

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**July 14, 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 7:00 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

Mayor Chew led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS - None

IV. PROCLAMATIONS AND PRESENTATIONS

- A.** Proclamation for the Campolindo High School 2010 Varsity Baseball Team in Honor of Winning the 2010 North Coast Section Championship

PUBLIC COMMENTS OPENED

Campolindo High School Varsity Baseball Team Head Coach Max Luckhurst, Assistant Coach Hal Marty and Pat Clarkson, Strength and Conditioning Coach, thanked the Council for the Town's recognition. They also took the opportunity to commend the students and parents of Campolindo High School for representing the Town and the community for its great turnout of local support.

Thomas Stephens, Corbin Chase, Chris Killeen and Nick Russ, Campolindo High School Seniors, also expressed their appreciation to the Town and the Council for the recognition as well as for the community's support.

Mayor Chew read into the record the proclamation recognizing Campolindo High School 2010 Baseball Team in Honor of Winning the 2010 North Coast Section Championship and presented the proclamation to the coaches and students present in the audience.

PUBLIC COMMENTS CLOSED

B. Presentation by Contra Costa Transportation Authority (CCTA) on Proposed Ballot Measure to Increase the Vehicle Registration Fee (VRF) to Fund Local Transportation Improvements

Arielle Bourgart, Director of Government and Community Relations of the CCTA, provided a presentation of the CCTA's efforts to place a Vehicle Registration Fee (VRF) on the November ballot. The Contra Costa Transportation Improvement Measure would raise registration fees on motor vehicles registered within Contra Costa County by \$10 for the purposes of funding local transportation improvements. She spoke to the background of SB 83 which provides funding for traffic congestion relief and mitigation of air pollution caused by motor vehicles. If the measure passed in November, it would generate \$8.5 million per year and the money would remain in Contra Costa County.

Ms. Bourgart emphasized that the CCTA had deliberated at length about placing the measure on the ballot recognizing the fact that the County was facing a tremendous shortfall in available funding for pavement over the next 25 years, and that funding on the federal and state level was declining. The CCTA had prepared a Draft Expenditure Plan and calculated that if the measure were to pass, the cities of Contra Costa County would have a return to source from the measure roughly equivalent to 55 percent of Measure J return to source funds. Polling results had been encouraging and the CCTA was looking at a favorable response from the electorate. A number of stakeholder and local agency discussions in the County had also been held by the CCTA with favorable responses across the board given that the funds would remain in Contra Costa County.

Ms. Bourgart advised that the CCTA had assembled an Advisory Committee comprised of public and private sector agencies to review the Draft Expenditure Plan and had held one public workshop. She described in detail the structure of the Draft Expenditure Plan with three program categories to be funded by the fees collected by the measure, including local street and road improvement and repair, transit connected to traffic release, and pedestrian bicycle safety and access projects. Programs eligible for funding in the three categories were also identified. She outlined a formula for the four transit regions within Contra Costa County on a population basis. Based on that formula, if the measure were to pass the Town of Moraga could realize an increase in its return to source funds of 42 percent. Passage of the measure would also allow the CCTA a 5 percent administrative fee.

Ms. Bourgart displayed the actual verbiage of the proposed ballot measure which strongly emphasized that money would go back to local agencies with local control.

In response to the Council, Ms. Bourgart clarified the estimated fees that the Town of Moraga and Southwest Area Transportation Commission (SWAT) could realize annually from the measure if passed. She also clarified the restrictions on the use of the money which must be spent on the three categories that had been identified.

Teresa Bowen, Senior Vice President, Gray Bowen, Transportation Consulting Project Management Delivery Strategies, Walnut Creek, explained that another reason for the proposed measure was that the gas taxes that local cities had relied upon to repair and maintain local roadways had not increased and were insufficient to fund necessary maintenance.

Town Manager Michael Segrest also clarified why the program had been targeted to address local roads. He further explained the equity issues related to local roads as related to the fees that would be collected by the measure.

