

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**November 9, 2011
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 7:02 P.M. by **Mayor Karen Mendonca**.

ROLL CALL

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

Councilmembers absent: Councilmember Howard Harpham

II. PLEDGE OF ALLEGIANCE

Vice Mayor Metcalf led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

There were no special announcements.

IV. PROCLAMATIONS AND PRESENTATIONS

- A.** Proclamation Acknowledging November 2011 as National Hospice/Palliative Care Month

Mayor Mendonca read into the record a proclamation acknowledging November 2011 as National Hospice/Palliative Care Month and noted that no one was present to receive the proclamation. She reported that on November 13, 2011, a Tree Lighting Ceremony in recognition of hospice would be held at Commons Park.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

V. PUBLIC COMMENTS AND SUGGESTIONS

There were no public comments or suggestions.

VI. ADOPTION OF THE CONSENT AGENDA

A. Approval of the Consent Items

Consent Item 5 was removed from the agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

**ACTION: It was M/S (Chew/Metcalf) to approve Consent Agenda Items 1, 2, 3, and 4.
Vote: 4-0. Absent: Harpham.**

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| 1) Accounts Payable Claims for: 10/21/11 (\$252,862.07);
10/21/11 (\$6,569.50) | Approved |
| 2) Revised Minutes for the Town Council Regular Meeting
October 12, 2011 | Approved |
| 3) Adopt Resolution 39-2011 Authorizing Bank Signatories
and Rescinding Resolution Nos. 49-96, 14-96, and 64-75
Authorizing Bank Signatories and Any Other Previously
Adopted Resolutions Authorizing Bank Signatories | Approved |
| 4) Accept Town Council Interview Subcommittee
Recommendation to the Traffic Safety Advisory Committee
(TSAC) of Applicant Larry Rosenberg | Approved |
| 5) <i>Adopt Resolution 40-2011 Authorizing Staff to Enter into
an Agreement with Futures Explored, Inc., of Lafayette for
Custodial Services at Town-owned Parks for a Contract
Amount of \$17,750 for the Current Fiscal Year with an
Option to Renew the Contract at \$18,960 for FY 2012/13,
\$19,530 for FY 2013/14, \$20,115 for FY 2014/15, and
\$20,720 for FY 2015/16</i> | <i>Removed</i> |

B. Consideration of Consent Items Removed for Discussion

1. Resolution 40-2011 Authorizing Staff to Enter into an Agreement with Futures Explored, Inc., of Lafayette for Custodial Services at Town-owned Parks for a Contract Amount of \$17,750 for the Current Fiscal Year with an Option to Renew the Contract at \$18,960 for FY 2012/13, \$19,530 for FY 2013/14, \$20,115 for FY 2014/15, and \$20,720 for FY 2015/16

Public Works Director/Town Engineer Jill Mercurio explained that Futures Explored Inc. had provided park custodial services to the Town for years, which included sweeping, hand weeding, raking, and other basic labor intensive activities through the use of four to five personnel and a supervisor five days a week. She explained how the services differed from the court appointed work alternative labor program. She described the proposed contract as essentially a continuation of the work that had been done for many years.

Ms. Mercurio added that the Town had paid Futures Explored between \$15,000 and \$20,000 a year as part of the buildings and grounds line item in the budget. The organization was a non-

profit providing specialized services including hand weeding work that was typically done around the sport courts, including the volleyball courts and playgrounds and was separate from the roadside weed abatement services that were provided once a year as fire hazard abatement activities. Futures Explored services would be provided as needed depending on the time of year consistent with the Town's Integrated Pest Management Policy, which required manual weed removal. She added that the services were used year round and almost on a daily basis throughout the Town.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Trotter) to adopt Resolution 40-2011 Authorizing Staff to Enter into an Agreement with Futures Explored, Inc., of Lafayette for Custodial Services at Town-owned Parks for a Contract Amount of \$17,750 for the Current Fiscal Year with an Option to Renew the Contract at \$18,960 for FY 2012/13, \$19,530 for FY 2013/14, \$20,115 for FY 2014/15, and \$20,720 for FY 2015/16. Vote: 4-0. Absent: Harpham.

The Town Council referenced Consent Item 4 and took the opportunity to introduce Larry Rosenberg who had accepted the Council appointment to the Traffic Safety Advisory Committee (TSAC), and expressed its appreciation to Mr. Rosenberg for his willingness to serve the Town.

Larry Rosenberg thanked the Town Council for the opportunity to serve the Council and the community as an appointee to TSAC.

Town Clerk Marty McInturf presented the Oath of Office to Larry Rosenberg who was sworn in as a member of the TSAC.

VII. ADOPTION OF MEETING AGENDA

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Metcalf) to adopt the Meeting Agenda, as shown. Vote: 4-0. Absent: Harpham.

