

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**June 23, 2010
MINUTES**

7:00 P.M. Regular Meeting

Joaquin Moraga Intermediate School Auditorium
1010 Camino Pablo, Moraga, California 94556

I. CALL TO ORDER

The regular meeting was called to order at 7:03 P.M. by **Mayor Ken Chew**.

ROLL CALL

Councilmembers present: Mayor Ken Chew, Vice Mayor Karen Mendonca, and Councilmembers Howard Harpham, Michael Metcalf and Dave Trotter

Councilmembers absent: None

II. PLEDGE OF ALLEGIANCE

Councilmember Metcalf led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

Mayor Chew announced that the State of California had \$2.2 billion in unused Obligation Authority Funds which he encouraged staff to explore with the Contra Costa Transportation Authority (CCTA).

IV. PROCLAMATIONS AND PRESENTATIONS

- A.** Proclamation Declaring July 2010 to be Parks and Recreation Month in Moraga

Mayor Chew read into the record a proclamation declaring July 2010 as Parks and Recreation Month. The proclamation was presented to Park and Recreation Commissioners John Haffner and Karen Reed.

PUBLIC COMMENTS OPENED

John Haffner, Moraga, thanked the Council for its support.

Karen Reed, Moraga, thanked the Town for the proclamation and emphasized the importance of the Town's recreation and park facilities. She invited everyone to the upcoming 4th of July festivities at Moraga Commons.

PUBLIC COMMENTS CLOSED

Mayor Chew announced that the Town's website included a calendar of the Town's Parks and Recreation Department activities and encouraged everyone to participate in the Town's events.

B. Proclamation Declaring Mike Lawrence Business Person of the Year

Mayor Chew read into the record the proclamation declaring Mike Lawrence, Manager of CVS/pharmacy, the Business Person of the Year. He presented the proclamation to Mr. Lawrence.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

V. DISCUSSION ITEMS - None

VI. ADOPTION OF THE CONSENT AGENDA

A. Approval of the Consent Items

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Harpham) to approve the Consent Agenda, Items 1 through 4, as shown. Vote: 5-0.
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| 1) Accounts Payable Claims for 6/4/10 \$111,109.91 | Approved |
| 2) Adopt Resolution 52-2010 Appointing Members to the Board of Directors for Municipal Pooling Authority of Northern California | Approved |
| 3) Adopt Resolution 53-2010 Adoption of the FY2010-11 Gann Appropriations Limit | Approved |
| 4) Adopt Resolution 54-2010 Authorizing the Designation of Offices and Positions to be Authorized to Order the Deposit to or Withdrawal of Monies from the Local Agency Investment Fund (LAIF) | Approved |

B. Approval of the Consent Items Removed for Discussion - None

VII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Chew – Reported that he had attended the League of California Cities, East Bay Division, meeting hosted by the City of San Leandro with the City Manager of the City of Walnut Creek as the guest speaker, and with a presentation on pension reform. He had also attended a League of California Cities Transportation and Public Works Project Committee in Sacramento with discussion on the highway users account tax monies.

Vice Mayor Mendonca – Reported that she had attended the last meeting of the Moraga Youth Involvement Committee (MYIC).

Vice Mayor Mendonca complimented the article which had appeared this week in the Lamorinda Weekly and which had included quotes from many of the MYIC members. She had also attended a pre-meeting of the Solid Waste Authority prior to its regular meeting to be held on June 24.

Councilmember Harpham – No report.

Councilmember Metcalf – Reported that the Revenue Enhancement Outreach subcommittee had posted a survey on the Town's website and on the Moraga Citizens' Network. He added that the CCTA had been working on a work program for the \$10 Vehicle Registration Fee (VRF) for local streets and roads, for a potential November ballot initiative. He described the details of the potential VRF and how the funds could be used.

Councilmember Trotter - No report.

