SB 54:
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- 129 • Would prohibit local law enforcement from investigating, detaining, detecting, or
130 arresting individuals for immigration enforcement purposes
- 131 ◦ Would restrict local law enforcement from participating on gang task forces,
132 where ICE is a participant
- 133 • AG would publish model policies limiting assistance with ICE

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135 California State SB 31 was introduced December 5, 2016 which would prohibit local law
136 enforcement from disclosing to the Federal government personal information regarding a
137 person’s religious beliefs, practices, or affiliation for law enforcement or immigration purposes.
138 He stated CMPA does not collect religious data if ever asked.

139 California “Trust Act” AB 4 commenced January 1, 2015 which prohibits local law enforcement
140 from detaining someone on an ICE hold, after that person is eligible for release from custody,
141 unless certain conditions are met, such as:

- 142 ◦ The individual has been convicted of certain listed crimes, such as:
 - 143 • Serious or violent felony
 - 144 • Assault or Battery
 - 145 • Sexual or Child abuse

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148 Chief Norton noted AB 4 pertains to those in the Marin County Jail, given people are in custody
149 only for a few hours at CMPA and they are then booked into jail.

150
151 CA “Truth Act” AB 2792 commenced January 1, 2017 which requires local law enforcement to
152 provide any individual in custody with a written consent form, prior to allowing ICE to interview
153 the individual. The form is available in different languages and it specifically states that the
154 individual has a right to not speak with ICE.

155
156 Chief Norton spoke with the Undersheriff as to how this works. He indicated if there is an ICE
157 detainer and someone is on the “Trust Act” and eligible for bail, they get to be released if not a
158 serious crime. For the Truth Act, whether the person is booked for a DUI or domestic violence
159 or a more serious crime, they fill out a booking form which answers questions regarding their
160 social security number and where they were born. Fingerprints are then sent to the FBI and
161 DOJ. They take this data and send it to ICE and other federal agencies.

162
163 CMPA’s is committed to equal application and enforcement of the law regardless of citizenship
164 status:

- 165 • All victims and witnesses must feel secure to contact us
- 166 • Do not ask immigration status during contacts/arrests
- 167 • All requests from ICE are forwarded to the on-call Administrator for review and decision

168
169
170 Marin County Sheriff’s Office practices include:

- 171 • Similar Patrol practices to CMPA
- 172 • County jail policy follows the “Trust Act” & “Truth Act”

- 174 ◦ Booking form captures suspect’s place of birth, but not immigration status
- 175 ◦ Fingerprints are taken and sent to DOJ and FBI
- 176 • ICE is secondary recipient of fingerprints when they are sent
- 177 ◦ Require ICE to conduct a probable cause hearing or obtain a warrant to honor an
- 178 ICE hold

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180 Recent Marin County ICE actions include:

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- 182 • San Rafael & Novato Police
- 183 ◦ Each contacted by ICE once in March 2017 to advise would be in their jurisdiction
- 184 ◦ Did not request any assistance from local police
- 185 ◦ Did not disclose what they would be doing in their jurisdiction
- 186
- 187 • Central Marin Police Authority
- 188 ◦ Officers and Supervisors have no reason to ask about citizenship status in the
- 189 course of their duties
- 190 ◦ Any questions about citizenship occur at the Marin County Jail by ICE
- 191 • This occurs after custody is transferred from CMPA to the Marin County
- 192 Sheriff, if at all

193

194 Council Member Furst referred to the Marin County Sheriff’s policy and booking practices and
195 asked if there would be a necessity to contact ICE if the CMPA had an arrest of a non-
196 documented person.

197

198 Chief Norton explained that a felony arrest is always booked into the County jail. A
199 misdemeanor arrest is either booked into jail or cited and released from either the scene or the
200 police station.

201

202 Council Member McInerney thanked Chief Norton for a thorough report. His main concern
203 would be that the CMPA would be used as an arm of the federal government in deporting
204 illegal immigrants, given added resources by the President. He noted there is no data that
205 undocumented workers cause crime more often than citizens, thinks the aim of the federal
206 government was inconsistent with the values of Marin and voiced concern that more contact
207 will be asked of local agencies to play a more active role.

208

209 In response to questions regarding protocols, Chief Norton discussed ways of being transparent
210 with the public in relaying what CMPA currently does in relationship to its regular duties and
211 “sanctuary cities”.

212

213 Council Member Chu discussed what CMPA does from a functional standpoint and general
214 practice, and Chief Norton discussed removal of certain items from CMPA’s policies without
215 violating any laws.

216

217 Council Members suggested staying out of the politics by not declaring a “sanctuary city” and
218 Chief Norton stated these discussions are being held by various jurisdictions; however, CMPA is
219 unique in that it serves three jurisdictions.

220

221 Town Manager Cusimano stated that it is the booking process that is the bone of contention.
222 Regarding restriction of federal grant monies, it will be the CMPA’s decision whether or not
223 CMPA would participate.

224

225 Council Member McInerney asked what the CMPA’s actions would then be in the future. Chief
226 Norton explained that if ICE contacts him, he will be alerting all three managers quickly. He also
227 added that he had met with a group of volunteers from the ACLU discussing the same concerns.

228

229 Council Member Furst said in the event there was an ICE arrest she asked that the Chief explain
230 the Authority’s protocols and be upfront with the public as to the Authority’s policies.

231

232 Chair Morrison thanked the Chief for his presentation and explanation of the matter.

233

234 **B. Resolution 2017/06 –Funding Formula for the Central Marin Police Authority**
235 **Budget**

236 *Recommendation: that Council receives presentation and approves Resolution*
237 *2017/06 regarding the Funding Formula for Central Marin Police Authority’s budget.*

238

239 City Manager Schwarz explained that the funding formula was discussed with the Managers
240 and he noted the formula had previously fluctuated year-to-year and has now experienced a
241 complete three years with all three jurisdiction’s statistics. If one community had been using
242 more resources than another, costs were burdened by that jurisdiction and if this occurred
243 often, the Managers and Board would discuss it.