VIII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Mendonca - Reported that she had presided over the recent Central Contra Costa County Solid Waste Authority Board meeting; attended the Contra Costa Association of Realtors' reception for elected officials; celebrated Chief of Police Robert Priebe's birthday; was unable to attend the recent Mayors' Conference due to illness; presented a Certificate of Recognition to Martha Grisier in honor of her 90th birthday; and had attended a Women's Tea Reception for elected women officials in the 14th District at the Berkeley City Club in honor of the anniversary of women's suffrage. She also announced the Veterans' Memorial Ceremony with local Boy Scout troops to be held at Commons Park on November 11 at 11:00 a.m.;

reported that she had been asked to be a pizza judge at the City of Orinda for competing football teams on Saturday, November 12; the Moraga Tree of Lights would be lit in the Commons on Sunday, November 13; and the State of the Town and Volunteer Recognition Night would be held at Saint Mary's College on Wednesday, November 16.

Councilmember Metcalf - No report.

Councilmember Chew - No report.

Councilmember Harpham - Absent.

Councilmember Trotter - Reported that he had presided over the Contra Costa Mayors' Conference at the new Community Center in the City of Antioch with a presentation from Sheriff David Livingston on the cost of housing new prisoners in the State's prison system; announced that Don Blubaugh, Executive Director of the Mayors' Conference, had submitted his resignation; and reported that the Executive Committee had conducted interviews with three candidates with a decision made subject to approval by the full conference of the Mayors to offer the position to Gary Pokorny, the recently retired City Manager for the City of Walnut Creek.

- B. Town Manager Update – Town Manager Jill Keimach took the opportunity to introduce Town Attorney Karen Murphy with Burke, Williams and Sorensen, LLP; noted that the Liaison Meeting scheduled for Veterans Day would be canceled and the next meeting was scheduled for December 9; and due to the Thanksgiving holiday the regular Town Council meeting of November 23 had been canceled and a joint special meeting with the Town Council/Planning Commission had been scheduled for November 30.

IX. DISCUSSION ITEMS

There were no discussion items.

X. PUBLIC HEARINGS

There were no public hearings.

XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

- A. Review and Discuss Library Commissioner Proposed Goals for 2012 and Suggestions for Library Lease and Service Agreement between County of Contra Costa and the Town of Moraga

Ms. Keimach referenced a letter in the staff report that she had received from Rodger Lum listing his goals for 2012, and referencing numerous issues regarding the Library lease the Council had considered last January. Prior to January 2011, the goal for the Library lease was to have consistency with all 19 communities in Contra Costa County which had gone through the City Attorneys Subcommittee and City Manager Subcommittee. The Library lease had been considered by the Town Council in January 2011 but the item was tabled indefinitely.

Rodger Lum, a member of the County Library Commission, thanked the Council for his appointment to the Commission; reported that Library Commissioners had been asked to prepare individual work plans to the County Library Commission to be incorporated into a larger plan to be submitted to the County Board of Supervisors in the near future. He identified his

goals and objectives including an increase in public awareness, support and utilization of the Moraga Library; improving funding and sustainability of the Moraga Library; and collaborating with the Friends of the Moraga Library to increase charitable donations to Friends, including bequests. He recommended that the Town Council not sign the Library Lease and Service Agreement until it had been revised with the County Librarian to reflect differences among community libraries.

In response to the Council, Ms. Keimach described some of the issues involved that required consideration of different templates for different jurisdictions.

Mr. Lum advised that the Library Lease and Service Agreement was a standing agenda item for the County Library Commission which recognized the lack of progress in acceptance by other jurisdictions.

Ms. Keimach clarified that she understood that the City of Brentwood had just approved a Library lease which had yet to be executed and it was likely that two communities had approved the agreement. She added that staff was not asking the Town Council to adopt the Library lease at this time.

Karen Murphy, Town Attorney, stated that the Brentwood City Manager had been involved in the PMA subcommittee and she understood that the City Manager had not been pleased with one of the earlier drafts of the Library Lease and Service Agreement, which had been modified.

Councilmember Chew congratulated and welcomed Mr. Lum on his appointment as Library Commissioner, and reiterated Mr. Lum's four recommendations on the modification of the service agreement. Mr. Chew then asked whether or not any other cities had made the same recommendations as Mr. Lum.

Mr. Lum responded he was unaware of recommendations from other jurisdictions but could raise those issues at the next meeting of the Library Commission.

PUBLIC COMMENTS OPENED

David Kruegel, Moraga, stated that he was speaking for himself. He commented that the draft Library lease the Council had considered in the past should be replaced given that the definition of Library services was inadequate; the Central Library did not speak of "furnishings, fixtures and equipment (FF&E) provided;" most systematic procedures were made for Town input with the Town having no voice; there was no formal process for conflict resolution; no provision for adjustments when leases for other municipalities were altered; and the furniture, fixture and management procedures were unworkable. Rather than a building lease, he recommended a Library Services Agreement. He noted that the Library community was not concerned so much with real estate but in arranging the joint financing of Library services. He noted the funding support provided by the Town and the Friends of the Moraga Library. He offered a number of examples of what was done in other communities, suggested that a new approach focusing on Library services and joint funding was needed, and that a work group consisting solely of Central Library staff and County Real Estate Attorneys may not be able to construct a broad-based Library agreement.