C. Town Manager Update

1. Update on Moraga Road Cape Seal

Town Manager Michael Segrest reported that he had met with representatives of the contracting firm last week and would be meeting again this week to discuss the status of the needed repairs. While an agreement had not yet been reached on a complete repair or overlay of the entire area, Town staff would be pressing hard for a complete reseal over the top to ensure a uniform appearance after the failed sections had been repaired. The Council would be kept apprised of the discussions after the next meeting. In the event the contractor firm did not agree with the Town's request, the Town could sue the contracting firm for the ultimate repair or negotiate for the cost of the entire coat reseal for a uniform appearance. Although legal options had not been pursued yet, all options were being sought including the pursuit of recourse through the bond company. Once an agreement had been reached, the work could commence in the next couple of weeks. In the event an agreement had not been reached, patching work could be pursued pending a solution.

2. PG&E Tree Trimming

Mr. Segrest advised that the Town was working with PG&E on a Tree Trimming Program, although there were some disagreements between the Town and PG&E in terms of the required permitting for the removal of any trees.

Additionally, Mr. Segrest advised that the Town had received two use permit applications for the Rheem Shopping Center with the fees to be waived and the applications to be processed administratively. One application was for a restaurant and the other for a fresh produce market. The new tenants would be a boost with increased activity in the center. He confirmed that the Town would not become involved with a contractual obligation between an existing tenant and a new tenant.

VIII. COMMUNICATIONS - None

IX. ADOPTION OF MEETING AGENDA

PUBLIC COMMENTS OPENED

Edy Schwartz, Moraga, requested that the Town Council explain to the audience that the meeting agenda could be modified to allow earlier discussion on items with greater public participation.

Don Ward, Moraga, asked that the meeting agenda be modified to allow discussion of the Rancho Laguna Park Improvement Plan prior to the other agenda items.

PUBLIC COMMENTS CLOSED

The meeting agenda was rearranged with Item XII. Ordinances, Resolutions and Requests for Action, Item B to be moved for consideration as Item A.

ACTION: It was M/S (Mendonca/Harpham) to rearrange Item XII. Ordinances, Resolutions and Requests for Action, to move Item B to Item A. Vote: 5-0.

ACTION: It was M/S (Trotter/Mendonca) to adopt the Meeting Agenda, as modified. Vote: 5-0.

X. PUBLIC COMMENTS AND SUGGESTIONS

Bea Cunningham, Moraga Women's Society, commented that the Society had received notice that it owed a fee of \$35 for the 4th of July Dog Parade, which she suggested was a penalty to the volunteers of a Town-sponsored project. As a result, she advised that this would be the last 4th of July event where the Society would volunteer its time to the Town. She also commented on the efforts of the Society to donate a bench to the Town which had proven to be difficult.

Parks and Recreation Director Jay Ingram explained that the fee referenced was not new and had been imposed on participants of the Pear Festival and 4th of July events in 2009 and again in 2010. He recognized that the fee could be waived at the discretion of the Town Council.

Mr. Segrest advised that consideration of the Master Fee Schedule had been agendized, and it could be amended by the Town Council to grant the Town Manager or the Parks and Recreation Director the authority to waive fees for groups that were not making money for their services, as an example, although that should be discussed by the Council.

Susanne Brown, Town Attorney, suggested that the Town Council provide direction and parameters to any fee waiver decisions.

John Haffner, Moraga, Chair of the Pear Festival, explained that nonprofit 501(c)(3) groups had always had their fees waived for the Pear Festival. For-profit groups had been charged a fee for a table. He recommended against waiving fees in that service groups were capable of paying a \$35 fee since there were costs associated with putting on such events.

By consensus, the Council agreed to address the issue through the discussion of the Master Fee Schedule, as agendized.

Steve Woehleke, Moraga, stated that he had e-mailed each Councilmember and had submitted a letter to the Editor of the Lamorinda Weekly with respect to the recruitment of a new Town Manager. He questioned the proposed salary of the Town Manager position, encouraged the

Town to cut costs given current economic conditions, and asked that the Town seriously consider and plan the recruitment process by identifying the criteria and characteristics required for the position to be filled appropriately.

