

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**October 10, 2012
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 **Vice Mayor Howard Harpham**.

ROLL CALL

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

Councilmembers absent: Mayor Metcalf

II. PLEDGE OF ALLEGIANCE

Councilmember Chew led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

There were no special announcements.

IV. PROCLAMATIONS AND PRESENTATIONS

A. Proclamation Declaring Great California Shake Out on October 18, 2012

Vice Mayor Harpham read into the record the proclamation declaring the Great California Shake Out on October 18, 2012, reporting that Moraga Town employees would participate in an earthquake drill at 10:18 a.m. He encouraged the public, schools, businesses, and other community stakeholders to also register to participate. The proclamation was presented to Dennis Rein, Emergency Preparedness Coordinator for the Moraga-Orinda Fire District (MOFD).

PUBLIC COMMENTS OPENED

Dennis Rein, MOFD Emergency Preparedness Coordinator, thanked the Council for the proclamation and endorsement of Lamorinda's participation in the Great California Shake Out, presented the Council with information on the event, and noted that he had met with many groups in Moraga, and commended everyone for their support.

PUBLIC COMMENTS CLOSED

V. PUBLIC COMMENTS AND SUGGESTIONS

Barbara Simpson, Moraga, referred to her repeated requests to the Town Council for a letter to the Moraga School District (MSD) requesting a third party investigation and review of the sexual abuse scandal which had taken place in Moraga. The same request had been made to the MSD Board although no action had been taken by either the Town Council or the MSD. She reported that the MSD now faced a major lawsuit and she looked forward to the truth coming out.

Douglas Home, Moraga, presented the Council with an example of twenty campaign signs he had created and placed throughout the Town and which had been stolen in an infringement of his First Amendment rights. He asked Councilmember Mendonca if she was aware of who had removed them.

Councilmember Mendonca advised that she was unaware of who had removed Mr. Home's signs and commented that she had experienced the removal of 50 to 60 of her own campaign signs four years ago.

Mina Arasteh, Moraga, representing Contra Costa County Climate Leaders, invited the Council and the public to attend a workshop on October 23 from 8:00 a.m. at Walnut Creek City Hall, entitled "Reducing Vehicle Miles Traveled (VMTs) and GHG Emissions Associated with Transportation." As the Environmental Club Coordinator for Campolindo High School's Back to School Wednesdays, she asked the Town to post a proclamation on the Town's website to urge the community to travel by walking and bicycling, and that the Town also consider the system used when the Campolindo Performing Arts Center had been under construction when traffic drop-off occurred at the rear of the property which alleviated some of the traffic problems. She took this opportunity to congratulate the Town Council on the process of creating a Climate Action Plan (CAP) and urged the Town to include a section of the CAP in any future updates to the General Plan.

VI. ADOPTION OF THE CONSENT AGENDA

A. Approval of the Consent Items

Consent Agenda Items 4 and 5 were removed from the Consent Agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

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

- | | | |
|----|--|----------|
| 1) | Accounts Payable Claims for: 9/7/12 (\$242,554.35);
9/21/12 (\$121,848.70) | Approved |
| 2) | Approve Minutes for Town Council Special and Regular Meetings on July 11, 2012 | Approved |
| 3) | Motion to Cancel Town Council Meeting on December 26, 2012 | Approved |

4) *Adopt Resolution 66-2012, Supporting the Walnut Creek Watershed Council and its Activities, Authorizing the Mayor to Sign the Letter of Understanding, and Authorizing the Town Engineer to Attend and Participate in the Walnut Creek Watershed Council Meetings* *Removed*

5) *Adopt Resolution 67-2012 Authorizing the Town Manager to Amend a \$10,000 Construction Contract with Jones & Moore Construction (Rancho Mirage) to Expand the Construction of the First Floor Remodel to Portions of the Second Floor of the Town Hall Tenant Improvements Project (CIP 08-302) for a Total Amount not-to-exceed \$20,000 with a Town-Administered Contingency up to 15% of the Contract Amount for Contract Change Orders; and* *Removed*

Adopt Resolution 68-2012, Authorizing the Town Manager to Execute a Construction Contract with the Lowest Bidder to Complete Remaining Second Floor Portion of the Town Hall Tenant Improvements Project (CIP 08-302) for an Amount not-to-exceed \$20,000 with a Town-Administered Contingency up to 15% of the Contract Amount for Contract Change Orders