Mr. Kruegel explained that when equipment was given to the Library from Friends of Moraga Library it was given with ownership to the Library. He did not support gifts of equipment and furniture to the Library that would then go to the County as part of the agreement. He opposed a County change to the financing arrangement where the County, not the Town, would have ownership of everything. He also commented that he was unaware of a community similar to Moraga that owned its own library and received services from another government entity. He

had studied the Library Services Agreement between the City of Redding/Shasta County and the Library Services and System which operated its library and which offered examples of how to make the relationship work, suggesting that same format could be applied to the relationship between two government entities. Given the Town's contributions to the Library, he emphasized that the Town should have a definite voice in its Library. He stated that he would provide his information to the Council and to Mr. Lum.

PUBLIC COMMENTS CLOSED

The Town Council discussed the Library Commissioners' proposed goals for 2012 and suggestions for the Library Lease and Service Agreement between Contra Costa County and the Town of Moraga and offered the following comments and/or direction to staff:

Councilmember Trotter asked legal counsel to comment on the divide between leases and Library Services Agreements, agreed with the need for lease type language in a Library Services Agreement, expressed concern with the insurance language in the agreement as to whose coverage would be primary in the event of a claim, and asked that the lease model describe the services to be provided.

Ms. Murphy explained that the lease model provided a combination of a lease and real estate aspects and the service components, particularly the hours of the lease. There were no standards on other components in the lease and there could be more service components incorporated into the lease. As to the concerns with respect to insurance indemnification addressed to which extent the parties indemnify each other for negligent acts could be cross referenced and incorporated in some manner into the insurance provisions.

Vice Mayor Metcalf encouraged the elimination of the "one size fits all" objective which did not make sense given the different situations, suggested a model should be used to prepare an appropriate lease for Moraga, and understood that the County did not own the Libraries located in the cities of Orinda and Lafayette whereby there could be something those jurisdictions were doing that were amalgous to what Moraga desired.

Mr. Lum commented that there were other ways to determine how jurisdictions handled their Library Lease and Service Agreements, either through the County Supervisors Association of California or the County Administrators Association, two major bodies that had a key interest in the County Library operations. He could work with staff to see what other jurisdictions were doing to address a more acceptable template agreement which was not "one size fits all." However, given the State budget situation, this delay could be looked upon as a positive opportunity in terms of the County possibly revisiting the entire library agreement where the County may consider an agreement that was more stringent in terms of protections to the County and an agreement that benefits not only the County but all cities and towns. He provided information on the ownership and partnerships of the libraries in Orinda and Lafayette.

Councilmember Trotter expressed concern with the lack of reciprocity on a number of various terms in the service agreement, specifically paragraph 6(a) versus 6(b); the indemnification rights of the County versus the Town's use of the Library with no language as to the indemnification rights of the County using the Library resulting in indemnity rights to the Town; paragraph 15(a) versus 15(b); the default language in favor if the County defaults; where language had been included which relieves the County as to force majeure doctrine but not the Town; paragraph 16, Remedies; he had no problem with the language in concept but asked if the remedy as stated was exclusive, and whether it was the only remedy the parties had for a breach by the other side, and if it was intended to be an exclusive remedy it should be spelled out in the contract in the event of a default.

Mayor Mendonca was encouraged by the fact that so few cities in Contra Costa County had signed the Library Lease and Service Agreement which opened the opportunity for a new agreement which would be more tailored to the needs of the Moraga community.

B. Update of Recent Activities of the Revenue Enhancement Community Outreach to Neighborhoods (RECON) Subcommittee

Ms. Mercurio reported that the Town Council had last been updated on the activities of the RECON Subcommittee on August 24, 2011, at which time the Council had been provided with a schedule of the work stream identified as Attachment B to the November 9 staff report. Since that time, RECON had divided into two subcommittees focusing on outreach and engineering. One of the primary focuses of the outreach committee was the speakers' bureau with information on the Town's road conditions presented to the public and service groups at speaking events. The speakers' bureau training included a PowerPoint presentation which was frequently updated, identified as Attachment A to the staff report. All of the related information on RECON's efforts had also been placed on the Town's website.

Ms. Mercurio explained that the engineering committee had assisted the outreach group through presentations to residents on the conditions of the Town's roads and a review of the Pavement Condition Index (PCI). A graph was presented showing the conditions of the Town's streets through the PCI, historically from 2001 to the present. She identified the PCI for the Town's arterials and neighborhood (residential) roadways and noted that grants could be obtained for the Town's arterials but that those funding opportunities were not available for neighborhood streets.