John Anderson, Moraga, echoed the comments made by Mr. Woehleke. He encouraged the Town Council to consider a volunteer effort for the Town Manager position particularly in light of the Town's budget constraints.

Edy Schwartz, President of the Moraga Chamber of Commerce, expressed her appreciation to the Town Manager and the Town Council for its support of the business community over the past few years. She noted that she had been contacted by individuals who were interested in the Rheem Center but were concerned with the Town's planning process. She requested the process be streamlined while retaining the Town's standards. She also spoke to the issue of a business having used an A-frame sign along Moraga Road and which the Town had directed be removed. She asked the Town Council to revisit the Sign Ordinance and the use of A-frame signs in Moraga. Lastly, she asked the Town Council to consider a Business Stimulus Plan, as the City of Lafayette had done.

Councilmember Trotter asked the Council to give direction to staff and the Planning Director to meet with the business community in the first quarter of the next fiscal year to discuss a Moraga business package. He expressed the willingness to serve on such a committee.

Mr. Segrest explained that the Town's Sign Ordinance had been included on the list of Town Council Goals for 2010. He added that the two new use permit applications he had referenced earlier would be streamlined and administered administratively. That process would be further detailed to the Town Council at a future meeting.

XI. PUBLIC HEARINGS

- A. Adopt Resolution No. 55-2010 Authorizing the Revision and Update of the Town's Master Fee Schedule and Directing Staff to Finalize a Master Fee Schedule**

Interim Administrative Services Director Emily Boyd advised of a change to page four of the schedule, under Specific Plan Fees, Non-Residential, where the fee shown should be amended to read \$2,575 per peak hour per peak direction trip. She explained that the Town Council reviewed the Master Fee Schedule annually as part of the budget process and considered increases in fees for services provided by the various Town departments. The last review had been approved in July 2009 and had later been amended in September 2009. Staff had also undertaken a review of the current fees for services which had resulted in some recommended changes. Key changes within the Town included changes in the Planning, Public Works, Police, Central Administration, Engineering and Parks and Recreation Departments, as outlined in detail in the June 23, 2010 staff report.

Ms. Boyd recommended that the Town Council adopt the fees as recommended by staff noting that declining the proposed fees would moderately impact the revenue projections for the upcoming fiscal year.

Mr. Segrest clarified that some fees had not been included in the Master Fee Schedule, such as the discussion during public comment, which fee could be handled administratively.

In response to the Council, Ms. Boyd clarified that the new fees listed under Central Administration had not been charged in the past.

Susanne Brown responded to an e-mail that had been provided to the Town Council regarding the Master Fee Schedule as it related to comments regarding the fees being charged not exceeding the cost of the services provided, and the use of the Hacienda that could be leased on a temporary basis. She reported that legal issue had not been settled, with cities and towns typically tracking the actual costs to provide services.

Mr. Segrest added that the Town was at an approximate 60 percent cost recovery for the use of the Hacienda facility. He explained that the fees were one of the revenue components to achieve the goal of a self-supporting facility.

Ms. Brown clarified that the resolution would have to be amended to reflect that findings would have to be made as related to fees not exceeding the reasonable cost of providing the services.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

The Town Council discussed the Revision and Update to the Town's Master Fee Schedule and made the following comments:

- Revise Resolution No. 55-2010 to add a new WHEREAS clause to read:

***WHEREAS**, The Town Council has considered and finds the fees listed in Exhibit A do not exceed the reasonable cost of providing services;*

- A separate finding to be added to Resolution No. 55-2010, to read:

The Town finds that the fees listed in Exhibit A do not exceed the reasonable cost of providing the services; and

- The Town Council directed the Town Manager to work with Bea Cunningham of the Moraga Women's Society and her request for a waiver of the \$35 fee.