Ms. Bourgart added that the \$10 fee could not be increased in the future although the Draft Expenditure Plan included a provision whereby in five years the CCTA may revisit the Plan and take into account any changes in needs, priorities or the computation of the fee. An increase in the \$10 would require new enabling legislation and a new measure. The 5 percent administrative fee for the CCTA would also be capped in the existing enabling legislation. The CCTA Board would be making a final decision on the Draft Expenditure Plan in the next week and would be soliciting support from the local jurisdictions in the future.

As to whether or not the CCTA attempted to attune the allocation of funds to track the jurisdictions paying the \$10 per vehicle, so as to be fair and equitable, Ms. Bourgart explained that issue had come up and been discussed by the CCTA and SWAT. In terms of a direct nexus it would be most logical to have the return to source fees based on the number of vehicles registered in a specific location although the Department of Motor Vehicles (DMV) information had not been formatted in that fashion. There was no distinction between what vehicles registered in cities and in the unincorporated areas of the County. In order to address that issue, the measure included language whereby in five years the CCTA may revisit the entire structure. It was hoped in the future the information from the DMV would more accurately provide that information.

As the representative from the Town Council to the CCTA, **Councilmember Metcalf** spoke to the background and history of the discussions on the equity issue with SWAT.

As to whether or not the Town Council may take formal action on the proposal at this time, Susanne Brown, representing the Town Attorney's Office, explained that she was not familiar with the legislation under discussion. She stated that the Town Council may adopt a resolution either in support or opposition to the proposed ballot measure.

The Council discussed with **Councilmember Metcalf** providing the background of Measure J, and the discussions on the proposed ballot measure, the issue of limited funds for local road repair and maintenance, and the importance of the measure to provide additional revenue to the funds already received to assist in funding for Lamorinda projects and the hope that the CCTA Board would support the ballot measure for consideration in November.

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

Consent Agenda Items 2, 3 and 4 were pulled from the Consent Agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Harpham) to approve Consent Agenda items 1, 5, and 6. Vote: 5-0.

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| 1) Accounts Payable Claims for 6/18/10 (\$76,928.08); 7/02/10 (\$112,125.74); 7/02/10 (\$46,870.25) | Approved |
| 2) Approve Minutes from the Town Council Meeting June 9, 2010 | Removed |
| 3) Approve Minutes from the Town Council Meeting June 23, 2010 | Removed |
| 4) Approve by Motion Recommended Town Council Meeting Schedule for August and September 2010 | Removed |
| 5) Adopt Resolution 58-2010 Awarding Contract to R&B Electronics for Interview Room DVR Recording System not to Exceed \$16,825.00 | Approved |
| 6) Accept Gate Improvements by Morgan Fence and Iron of Concord for the Installation of New Automated Gates at 331 Rheem Boulevard, CIP Project Number 10-303 | Approved |

B. Consideration of Consent Items Removed for Discussion

1. Approve Minutes from the Town Council Meeting June 9, 2010

The following revisions were made to the Town Council minutes of June 9, 2010:

To Page 8 Mayor's and Councilmember's Reports, **Vice Mayor Mendonca**, revise the last sentence to read:

She [Vice Mayor Mendonca] commended the efforts of the MYIC and expressed her appreciation for working with the group.

ACTION: It was M/S (Trotter/Harpham) to approve the June 9, 2010 Town Council Meeting Minutes, as amended. Vote: 5-0.

2. Approve Minutes from the Town Council Meeting June 23, 2010

Vice Mayor Mendonca requested that the public comments made by Moraga resident Larry Beans, as shown on Page 12, be amended to add comments he had made regarding the recruitment process of the Town Manager's position, particularly comments related to the fact that Mr. Beans had stated that people who disagreed with the approach taken had the opportunity to attend the Town Council meeting and speak, and had not.

The Town Council Minutes from June 23, 2010 were to be brought back in the redline strikeout format to the next meeting of the Town Council.

3. Approve by Motion Recommended Town Council Meeting Schedule for August and September 2010

Mr. Segrest explained that staff had recommended that the Town Council cancel its regular meeting for August 11 but hold the regular meeting on August 25, the agenda for which would include standard agenda items, adoption of a Regional Permit for the NPDES standards, a resolution for the library contract, voting direction to the League of California Cities delegate, Mulholland Open Space Lease, Grading Permit for property located at 32 Buckingham Drive, investment policy discussion, and other housekeeping items in terms of the Finance Committee recommendations. He added that the Rancho Laguna II Appeal had been scheduled for September 22.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Mendonca/Harpham) to approve the Recommended Town Council Meeting Schedule for August and September 2010. Vote: 5-0.