B. Consideration of Consent Items Removed for Discussion

1. Adopt Resolution 66-2012, Supporting the Walnut Creek Watershed Council and its Activities, Authorizing the Mayor to Sign the Letter of Understanding, and Authorizing the Town Engineer to Attend and Participate in the Walnut Creek Watershed Council Meetings

Public Works Director/Town Engineer Edric Kwan explained that Contra Costa County's Clean Water Program dealt with the requirements of National Pollutants Discharge Elimination System (NPDES) permits as a whole. The Walnut Creek Watershed was one of the largest watersheds in the County and could assist with certain NPDES regulations, such as trash reduction, creek clean-ups and pooling of resources as related to the watershed. In terms of unfunded mandates as related to compliance with NPDES requirements, he assumed that his predecessor provided accurate anticipated expenses in past staff reports.

Town Manager Jill Keimach added that a \$200,000 to \$250,000 figure identified in the staff report related to the NPDES requirements, which would not place any further unfunded mandates on the Town. The Watershed Council intended to provide assistance with the coordination efforts.

Mr. Kwan noted that the Town of Moraga was not a large trash generator in terms of trash load and had been fortunate to partner with other agencies to obtain a grant for the trash capture devices in major trash hotspots throughout the Town. He acknowledged that while the cost for that work was currently covered by a grant, the Town would need to budget for the maintenance of the trash capture devices. The Town Council could also remove itself from the Watershed Council at any time, in writing.

PUBLIC COMMENTS OPENED

Barbara Simpson, Moraga, asked how the Town would coordinate the Town's committee efforts to avoid any duplication or waste of time, such as the CAP Committee efforts.

Mr. Kwan advised that as issues arose he would be more than willing to inform the Town's committees of any new activities.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Chew) to adopt Resolution 66-2012, Supporting the Walnut Creek Watershed Council and its Activities, Authorizing the Mayor to Sign the Letter of Understanding, and Authorizing the Town Engineer to Attend and Participate in the Walnut Creek Watershed Council Meetings. Vote: 4-0-1. Absent: Metcalf.

2. Adopt Resolution 67-2012 Authorizing the Town Manager to Amend a \$10,000 Construction Contract with Jones & Moore Construction (Rancho Mirage) to Expand the Construction of the First Floor Remodel to Portions of the Second Floor of the Town Hall Tenant Improvements Project (CIP 08-302) for a Total Amount not-to-exceed \$20,000 with a Town-Administered Contingency up to 15% of the Contract Amount for Contract Change Orders; and

Adopt Resolution 68-2012 Authorizing the Town Manager to Execute a Construction Contract with the Lowest Bidder to Complete Remaining Second Floor Portion of the Town Hall Tenant Improvements Project (CIP 08-302) for an Amount not-to-exceed \$20,000 with a Town-Administered Contingency up to 15% of the Contract Amount for Contract Change Orders

Mr. Kwan clarified, when asked, that the Town Council was being asked to expend monies on the first and second floor of 329 Rheem Boulevard and that the item was not related to previous actions by the Town Council for the expenditure of funds to remodel the apparatus bay at 331 Rheem Boulevard from storage space to a community meeting room.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Chew/Mendonca) to adopt Resolution 67-2012 Authorizing the Town Manager to Amend a \$10,000 Construction Contract with Jones & Moore Construction (Rancho Mirage) to Expand the Construction of the First Floor Remodel to Portions of the Second Floor of the Town Hall Tenant Improvements Project (CIP 08-302) for a Total Amount not-to-exceed \$20,000 with a Town-Administered Contingency up to 15% of the Contract Amount for Contract Change Orders; and adopt Resolution 68-2012, Authorizing the Town Manager to Execute a Construction Contract with the Lowest Bidder to Complete Remaining Second Floor Portion of the Town Hall Tenant Improvements Project (CIP 08-302) for an Amount not-to-exceed \$20,000 with a Town-Administered Contingency up to 15% of the Contract Amount for Contract Change Orders. Vote: 4-0-1. Absent: Metcalf.