ACTION: It was M/S (Trotter/Harpham) to adopt Resolution No. 55-2010 Authorizing the Revision and Update of the Town's Master Fee Schedule, as modified. Vote: 5-0.

XII. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

A. Rancho Laguna Park Improvement Plan

1. Adopt Resolution 56-2010, approving installation and granting a fee waiver for Town required permits and charges for installation of four bocce courts on the south side of Rancho Laguna Park
2. Receive Report and Provide Direction on proposed plans for partial spatial separation between uses without having to create a separate dog park

In response to the Vice Mayor, Mr. Ingram updated the Council on the 4th of July fundraising efforts and the need for additional donations to reach the goal for the event. As to the subject agenda item, he presented the staff report for approving the installation and granting a fee

waiver for Town required permits and charges for installation of four bocce courts on the south side of Rancho Laguna Park and to receive a report and provide direction on proposed plans for partial spatial separation between uses without having to create a separate dog park. He identified in detail the background and history of both issues.

Mr. Ingram reported that during the June 15, 2010 Park and Recreation Commission meeting, the Commission had approved the addition of four bocce ball courts to the south side of Rancho Laguna Park, with Town estimated permits and charges at a cost of \$7,720, not including the design, construction and installation, with the Moraga Bocce Ball Club directed to develop plans for the submittal to the Town. The Commission also recommended that the Town Council waive all Town related permits and charges for a total estimated project savings of \$7,720. Additionally, the Commission recommended no spatial separation between uses at this time. He added, however, that staff recommended the approval of a spatial separation which would provide an opportunity for security for both dog owners' and non-dog owners' use of the park.

Mr. Ingram identified the potential costs for a partial spatial separation which could be \$13,000 to \$18,000 for a three- or four-foot high ranch style fence on both sides of the north and south sides of the park, which could be screened with vegetation, as detailed in Attachment B to the staff report. He noted that staff had met with members of Friends of Rancho Laguna Park to discuss the partial spatial separation on both the north and south sides and they appeared to be in favor of the plan that followed Attachment B, although the issue of funding remained unclear. In light of the organization's willingness to fund the previous "Option A" proposal, he requested that the Friends of Rancho Laguna Park consider funding the current proposal.

Mr. Ingram advised that staff had also determined that such a project would be categorically exempt from the guidelines of the California Environmental Quality Act (CEQA), Section 15302, with the Town to file a Notice of Exemption with the County.

Mr. Ingram recommended that the Town Council consider alternatives one and four, as identified in the June 23, 2010 staff report; adopt Resolution No. 56-2010 granting a fee waiver for Town required permits and charges for installation of four bocce ball courts on the south side of Rancho Laguna Park, and provide partial spatial separation similar to Attachment B, but require improvements to be privately funded. He also clarified that the Town Manager had recommended that the fee waiver be 50 percent of the normal fees in consideration of the fact that many of the bocce ball users were not Moraga residents.

Speaking to Attachment A to Resolution No. 56-2010, Mr. Ingram recommended that if the Council adopted the resolution, that the first NOW, THEREFORE BE IT RESOLVED clause be modified to read:

NOW, THEREFORE, BE IT RESOLVED, the Town Council of the Town of Moraga approves the installation of four bocce ball courts as proposed subject to securing the required permits and subject to Town and Moraga Bocce Ball Club entering into an agreement in a form satisfactory to the Town Manager and the Town Attorney.

Ms. Brown explained that staff had recommended an agreement be entered into with the Moraga Bocce Ball Club either in the form of a right-of-entry agreement or other agreement. The amendment was intended to allow the Moraga Bocce Ball Club to enter the Rancho Laguna Park property to perform the public work and require that the work be performed by licensed contractors subject to Town inspection and acceptance, and to include an indemnity clause protecting the Town from any claims.