Ms. Mercurio advised that 21 percent of the neighborhood streets were identified as in a good or fair condition, 51 percent were considered poor, and 6 percent were identified as failed streets. She stated that in ten years the bad roads would become the norm and the failed roads would be 72 percent of the roadways. The engineering committee also considered a computer model of street conditions and recommended treatments based on the street condition and the type of road, recognizing that the model assumed best engineering practices and had not taken into account fiscal realities. In order to achieve something better for the Town that would be more cost effective, staff was in the process of analyzing every street on the map as compared to the computer model recommendations.

Based on the survey results, Ms. Mercurio explained that residents were of the opinion they would be more comfortable with streets in a much less perfect condition than the models had shown, and staff was feeding the input to the engineering side to reach the best results for Moraga. She emphasized that RECON would continue its outreach efforts and continue making presentations to educate the public as much as possible. The engineering committee would continue to develop the costs, develop the funding options, and return with another update in early 2012. She described the outreach efforts at the time as preliminary education with cost information remaining to be detailed to ensure a cost-effective solution that would work for most Moragans. Residents were being encouraged to host presentations in their homes. Hosting opportunities had been posted in the About Town newsletter and the Town's website.

Ms. Mercurio acknowledged **Councilmember Trotter's** willingness to volunteer his residence to host a presentation, his recommendation for RECON to download the impressions from those behind the failed Measure G parcel tax campaign in the City of Lafayette, and his request for data to support the assertion in the PowerPoint presentation that bad roads would result in lower property values.

Ms. Keimach added that no presentations had been scheduled with privately maintained communities, such as Sanders Ranch or the Moraga Country Club.

Vice Mayor Metcalf, a member of RECON, reiterated that RECON only had anecdotal evidence from Realtors that bad roads would result in lower property values. He noted that reputable Realtors in the area had emphasized the importance of curb appeal which would have a significant impact on the sales price of a home and RECON had been reviewing funding options in a rational way recognizing the differences between a publicly funded street and a private street.

Ms. Keimach also noted that in January RECON would return with the engineering numbers and in April with the revenue options for Council consideration. Regarding the City of Lafayette's failed Measure G, she stated the Taxpayers' Association supported the infrastructure measure as a good use of public funds with the monies specifically targeted for roadway repair. She expressed her hope that Moraga residents would look at the potential revenue options and support Moraga's effort to repair its roads.

Vice Mayor Metcalf commented that based on the most recent survey approximately 15 percent of those surveyed had indicated opposition to a revenue option. Based on information gathered statewide and the most recent election, a number of proposed revenue measures had passed in the State with a 70 or 80 percent approval. He further noted that RECON outreach efforts had not received a large number of volunteers requesting a presentation in their neighborhoods, and it was important to understand that while the current conditions of the Town's roadways were not that bad, there would be serious concerns in the next ten years which was the purpose of the RECON outreach efforts to get that information to the public.

PUBLIC COMMENTS OPENED

Ellen Beans, Moraga, a member of RECON, reported that the coffee sessions had started in early October with nine presentations with as few as seven to as many as 30 participants and almost every coffee session had at least one person in attendance who had offered to host a presentation. She encouraged anyone interested in hosting a presentation to contact her.

PUBLIC COMMENTS CLOSED

Vice Mayor Metcalf acknowledged Sam Sperry, a member of RECON with a background in public financing, who was present in the audience and who had volunteered his time.

The Town Council thanked staff for the presentation.

- C. Adopt Resolution 41-2011 Authorizing Town Staff to Fund Americans with Disabilities Act (ADA) Improvements to a Commons Park Pathway Adjacent to the Upper Playground as Part of the Moraga Park Foundation Funded Bandshell Improvement Project in an Amount not to exceed \$15,000 Using East Bay Regional Park District (EBRPD) Measure WW Grant Funds

Parks and Recreation Director Jay Ingram reported that the item was a funding request to allow a project when constructed to meet Americans with Disabilities Act (ADA) requirements and make Moraga Commons Park more accessible from the existing St. Mary's Road parking lot and the proposed Moraga Road parking lot adjacent to the skate park. He noted that the Moraga Park Foundation had a history of improving public facilities in Town and when complete gifting them to the Town to manage. The facility upgrades to the bandshell would be paid entirely by the Park Foundation with the exclusion of the ADA improvements that would benefit many park patrons for a variety of numerous events held in Commons Park. The Town Council was being asked to fund the section of the pathway that was identified in Attachment B to the November 9 staff report, and redirect the overage of the East Bay Regional Park District

(EBRPD) Measure WW funds from the Camino Pablo Fields project in an amount not to exceed \$15,000 for the ADA accessible pathway at Commons Park. He stated this project would qualify for Measure WW funds, according to the EBRPD Grants Manager.

Mr. Ingram explained that, similar to the Camino Pablo Fields project, the Town would front the money for the work with the Town to be reimbursed by the EBRPD.