VII. ADOPTION OF MEETING AGENDA

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Mendonca) to adopt the Meeting Agenda, as shown. Vote: 4-0-1. Absent: Metcalf.

VIII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Metcalf - No report.

Vice Mayor Harpham - Reported that he had attended a meeting at Sanders Ranch with the Town Manager and members of the community regarding Measure K; chaired the October 1 meeting of the Southwest Area Transportation Committee (SWAT); and apologized to Saint Mary's College (SMC) as it related to comments he had made during a presentation at the Gaelebration festivities on October 6. He corrected his comments and emphasized that he cherished and valued SMC.

Councilmember Chew – Reported that along with Councilmember Mendonca and Vice Mayor Harpham he had attended a going away party for Associate Planner Kelly Suronen on September 26; attended a Measure K informational session on September 30 at the Moraga Library; attended the Mayors' Conference at the Concord Hilton on October 4; and attended the Gaelebration festivities at SMC on October 6.

Councilmember Mendonca - Reported that she attended a candidate briefing on September 18; attended a meeting of the Audit and Finance Committee (AFC) on September 18; the Pear and Wine Festival on September 29; a Measure K information session at the Moraga Library on September 30; and the Jazz Festival and the SMC Gaelebration on October 6.

Councilmember Trotter - Reported that he had been in New Mexico with his wife, Debbie, celebrating their 30th wedding anniversary. He also reported on efforts with the Mayor, Town Manager, and Dick Olson on a point-by-point response to a column that had been written in the *Contra Costa Times* about the Town's efforts to keep costs under control as related to Measure K; his attendance at a number of *Yes on Measure K* campaign committee meetings; and the Central Contra Costa Solid Waste Authority meeting on October 8 with a discussion on the Franchise Waste Agreement.

- B. Town Manager Update** – Ms. Keimach also reported on a number of Measure K informational meetings with the most recent on October 8 with a presentation to Moraga Movers. In addition, she reported that MOFD Emergency Preparedness Coordinator Rein had invited staff to watch an emergency in process at McCloud Fire near Mt. Shasta which had been very beneficial and educational. She explained that this offer would continue for key staff to experience the process.

IX. DISCUSSION ITEMS

There were no discussion items.

X. PUBLIC HEARINGS

There were no public hearings.

XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

- A.** Adopt Resolution 69-2012 Authorizing the Town Manager to Enter into a Continuation of a Right of Entry and License Agreement for an Additional Two Years with Annual CPI Increases with John Hoover for Cattle Grazing on Mulholland Open Space Preserve

Parks and Recreation Director Jay Ingram reported that the item was a renewal of a previously successful two-year agreement the Town had entered into in 2010. John Hoover's cattle had grazed the property since the late 1970's. He applauded the win-win situation allowing Mr. Hoover to continue to have his cattle graze the property while reducing Town fire hazards and added that Mr. Hoover had conducted a number of improvements on the property. He asked the Town Council to adopt a resolution authorizing the Town Manager to enter into a continuation of a right of entry and license agreement for an additional two years with annual CPI increases with John Hoover for cattle grazing on Mulholland Open Space Preserve.

Mr. Ingram also characterized the cattle as friendly and said the Contra Costa County Department of Agriculture sprayed the property annually, usually during the month of May, to prevent the spread of Purple Star and Artichoke Thistles which had also been reduced through the grazing of the cattle.

PUBLIC COMMENTS OPENED

Dave Killam, Moraga, asked that speakers identify themselves when speaking to the Town Council.

Barbara Simpson, Moraga, asked why the agreement was on a two-year rotating basis and not for a longer period given that Mr. Hoover had been grazing his cattle on the property for years.

Mr. Ingram acknowledged that the contract could be prepared for a longer period of time but had historically been for two-year periods.

John Hoover, Moraga, explained that his family had run cattle in the area since 1910. He thanked the Council for allowing the cattle to continue to graze the property and continue a long-time family tradition. Along with the cattle grazing, he had provided fire breaks; maintained fencing; and educated the public on the livestock in the area. He added that the cattle were gentle and pride was taken in the fact that they were home grown. As to a longer contract beyond a two-year period, he said the family planned to remain in Moraga and a longer contract would be appreciated. He described the history of his family's cattle grazing efforts on Mulholland Open Space over the years prior to the Town having taken over the property with the contract renewed annually since it had expired in 2010. He also identified improvements made to further reduce fire hazards and improve the life of the livestock.