Planning Director Lori Salamack added that she had met with Mr. Ingram and Ms. Brown to discuss the CEQA categorical exemption and determined that the project would qualify for minor

alterations of the land, normal repair replacement and facilities. However, staff could not make a final determination pending the receipt of plans for the bocce ball courts. The initial interpretation was that the project would qualify for the CEQA exemption previously identified.

PUBLIC COMMENTS OPENED

Karen Reed, Moraga, Vice Chair of the Park and Recreation Commission, explained that the Commission had not supported the partial spatial separation and had decided it not be done at this time given that it would only offer a hint of a separation and a dog would still be able to go around the partial spatial separation on either side and access other areas of the park. The fence therefore would not offer a complete buffer and would not be worth the effort.

Dom Sidari, Moraga Bocce Ball Club, explained that the Club had to turn away interested members since there were few bocce ball courts. The additional bocce ball courts were necessary to allow additional persons to play. The Club had plans from bocce ball associations that could be used for the new courts, which would be maintained by the Club. In terms of the fees for related permits and charges for the additional courts, he pointed out that some people had private bocce ball courts at their homes at no cost. He disagreed that the Club should be charged additional fees and asked the Town Council to waive all fees.

Luis Salvago-Toledo, Moraga, understood that the existing amenities in Rancho Laguna Park, such as the volleyball court, were used intermittently with the exception of the off-leash area.

John Haffner, Moraga, acknowledged that the Moraga Bocce Ball Club had desired additional courts for some time and he suggested there was a workable plan which he hoped the Council would fully support. As to the fees, in this case he requested that the Town Council seriously consider the waiver of all fees given the Town property and the fact that the fees would represent approximately 75 percent of the total cost of the project.

Don Ward, Moraga, emphasized that Moraga Bocce Ball Club had to turn away new members. If the Club was willing to pay for significant improvements to the facility, he questioned the Town's charge for fees for those improvements. He asked that the Town Council not impose additional fees which would add overhead costs to the process.

Bill Carman, Moraga, supported the additional bocce ball courts in Rancho Laguna Park. The only conflict he could foresee was the parking accommodations during peak periods with dog owners and other users in the park, where additional bocce ball courts could impact the parking situation. He spoke to the partial spatial separation plan as identified in Attachment B, commenting that a group of dog owners were in the process of forming a 501(c)(3) nonprofit. He acknowledged that not all of the dog owners using the park were interested in a spatial separation solution.

On the issue of the waiver of fees, Ms. Brown explained that a town's expenditure or subsidy of a project of \$5,000 or more would trigger public bidding requirements. The subject project for the installation of the additional bocce ball courts was not a Town-sponsored project as part of its Capital Improvement Program (CIP) but a project offered to the Town and performed by a third party. She cautioned that the issue of prevailing wages may also come into play with a public work of improvement but acknowledged that there was a small risk that labor unions may become involved. It was within the Town's discretion to decide how large that risk could be in terms of risk versus benefits.

Mr. Segrest clarified his rationale for the recommendation that the fee waiver be for 50 percent of the normal fees since many of the bocce ball users were not Moraga residents. He emphasized that the additional bocce ball courts were not a Town project, but one which had

been brought to the Town by a constituency. He noted that the Town would incur costs for the project and the budget must also be taken into consideration.

Mr. Sidari questioned private residents who had bocce ball courts absent permits and the payment of fees, and questioned the Town's imposition of fees on the Moraga Bocce Ball Club.

Mr. Segrest clarified that if a private property owner installed a bocce ball court on private property, a grading permit would have been required. He acknowledged that not all property owners obtained the required Town permits and in those cases the grading would likely be small and the permit fees minimal.

Planning Director Lori Salamack clarified that the Town's Municipal Code addressed permit and grading requirements which were based on certain criteria. Absent an actual plan, staff had estimated that the new bocce ball courts would involve more than 50 cubic yards of dirt being moved for the construction of the new courts, which had been the threshold for requiring a permit on a relatively level piece of land.