Ms. Keimach further added that the Park Foundation would like to start the contract for the construction of the bandshell and in order to move forward with the contract they needed an early commitment from the Council on the ADA improvements.

Mr. Ingram expressed his comfort in estimating about \$105,000 as remaining funds from Measure WW to fund other projects in the Town, as outlined in the November 9 staff report, noting that the final costs for the Camino Pablo Fields project should be identified very soon with the final punch list to occur in the next week.

Stan Nielsen, Architect, explained that they had an approved permit for the ADA requirements with all requirements identified in the project drawings and that the work for the bandshell improvements was contingent on ADA compliant work designed and specified in order to receive occupancy and building permits.

Mr. Ingram commented that the Town must close out the Camino Pablo Fields project before the Town may reapply for another project with the EBRPD. The application process for the EBRPD each year was February 1 through March 31. The EBRPD did not designate approvals until May each year and there would be no expenditure of Measure WW funds until the project was approved by the EBRPD.

Bob Reynolds, Park Foundation, stated that the improvements to the bandshell would not be completed before the 2012 concert season because the Park Foundation had a funding problem with more demand than funds. The Park Foundation was in the process of designing a capital campaign to convert the bandshell improvements to more of a park headquarters situation for all types of recreational programming, including the summer day camp. In order to make those activities grow the space must be reconfigured and expanded. He commented that the project involved different layers of permits including a permit required from the Health Department. He emphasized that some of the permitting costs were substantially higher than the Park Foundation had anticipated.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Chew) to adopt Resolution 41-2011 Authorizing Town Staff to Fund Americans with Disabilities Act (ADA) Improvements to a Commons Park Pathway Adjacent to the Upper Playground as Part of the Moraga Park Foundation Funded Bandshell Improvement Project in an Amount not to exceed \$15,000 Using East Bay Regional Park District (EBRPD) Measure WW Grant Funds. Vote: 4-0. Absent: Harpham.

- D. Consideration and Approval of a Charter for the Creation of a Climate Action Plan Task Force

Ms. Keimach explained that the adoption of a charter for the creation of a Climate Action Plan (CAP) Task Force was a Town goal for 2011. The Bay Area Air Quality Management District (BAAQMD), the new 2010 California Environmental Quality Act (CEQA) regulations in conformance with AB32, and the California Global Warming Solutions Act of 2006, required that any application for new construction before the Town Council must be considered for its potential impact on greenhouse gas (GHG) emissions, with the exception of a certified CAP or GHG reduction strategy which would be exempt from the CEQA regulations. This requirement is in addition to the environmental regulations of AB32 and the Regional Guidelines for Sustainable Communities Strategy. The CAP would be similar to a General Plan focusing on GHGs with a list of goals to reduce GHG emissions. She identified the number of cities in Contra Costa County that had approved or were in the process of adopting a CAP, described as an 18-month process.

Ms. Keimach commented that the charter for the creation of a CAP had been intended to mimic the process that had been followed for the creation of the Revenue Enhancement Committee (REC), RECON, and the Economic Development Action Committee (EDAC), and would include a charter listing so many members, a sunset period of July 31, 2013, a meeting format with monthly schedules with local and regional experts for each of the categories such as transportation, land use or community gardens invited to the task force which would be publicly noticed in order to educate on any of the subject areas. At the end of the process, the task force would prepare its recommendations to be submitted to the BAAQMD Air Quality Model to quantify what the goals would do, with the task force to make recommendations on the most cost-effective methods to pursue. The purpose was that the task force be represented by the community, those that would be most impacted or help implement it, consisting of property owners, those with business backgrounds, educators, and interagency employees, and include environmental experts to facilitate and assist in educating the task force. She anticipated that the CAP Task Force would present a Draft CAP to the Town Council before July 31, 2013.

Ms. Keimach suggested that staff could return with a list of task force members for Council adoption or the Council may decide that the task force members be appointed by staff. In response to comments, she suggested that the Town Council could direct the Mayor or two members of the Council to assist staff in the selection of the CAP task force members. As to whether or not two Councilmembers should also serve on the CAP task force, she noted that the Council may amend the charter to include that membership makeup although her intent was that the CAP task force be non-political with a group of individuals who would potentially be part of the solution, not come in with specific agendas, which was why she had recommended members with the background criteria she had identified. She added that when the BAAQMD had issued the new regulations, all the communities concerned with the new regulations had asked who would certify the CAP and what that would mean to each community. The response in public meetings was undefined with the suggestion that it would be adopted by the local jurisdictions. While that remained undefined, it could change in the future.

Councilmember Chew emphasized the importance that the CAP Task Force not be political.

Ms. Keimach explained the fiscal impacts. The funds for the CAP task force would come from the General Fund, and had been estimated at \$500 to cover meeting notices, copying, and meeting logistic costs, and another \$4,000 annually in staff costs, assuming public notice requirements. It was initially intended to be a learning process from all of the experts with no action taken in the first year. The task force would be subject to the Brown Act, subject to the public hearing noticing requirements, with action minutes prepared.