VII. REPORTS

B. Mayor's and Councilmembers' Reports

Mayor Ken Chew – Reported that on June 25 he had attended and cut the ribbon for the Grand Re-Opening of the Rheem Theater, and the Moraga Chamber of Commerce Business Person of the Year Dinner on June 28. On July 1, he had attended the Contra Costa Mayors' Conference in the City of Pinole when a motion had been made to discipline two elected representatives to the Local Agency Formation Commission (LAFCO) regarding the City of Brentwood's Sphere of Influence (SOI) ballot measure. The motion had failed 12-4 and he reported that he had voted no on the motion. Another motion had been made to direct the executive director to bring back an amendment to the conference by-laws for a conference vote, to prevent similar situations in the future. He had also attended the Fourth of July festivities at the Moraga Commons and had awarded medals to the winners of the running events and had participated in soliciting donations for the Fourth of July fireworks.

Vice Mayor Karen Mendonca – Reported that she had attended the Ribbon Cutting Ceremony for the new Rheem Theater operators and the Moraga Chamber of Commerce Business Person of the Year Dinner, the Mayors' Conference, and the Fourth of July Pancake Breakfast which had been a great fundraising success for the MYIC. She also explained that prior to the July 14 Council meeting she had attended the Lamorinda Joint Chambers Social in the City of Lafayette which had been well attended. She reported that she would be attending the Solid Waste Authority Planning meeting scheduled for July 29 with no meeting scheduled for the month of August. She took the opportunity to present new green bags to the Council. Further, a tour of the Wilder property had been scheduled that she and the Mayor planned to attend in the next week.

Councilmember Howard Harpham – Reported that July 14 was Bastille Day. He also reported that the concert series on July 15 would include a celebration in honor of Chuck and Lonnie Treat, long-time volunteers to the Moraga community. He hoped that the Treats would be considered for Citizen of the Year in the next year and he welcomed everyone to attend the event. In addition, he had toured the Hacienda facility on July 10.

Councilmember Michael Metcalf – Reported that he would not be able to attend the concert series on July 15 due to the finals swim meet championships at Campolindo High School. He added that the CCTA would be moving to a new location adjacent to Pleasant Hill BART on Oak Grove Road.

Councilmember Dave Trotter - Reported that he would attend the July 15 concert and looked forward to celebrating the Treats' service to the community. He also attended the Grand Re-Opening of the Rheem Theater. He too had attended the Mayors' Conference on July 1 and as a member of the Executive Committee, he briefly attended the Executive Committee meeting regarding discussions on recommendations to the Mayors' Conference on the issue of complaints against two elected officials to LAFCO. He had recused himself from the recommendations to the full Mayors' Conference due to a potential conflict of interest. The Executive Committee had recommended the censure of the two elected officials. The rules and procedures on appropriate conduct of appointed members are to be discussed at a subsequent meeting of the Mayors' Conference. He added that he also attended the Fourth of July festivities and had participated in the fundraising efforts and directed traffic at Moraga Way and School Street. He took the opportunity to commend Larry Beans for winning his age group in the run for the event. He asked the Chief of Police to comment on the Moraga Police Department's participation in the aftermath of the Johannes Mehserle verdict.

Chief of Police Robert Priebe reported that the Town of Moraga had responded to the mutual aid request after the Mehserle verdict. One officer had been assigned to the Mobile Field Force, trained to specifically respond to civil unrest and disaster situations. He added that a pro Mehserle gathering had been announced for Monday, July 19 from 2:00 to 7:00 P.M. in the City of Walnut Creek at the Walnut Creek Courthouse where a large crowd was expected. He expected the City of Walnut Creek may also call for mutual aid at that time. He clarified, when asked, that mutual aid calls were not reimbursable.