The Town Council discussed a reduction in the Town's required fees for permitting and charges, and Ms. Brown explained that if the Town Council were to reduce the required fees and remain below the \$5,000 threshold a public bidding would not be required, although there remained a risk with respect to prevailing wage. In order to avoid any reasonable risk to the Town, the subsidy would have to be limited to \$1,000 or 1.64 percent of the project value.

Michael Murray, Orinda, challenged the statement that most of the Moraga Bocce Ball Club players did not reside in the Town of Moraga. He suggested that the merging of the bocce ball courts and a spatial separation were two separate issues and questioned combining them into the same discussion. He urged the Town Council to approve the installation of the additional bocce ball courts which would allow more people to play bocce ball. He concluded that if the fees were not waived, it was likely the courts would not be installed.

Ms. Brown reiterated her comments on the issue of prevailing wages and the \$5,000 threshold for a public bidding process. She stated it was up to the Town Council to decide whether or not those risks were acceptable. If the Town Council was under the belief it had an indemnity for prevailing wages, the agreement with the Club would be well protected although she was not certain an agreement could be drafted around the public bidding requirement which was a state requirement. As to the issue of the fees, she suggested that a dollar amount be set under the \$5,000 threshold.

John Hamilton, Moraga, suggested that there could be a legal resolution to allow the installation of the additional bocce ball courts. He acknowledged that there were a few players who were non-Moraga residents although the vast majority were Moraga residents. He otherwise disagreed that a spatial separation was needed to separate the bocce ball courts from the off-leash dog users in Rancho Laguna Park.

PUBLIC COMMENTS CLOSED

The Town Council discussed the Rancho Laguna Park Improvement Plan and made the following comments and direction to staff:

- **Councilmember Harpham** - Would support Alternative Four, with modification that full spatial separation be provided similar to Attachment B, but require that improvements be privately funded. He also expressed the willingness to meet with the dog park users to discuss the private funding.

- **Vice Mayor Mendonca** - Agreed with Councilmember Harpham's comments and agreed with the Town Manager to waive 50 percent of the normal fees.
- **Councilmember Metcalf** - Agreed that Alternative Four be modified with full spatial separation similar to Attachment B, and require that all improvements be privately funded.
- **Councilmember Trotter** - Agreed with Alternative Four modification for a full spatial separation, as discussed, but desired clarification as to how the full spatial separation would be achieved and how it would be privately funded. He supported the Moraga Bocce Ball Club and the installation of the additional bocce ball courts. As to the fee waiver and to prevent any potential risk to the Town, he recommended consideration of a fee reduction to \$4,900 rather than the \$7,720 total estimated project savings, which would fall below the \$5,000 threshold that would trigger a public works project.
- **Mayor Chew** - Supported the installation of the bocce ball courts in Rancho Laguna Park although there would be staff time involved and costs to the Town. As to the partial spatial separation, given the lack of funding he did not support a spatial separation at this time.

As to how the fee waiver recommended by Councilmember Trotter could be addressed, a modification to Attachment A of Resolution No. 56-2010 in the last NOW, THEREFORE BE IT FURTHER RESOLVED clause was amended to read:

NOW, THEREFORE BE IT FURTHER RESOLVED, the Town Council of the Town of Moraga grants a partial fee waiver in an amount up to \$4,900 of the Town related required permits and charges for construction and installation of four bocce ball courts on the south side of Rancho Laguna Park.

ACTION: It was M/S (Trotter/Mendonca) to adopt Resolution No. 56-2010 Adopting a Resolution approving installation and granting a partial fee waiver in an amount up to \$4,900 for Town required permits and charges for construction and installation of four bocce ball courts on the south side of Rancho Laguna Park, as modified. Vote: 5-0.

Staff was also directed to provide a more complete spatial separation similar to Attachment B and require the improvements to be privately funded and not from Town resources.