Ms. Keimach commented that the first page of the CAP draft charter could be better clarified as to the description under the paragraph for Purpose. The last paragraph of the charter under the paragraph for Deliverables could include a listing of the purpose to develop a CAP for Town

Council consideration starting with the International Council for Local Environmental Initiatives (ICLEI) inventory that was done last year. She noted that the City of Lafayette was in the process of developing a CAP, and the City of Orinda was in the process of its community and municipal inventory and was in the same position as the Town of Moraga.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

The Town Council considered the approval of a charter for the creation of a CAP Task Force and offered the following comments and/or direction to staff:

Councilmember Trotter suggested that the CAP Task Force and CAP charter should be created to avoid potentially greater costs related to violations of the CEQA regulations in terms of reducing the Town's costs on specific projects. He supported the creation of the CAP Task Force for that purpose and would like to see the inclusion of two Councilmembers on the task force in order to keep things on track by focusing institutionally on what the Town needed, which process had also been followed for the REC. He expressed the willingness to serve on the CAP Task Force.

Vice Mayor Metcalf commented that the moment that AB32 had been placed into law, it became a matter of compliance and what was legal. He saw the implementation of the CAP Task Force as being able to do what was best for the Town's overall welfare by putting businesses into place without having to go through a costly CEQA process. He suggested that the CAP Task Force be comprised of those individuals who were knowledgeable of what the Town was trying to do to increase business, sales taxes, and revenues to keep the Town going and to do so Councilmembers needed to be involved. He emphasized that the process would also take dedication of staff and would likely fall on the Planning Department with limited staff. He expressed serious reservations as to the impacts on staff.

Councilmember Chew suggested that the CAP Task Force would operate much like EDAC and in his opinion would not be something that would burden Town staff since it would be comprised of volunteers.

Councilmember Trotter emphasized that there needed to be Council involvement, with two Councilmembers on the charter as members of the CAP Task Force, as had been done for other projects in the Town such as the committees for the General Plan and Specific Plan processes in order to guide the process along at the Council level. He suggested that the composition of the CAP Task Force must be balanced with views respected in order to make a recommendation to the Council that would have consensus support.

Councilmember Chew felt that politics should be taken out of the composition of the CAP Task Force. He favored a balanced committee and asked staff whether or not the Council may appoint two Councilmembers after the composition of the CAP Task Force was determined.

Ms. Murphy explained that the Council may form a committee and come back and amend the charter to add Councilmembers to that committee.

Councilmember Chew supported that direction with staff to recommend a balance of CAP Task Force committee members with the Council to then become involved.

Councilmember Trotter acknowledged staff's recommendation that politics be taken out of the process noting that ultimately the deliverables would be made to an elected body that did involve politics. He suggested it would be inappropriate without Council participation and guidance and expressed the willingness to serve on the CAP Task Force. He wanted the entire Council to discuss the item and suggested that it be held over to include Councilmember Harpham's participation.

Mayor Mendonca understood that Councilmember Chew's recommendation was for the Town Manager, in working with staff, to recommend a balance of CAP Task Force members without Council participation to prevent the perception of any political agenda. After that the Council could add Councilmembers to be part of the actual group and questioned if that was acceptable to the Town Manager.

Ms. Murphy clarified that the Town Manager would have to be careful in speaking with various Town Council members when considering the recommended members to the CAP Task Force to avoid violating the provisions of the Brown Act.

Councilmember Trotter understood that no one on the Council was opposed to the creation of a CAP Task Force although there were concerns about the wording of the charter which needed to be modified for further review by the Council. Given the lack of urgency, he recommended that the charter return for review with further discussion on Council involvement and at which time all five Councilmembers would be present.

Mayor Mendonca understood that there was a consensus for having two Councilmembers serve on the task force but for some Councilmembers the concern was if they come on after staff makes its recommendations for selection or that some Councilmembers would like to be part of that selection process.

Vice Mayor Metcalf agreed that there were issues that must be resolved in the charter, regardless of whether or not two Councilmembers should serve on the CAP task force. He agreed with the recommendation to bring the charter back for further discussion when all five Councilmembers were present.

Ms. Keimach identified the proposed changes to the CAP Task Force Charter including;

- Purpose, add the phrase *To develop a greenhouse gas reduction strategy/Climate Action Plan*;
- Number of Members to be amended to read *Twelve (12) with two Councilmembers*;
- Meeting Format and Schedule, amend the first sentence to read:

Monthly public meetings to hear leading experts in various energy, transportation, waste, water, hazardous, including local agency members with adopted Climate Action Plans, and land use categories in order to gain a broad understanding of the issues.

Ms. Keimach reiterated that the charter had been modeled after the EDAC which members were appointed by the Economic Development Team members, the Town Manager and additional staff. Councilmember Chew and Harpham had been appointed by the Council to serve on that committee.