244

245 He reported that the City of San Anselmo was at 38.34%, Larkspur at 33.17% and Corte Madera
246 at 27.6%. The smoothing period over the last three years has leveled off into fair proportions
247 and is similar to populations of all three cities. In 2015, the Authority merged dispatch
248 operations with County Communications and, shortly thereafter, software was installed to log
249 calls which now include about 2,000 to 3,000 calls not previous in the funding formula.

250

251 He then referred to attachments in the packet which include this year’s funding formula and
252 also to page 3 of Attachment 1. He explained its inclusion of calls for service, total crimes, total
253 citations and total accidents and the weight assigned to each. One aspect of the new software
254 affects or skews the adjusted calls for service.

255

256 Attachment 2 shows the funding split for every year going back to FY 2013/14. The funding
257 split share for the budget is \$6.6 million and the equal share is \$4.8 million for each jurisdiction.
258 Therefore, the funding formula represents more than half of the budget.

259

260 The last attachment shows trends which shows the City of San Anselmo went from 46.19% to
261 43.54% or decreased by 2.65%; the next year they decreased by 3.18% and this last year
262 decreased by 1.93%.

263
264 Town Manager Cusimano then explained the trend of the three years or the “smoothing effect”
265 and said in 2013, all agencies thought the funding formula would be the best solution and this is
266 the reason for locking these numbers in now, given they are holding steady.

267 Council Members asked and confirmed that calls of service numbers would still be tracked in
268 the future to determine and ensure that these numbers still hold true.

269
270 Chair Morrison suggested a motion as amended to correct a misspelling of the word “chairs” in
271 the last “Whereas” clause.

272
273 ACTION: It was M/S/C (Condon/Chu) to approve Resolution 2017/06, as amended, with regard
274 to the Funding Formula for the Central Marin Police Authority Budget, which carried by the
275 following vote: 6-0 (Ayes: Chu, Condon, Furst, McInerney, Morrison and Wright; Noes: None).

276
277 **C. Resolution 2017/07 – Resolving deficit of the Central Marin Police Authority’s**
278 **Insurance Fund**

279 *Recommendation: that Council receives presentation and approves Resolution*
280 *2017/07 authorizing the Management Committee to resolve the deficit of the Central*
281 *Marin Police Authority’s Insurance Fund.*

282
283 City Manager Schwarz gave the report and spoke to why there is a need by resolution to move
284 monies from one fund to another. Within each fund, the Authority Board allows the
285 Management Committee discretion to apply monies on a bottom line accounting basis within a
286 fund. They cannot move monies across the various funds, and this item is to talk about new
287 monies out of certain accounts into other accounts to reconcile some problems.

288
289 In this case, they are looking to close the fiscal year as of June 30, 2017 and their independent
290 auditors annually analyze and address issues with their accounts. He explained that the
291 Insurance Fund and the COPS fund are in deficit by about \$1.2 million dollars.

292
293 The auditors have issued the need to reconcile the deficit in this fund and secondly, to reconcile
294 the deficit in the operating fund. The Authority has monies in two different reserve fund
295 accounts which are outlined on page 2 of the report and this still puts them net negative but it
296 makes the problem less staggering to deal with.

297
298 While the deficit position is shared equally among agencies, San Anselmo does not have enough
299 built up in its payments which are not part of the June 30, 2016 snapshot. Next would be to
300 work with San Anselmo as to how to pay off the remainder, stating there are options. They
301 could accelerate payments and make the last two now which would accomplish paying most of
302 the remaining deficit and secondly, not have to owe those payments into the future. The other
303 option is to negotiate an agreement with paying back of outstanding debt.

304
305 He recommended that the Board: 1) authorize the movement of funds from Reserve to address
306 deficits; and 2) to have the Managers work with City of San Anselmo to place additional monies
307 into the General Reserve to address the payments to level off with Corte Madera and Larkspur.
308 Managers will be bringing back a budget item as to how San Anselmo has addressed restoring
309 funds at the next meeting. At the end of the fiscal year, if there is a zero balance, all three
310 members will be on equal footing entering the next fiscal year.

311
312 Council Member Condon asked if there was any money that would help the COPS fund in the
313 future. City Manager Schwartz noted the Governor did propose deleting this funding source a
314 few years ago. Town Manager Cusimano noted that in the past it was a year-to-year renewal
315 and agencies currently receive \$100,000 per jurisdiction, with the Authority receiving \$300,000
316 to pay for front line personnel and equipment.

317
318 Council Member Wright asked and confirmed that the COPS fund stands for Community
319 Oriented Policing Services and the Authority is looking at a two year smoothing and Mr.
320 Schwartz discussed reports of a softening of the economy in 2018 which could lead to a three
321 year smoothing period.

322
323 Council Member Chu asked and confirmed that the former policy was for a fixed reserve fund at
324 10% or the lowest at \$750,000 which has now been switched to a percentage of 5%.

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326 ACTION: It was M/S/C (Wright/Furst) to approve Resolution 2017/07 authorizing the
327 Management Committee to resolve the deficit of the Central Marin Police Authority's Insurance
328 Fund, which carried by the following vote: 6-0 (Ayes: Chu, Condon, Furst, McInerney, Morrison
329 and Wright; Noes: None).

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331 **ADJOURNMENT**

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333 The Council adjourned the meeting at 7:28 p.m. to the regular meeting on May 4, 2017.

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336 _____
337 Lisa Harper, Minute Taker
338 c/o Central Marin Police Council
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