B. Adopt Resolution 57-2010 Approving Operating and Capital Improvement Program FY 2010-11 Budget

Mr. Segrest reported that all of the requested changes and/or suggestions made by the Town Council during the June 9 meeting had been incorporated into the budget. A brief overview of those changes were presented at this time with staff clarifying any questions from the Council on those items.

PUBLIC COMMENTS OPENED

George Fisher, Moraga, representing the Moraga Movers, asked that the Town Council consider upgrading the Recreation Assistant position to a full-time position in the FY 2010-11 budget.

David Kruegel, Moraga, representing the Friends of Moraga Library, spoke to the issue of off-street parking at the Moraga Commons as related to the use of Palos Colorados monies and urged the Council to consider supporting that item.

PUBLIC COMMENTS CLOSED

The Town Council discussed the Operating and Capital Improvement Program FY 2010-11 Budget and made the following comments and/or direction to staff:

- Supported making the Recreation Assistant a Full-Time position;
- Supported the proposed FY 2010-11 Operating and Capital Improvement Program Budget, as proposed;
- Commended staff on the efforts to discuss with neighboring jurisdictions; Lafayette and Orinda on possible contributions to the off-street parking needs at Moraga Commons and consider the use of Palos Colorados funds for such use to be discussed in the future; and
- To consider a policy statement on the use of Palos Colorados funds during a future discussion of the Town Council.

ACTION: It was M/S (Trotter/Mendonca) to adopt Resolution 57-2010 Approving Operating and Capital Improvement Program FY 2010-11 Budget. Vote: 5-0.

- C. Approve Motion Authorizing Peckham & McKenney to Begin Town Manager Recruitment and approve/modify candidate profile

Bobbie Peckham, Peckham & McKenney, reported on the background of the recruitment process for the current Town Manager which had been conducted by Peckham & McKenney. She reported that the firm had agreed to honor its guarantee and conduct a subsequent recruitment for Town Manager at no charge to the Town, with the exception of costs related to administrative, phone, copying, and the like, along with consultant travel time, which was not expected to exceed \$5,500.

Ms. Peckham recommended that the Town Council approve Peckham & McKenney for Town Manager recruitment at no charge for actual costs and provide direction regarding the recruitment process. She suggested that the costs could be minimized through electronic posting rather than printing out a costly and time consuming brochure.

Ms. Peckham presented the Town Council with the previous Town Manager candidate profile which would be posted on the Town's and the firm's website, and with a mailing to potential candidates. An advertisement would also be posted electronically in some locations. A filing deadline of July 30, 2010 would keep the process moving with candidates for consideration after the August break. Or, she could meet with the Council on August 25 with a list of candidates. Candidate interviews could be conducted in late September, with a candidate selected and a new Town Manager anticipated in late October.

In response to the Council, Ms. Peckham clarified the online publications that could be used to post for the recruitment of the new Town Manager. She also clarified the reasoning for a closed session as opposed to an open public process for the selection of Town Manager. She explained that candidates were concerned with confidentiality and the process was not intended to put a candidate's current position at risk whereby his or her credibility could be questioned. In her opinion, an open process could result in the loss of candidates, as previously described. If the Town Council were to go that route, she would have to inform potential candidates that their identities would become public and there was a potential for fewer candidates to apply as a result.

Ms. Peckham explained that, based on her experience with those communities that had chosen a public process, they had selected a group of individuals in the community representing a variety of backgrounds and had used those individuals as an interview panel. Such individuals

would be asked to sign a confidentiality agreement on the candidates to be interviewed. While that process may work, she emphasized if that was done in Moraga, she would recommend that confidentiality agreements be signed.

Ms. Peckham added that she had also served as a facilitator in a public review process, where a candidate would stand before the community and be interviewed by the community. Given that California was not a Sunshine Law state, such matters were conducted in closed session and the names of finalists were not required to be disclosed. She recommended that the top candidates be kept confidential during the process to prevent the potential loss of candidates.