Mayor Mendonca suggested that in order to be consistent and fair with what had been done in the past the Council should follow the process it had for the selection of EDAC with staff making the appointments. She otherwise agreed that the issue should be continued to allow the full participation of the entire Council. She recommended that the item be returned to the Town Council at its next meeting.

Councilmember Chew agreed with the Mayor's recommendation and wanted Councilmembers to be taken out of the selection process.

Councilmember Trotter reiterated that the issue should be continued to allow all five Councilmembers to be present.

Vice Mayor Metcalf suggested that the Council should act appropriately, not necessarily consistently. He would like to hear Councilmember Harpham's views and agreed that the item should be continued to allow the full Council to be present. He also suggested that there were differences with the committee from EDAC, REC and RECON and commented that the selections of those committees was done appropriately.

Mayor Mendonca suggested that consistency was appropriate and synonymous in this case. She again was not opposed to waiting until Councilmember Harpham was also present to allow discussion with all Councilmembers present and asked that the item be re-agendized as soon as possible.

Ms. Murphy explained that at this time no formal CAP Task Force had been set up and while the Town Manager could start to consider ideas, it was not appropriate to actually start forming the task force.

Councilmember Chew asked the Town Manager to start considering potential task force members in the interest of time and not wait until the matter returned to the Town Council.

Ms. Keimach advised that the item could be continued to the November 30 meeting date. The Council would be meeting jointly with the Planning Commission to receive an EDAC update and recommendations and questions on zoning. The second part of that meeting would include Council consent items followed by two action items for Council consideration, and could include the subject discussion.

ACTION: It was M/S (Chew/Trotter) to continue the consideration and approval of a Charter of a Climate Action Plan Task Force to a meeting of the Town Council scheduled for November 30, 2011. Vote: 4-0. Absent: Harpham.

- E. Adopt Resolution 42-2011, Authorizing Town Staff to Submit an Application for Measure J Transportation for Livable Communities (TLC) Program Funds in the Amount of \$325,000 and Resolution 43-2011, Authorizing Town Staff to Submit an Application for Measure J Pedestrian, Bicycle and Trail Facilities (PBTF) Program Funds in the Amount of \$250,000

Planning Director Shawna Brekke-Read reported that the funds come from Measure J, the half cent sales tax. The Contra Costa County Transportation Authority (CCTA) had two grants; one the Pedestrian, Bicycle and Trail Facilities (PBTF) grant which involved competitive monies that were available to any agency throughout the County requiring review by the Pedestrian and Bicycle Coalition, and the Transportation for Livable Communities (TLC) Program grant which had an allocation for the Southwest Area Transportation Committee (SWAT) with Moraga competing with the other communities in its area.

Ms. Brekke-Read recommended the preparation of two different grants although they were both competitive. The PBTf grant would be for a section of Moraga Road, a bicycle trail with no pedestrian and bicycle facility currently consistent with the Moraga Transportation Corridor Streetscape Plan, with the construction cost estimates from that plan. The TLC program would be used to complete plans and designs necessary for the Moraga Road and Rheem Boulevard intersection improvements, a roundabout for St. Mary's Road and Rheem Boulevard, and pedestrian and vehicular improvements at Campolindo Drive and Moraga Road. The hope was to create shovel ready projects so that when funds became available the projects would be ready to commence.

When asked by the Council, Ms. Brekke-Read explained that the TLC grant was essentially one grant application with three project design packages. She did not propose scaling the TLC grant project back in terms of funds and suggested the application would be more competitive since it would focus on the Rheem Valley area consistent with the EDAC recommendations that the area become mixed use, more compact, and pedestrian friendly which was also consistent with General Plan policies.

Ms. Brekke-Read commented that there was nothing in the grant applications for anything that would narrow the lanes along Moraga Road from four to two lanes although in her professional opinion, it would be something worth considering. There was substantial evidence on record that narrowed lanes from four down to two lanes, with turning lanes, improved traffic flow and reduced congestion. Roundabouts had the same evidence. While not a part of this grant application, it could be explored in the future and could be part of a corridor plan if the Town received funding. The visioning workshops that had been held had a number of participants who wanted to see a reduction in the number of lanes along Moraga Road to order to spur economic development and to decrease congestion along the corridor. The recommendation for the roundabout for St. Mary's Road had come before the Town Council as a recommendation from TSAC.

Ms. Brekke-Read explained that the project must be detailed in the grant application, with pedestrian orientation having been emphasized and the fact that the visioning workshops had suggested it would spur economic development, would be consistent with the General Plan, would encourage compact development, and would decrease dependence on vehicles.

Ms. Keimach affirmed with Ms. Brekke-Read that the TLC grant application was focused just on Moraga Road but there could be enough money in the grant proposal to also consider a traffic analysis of different alternatives so when speaking with community members they would have information on levels of service changes between different alternatives.