C. Town Manager Update

1. Mann, Urrutia, Nelson CPAs & Associates, LLC. Interim Portion for the Annual Audit Conducted at the Town Offices on June 23 - 25, 2010

Mr. Segrest provided the Council with a letter on the status of the Annual Audit conducted at the Town Offices on June 23-25, 2010 by the Town's Auditors and acknowledged the concern with any transition, such as filling the Administrative Services Director position. Based on the audit, no control deficiencies had been identified. A true audit would be conducted over the next month or two with the results expected in November. He also updated the Council on the status of the Moraga Road repairs. A meeting had been held with the contractor who had agreed to make all true repairs to areas that had failed or for materials that had peeled off. Staff had asked for a complete resurfacing of the project area. An analysis by an outside engineer had concluded that a top coat would provide better surfacing. Staff was not completely satisfied with the contractor's proposal. Staff would continue to have discussions with the contractor and it may be possible the Council would be asked to authorize a microchip seal coat over the top of the affected surface, with either the Town bearing the costs or the developer reimbursing the Town, which issue was a topic of discussion with the Town Attorney's Office. Additional testing continued to be done to determine

whether or not the project met the required specifications. He acknowledged that it was likely the work would not be completed prior to the start of the school year.

VIII. COMMUNICATIONS - None

IX. ADOPTION OF MEETING AGENDA

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

X. PUBLIC COMMENTS AND SUGGESTIONS

Ellen Beans, Moraga reported that the Chambers Social that had been held this evening had included the City of Walnut Creek and the Hispanic Chamber of Commerce. She otherwise clarified with the Town Manager the meeting dates for the Town Council meetings for the months of August and September.

Cameron Patera and Nicky Erickson, residents of Moraga and members of Boy Scout Troop #212 explained that they were present in the audience to participate in their Citizenship and Community Badge.

XI. PUBLIC HEARINGS - None

XII. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

- A. Designate Town of Moraga's Voting Delegate and up to two Alternates at the League of California Cities Annual Meeting on September 15-17, 2010 in San Diego, California, for the Purpose of Voting on League Resolutions Regarding Issues of Statewide Concern

Mr. Segrest asked that the Town Council designate the Town of Moraga's Voting Delegate and up to two Alternates at the League of California Cities Annual Meeting scheduled for September 15-17, 2010 in San Diego, California.

Mayor Chew clarified that he would now be able to attend the conference given that a trip that had been previously scheduled had been postponed.

Ms. Brown clarified that the League of California Cities required one voting member and up to two alternates be appointed, although there did not have to be two alternates.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Harpham) to appoint Mayor Chew as the Voting Delegate and Vice Mayor Mendonca as the Alternate at the League of California Cities Annual Meeting on September 15-17, 2010 in San Diego, California for the Purpose of Voting on League Resolutions Regarding Issues of Statewide Concern. Vote: 5-0.

XIII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Councilmember Trotter asked that a future agenda item in the next few months include a presentation from the Friends of the Joaquin Moraga Adobe to educate Moraga residents on the proposed residential development in the City of Orinda and the preservation of the Joaquin Moraga Adobe, a nationally listed historic place. He asked that the owners of the property also be invited to attend and also make a presentation to provide their thoughts on the issue.

Mr. Segrest advised that he had been invited to participate in some of the discussions in the City of Orinda on the residential proposal and would provide information to the Town Council when available.

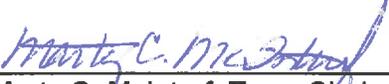
Mayor Chew acknowledged an e-mail request from Habitat for Humanity for the Town of Moraga complimenting the community for its volunteer spirit.

Ellen Beans, Moraga, clarified that she had learned of the Habitat for Humanity project in Moraga and had recommended that the organization communicate with the Town Council on its efforts. She noted that Habitat for Humanity was looking for volunteers to assist in building a new home in Moraga on July 31.

XIV. ADJOURNMENT

ACTION: It was M/S (Trotter/Mendonca) to adjourn the meeting at 9:05 P.M. Vote: 5-0.

Respectfully submitted by:



Marty C. McInturf, Town Clerk

Approved by the Town Council:



Ken Chew, Mayor