Ms. Peckham stated that, based on her experience, the percentage of closed session City Manager positions she had managed over the last year was 85 to 90 percent, where the Council had served as the interview panel in closed session. As to whether or not executive staff could also become involved in the interview process, she acknowledged that she had clients who had done that in the past although that was up to the Council to decide.

Ms. Peckham further acknowledged that she had heard comments in the past in other communities recommending recruitment in the private sector, although based on her experience, many from the private sector did not have the technical governmental and municipal finance experience, California CEQA requirements or land-use planning experiences, as examples. Additionally, it was a difficult transition for those in the private sector to local government. While she had found highly competent candidates from the private sector, none in her experience had made it to the top two to three candidates and they had typically ranked seventh or eighth in the process.

PUBLIC COMMENTS OPENED

Larry Beans, Moraga, suggested that the prior Town Manager recruitment process had gone well. He trusted that the Town Council would make the right decision. He added that if the residents of Moraga did have major concerns with the process, he believed they would have attended the Council meeting and used the opportunity to speak up and become a part of the process.

David Kruegel, Moraga, thanked Mr. Segrest for his work for the Town of Moraga and said he was sorry to see him go.

Ellen Beans, Moraga, thanked the Town Council for its discussion, service to the Town, and suggested that the process offered a good opportunity to find a new Town Manager.

PUBLIC COMMENTS CLOSED

The Town Council discussed the recruitment process for a new Town Manager and offered the following comments and/or direction to staff:

- Modify the first sentence of the second paragraph of page one of the candidate profile to reflect that the Town of Moraga was comprised of 9.3 square miles;
- Include the original brochure photographs when the candidate profile was posted electronically;
- Staff to update the retirement number that had been included in the compensation data;
- Staff to clarify sick leave as part of the Town Manager's position for accuracy;
- Candidate interviews to be conducted in a closed session process with the final two candidates to meet with the Executive Team of the Town to be moderated by Peckham & McKenney;

- Candidates encouraged to read the Revenue Enhancement Committee Report posted on the Town's website which would be linked from the Candidate Profile brochure to be posted on-line;
- Revise the third sentence of the first paragraph of Page 1 of the candidate statement to read: *Originally received as a land grant from the Mexican government in 1835, the Moraga area was settled by Joaquin Moraga and Juan Bernal;*
- Revise the first sentence of the third paragraph of Page 1 to reflect that there was only one high school in Moraga;
- Schedule closed session meeting date for recommendation of candidates to the Town Council tentatively scheduled for late August; and
- Candidate interviews to be conducted in September with the date to be determined.

ACTION: It was M/S (Mendonca/Harpham) to extend the Town Council meeting to 11:30 P.M. Vote: 5-0.

ACTION: It was M/S (Harpham/Trotter) to approve Motion Authorizing Peckham & McKenney to begin Town Manager Recruitment and approve/modify the candidate profile, as discussed. Vote: 5-0.

XIII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Councilmember Metcalf asked that a future agenda item include an informal presentation from a representative of the CCTA on the proposed Vehicle Registration Fee (VRF) initiative.

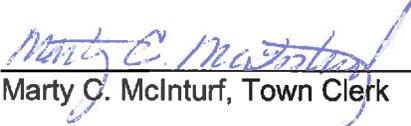
Mayor Chew recommended serious consideration of a potential volunteer Economic Development Director which he would like to see discussed during a future meeting.

Mr. Segrest suggested that could be agendized for a future meeting possibly in the fall.

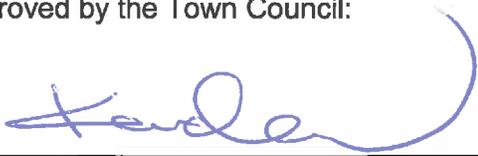
XIV. ADJOURNMENT

ACTION: It was M/S (Trotter/Mendonca) to adjourn the meeting at 11:24 P.M. Vote: 5-0.

Respectfully submitted by:


 Marty C. McInturf, Town Clerk

Approved by the Town Council:


 Ken Chew, Mayor