Ms. Brekke-Read responded to a recommendation from the Moraga Center Specific Plan (MCSP) conceptually to relocate the segment of the existing Lafayette-Moraga Regional Trail, and reported that staff had spoken with the property owner, the Bruzzone family, and the relocation of the trail segment was not something they wanted to pursue at the current time. It was one of the reasons staff had declined earlier TLC grants since that could have been a potential project.

Vice Mayor Metcalf emphasized that the EBRPD was opposed to the relocation of the trail and had provided extensive testimony that the trail not be relocated off of School Street.

Councilmember Trotter recalled that the EBRPD was desirous to relocate the trail easement, although the Bruzzone family had resisted. He suggested if there was funding available for the relocation of the trail that the Bruzzone family may be more amendable to work with the Town on the right-of-way.

Ms. Brekke-Read suggested that if the Council was interested in focusing on the Moraga Road Corridor, the St. Mary's Road/Rheem Boulevard roundabout could be removed from the TLC grant application making the grant more competitive since it would focus on the Rheem Valley area consistent with EDAC recommendations that the area become mixed use, more compact and pedestrian friendly, and was consistent with General Plan policies. She acknowledged the Council's recommendation that traffic studies be conducted as soon as possible and that work be done on what could be done with the use of visual simulations and the like. She recommended that the improvements proposed at Campolindo Drive and Moraga Road remain in the grant application given that it was close enough to the Rheem Center and on the same corridor.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Ms. Brekke-Read understood that the Council direction with respect to the TLC grant would be better served with a focus on Moraga Road, particularly in the Rheem Boulevard area starting with thorough traffic studies and analysis and to be included as part of the program visual simulations and a great deal of education to the public, and not include the St. Mary's Road/Rheem Boulevard roundabout in the TLC grant application. As to the PBTF grant application, she commented that she had reviewed the one area with no sidewalks or bicycle facilities which was an area with no connectivity for pedestrians or bicyclists. Having reviewed the Moraga Corridor Plan that area had stood out the most and in that case the Town had the right-of-way for that project and it would be the most cost effective. She added that while the Town may not realize the funding for that project it was worth the effort to include it in the grant application.

Ms. Brekke-Read acknowledged past history in Moraga as to issues surrounding the use of speed bumps, concerns with the idea of narrowing Moraga Road from four to two lanes, and the need for connectivity to the two shopping centers. When asked, she reiterated that the removal of the roundabout at St. Mary's Road and Rheem Boulevard from the TLC application did not mean that the grant application would be more competitive given that a roundabout was highly competitive, but its location at St. Mary's Road and Rheem Boulevard did not have the potential for high density development.

The Town Council recommended the following changes to Resolution 42-2011, a resolution for the TLC grant application:

- Eliminate the last **WHEREAS** clause, as shown on Page 1;
- Eliminate the first **WHEREAS** clause on Page 2; and
- Modify the third **WHEREAS** clause on Page 2 striking the reference to "a roundabout for St. Mary's Road and Rheem Boulevard."

ACTION: It was M/S (Trotter/Chew) to adopt Resolution 42-2011, Authorizing Town Staff to Submit an Application for Measure J Transportation for Livable Communities (TLC) Program Funds in the Amount of \$325,000, as modified. Vote: 4-0. Absent: Harpham.

As to the Council recommendation to add the concept of the relocation of the Moraga-Lafayette Regional Trail in the vicinity of the Moraga Shopping Center to the PBTF grant application, Ms. Brekke-Read noted that the Metropolitan Transportation Commission (MTC) also had bicycle/pedestrian money that had become available. If the Town did not have its own Bicycle Advisory Committee the deadline for a pre-application submittal was Monday, November 21,

2011. If the Town had its own local committee, the deadline would be extended for another month. Given that the Moraga-Lafayette Trail was a regional trail, it was possible the Town could partner with the EBRPD and work harder with the property owners on the right-of way issue rather than through the PBTF grant application.

Ms. Keimach noted that when last speaking with the property owner, the Town could not meet the funding criteria. Staff would have to ensure that they met the criteria if the Council were to pursue that option.

ACTION: It was M/S (Chew/Metcalf) to adopt Resolution 43-2011, Authorizing Town Staff to Submit an Application for Measure J Pedestrian, Bicycle and Trail Facilities (PBTF) Program Funds in the Amount of \$250,000. Vote: 4-0. Absent: Harpham.

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

There were no Council requests for future agenda items.

XII. COMMUNICATIONS

There were no communications.

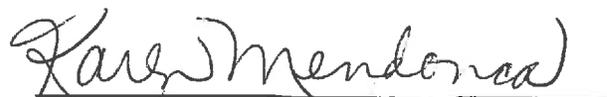
XIII. ADJOURNMENT

ACTION: It was M/S (Chew/Metcalf) to adjourn the meeting at 10:45 P.M. Vote: 4-0. Absent: Harpham

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Karen Mendonca, Mayor