Mr. Ingram added that the 2.8 percent CPI increase was for one year and staff would review the August 2013 CPI to determine any increase at that time.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Mendonca) to adopt Resolution 69-2012 Authorizing the Town Manager to Enter into a First Amendment Right of Entry and License Agreement for an Additional Two Years with Annual CPI Increases with John Hoover for Cattle Grazing on Mulholland Open Space Preserve. Vote: 4-0-1. Absent: Metcalf.

B. Review and Accept Recommendations from Traffic Safety Advisory Committee (TSAC) on Possible Revision to the Traffic Calming Guide (TCG) and Transportation Action Request Form (TAR)

Chief of Police Robert Priebe reported that the item from the Traffic Safety Advisory Committee (TSAC) was a request for the Town Council to verify that TSAC was on the right track based on Council direction to TSAC on June 13, 2012. After direction was given by the Town Council, TSAC met on September 5, 2012 and discussed what the Council desired; simplify the Traffic Calming Guide (TCG) and address those issues raised by the Town Council. He asked the Town Council to review the five points TSAC had identified as contained in the October 10 staff report and stated that TSAC also recommended that the Town Manager, Chief of Police, and the Town Engineer work together with TSAC to incorporate the recommendations and to look more broadly at the processes. Staff would recommend ways to streamline the procedures for Council consideration such as simplified document language to make it clearer for applicants, and to differentiate between public requests for changes and capital improvement projects approved by the Council.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

As to when the TCG and Transportation Action Request Form (TAR) would come back to the Town Council as a final product, Mr. Kwan suggested that staff be able to evaluate the draft and return to TSAC before any changes were incorporated. He anticipated at least two more TSAC meetings before the documents were brought back to the Town Council for consideration.

Chief Priebe commented that, based on the TSAC meeting schedule and staff schedules, he anticipated a return to the Council in early spring. As to the recommended revisions to the appeals process, he recommended that rather than going back to TSAC an appeal should go to the Town Manager, as outlined in the October 10 staff report.

By consensus the Town Council reviewed and accepted the recommendations from the Traffic Safety Advisory Committee (TSAC) on possible revisions to the Traffic Calming Guide (TCG) and Transportation Action Request Form (TAR).

C. Request for Town Council Representative to Serve on Moraga School District (MSD) Strategic Planning Committee

Ms. Keimach presented the request from the MSD Superintendent for a Town Council representative to serve on the MSD Strategic Planning Committee which had been formed to develop a vision for the MSD for the next three years. The committee would meet twice from 12:00 noon to 4:30 p.m. on October 18, 2012 and January 9, 2013. She advised that the MSD would like a Councilmember to be appointed at this time given the immediacy of the first meeting of the committee and that the upcoming election would not have any bearing on the appointment.

PUBLIC COMMENTS OPENED

Barbara Simpson, Moraga, reported that she had attended the October 9 MSD Board meeting at which time a presentation on the strategic planning for the MSD had been made. It was hoped those efforts could be completed in two meetings, as scheduled.

PUBLIC COMMENTS CLOSED

Councilmember Mendonca volunteered to serve on the MSD Strategic Planning Committee.

Councilmember Chew volunteered to serve on the MSD Strategic Planning Commission as an Alternate.

ACTION: It was M/S (Harpham/Trotter) to appoint Councilmember Mendonca as the Primary and Councilmember Chew as the Alternate Town Council Representative to Serve on the Moraga School District (MSD) Strategic Planning Committee. Vote: 4-0-1. Absent: Metcalf.

D. Accept Fiscal Year 2011/12 Year-End Unaudited Revenue and Expenditure Report

Administrative Services Director Stephanie Hom presented the Fiscal Year 2011/12 Year-End Unaudited Revenue and Expenditure Report, and advised that the report was presented quarterly and at the end of the year to allow the Town Council to be apprised of the budget with respect to revenue and expenditures. The independent auditors had recommended that the reporting be done on a quarterly basis to allow the Town to report on the general control and financial management of taxpayer dollars. The report had also been presented to the AFC on September 18 and had incorporated some comments from the AFC into the footnotes.

Ms. Hom reported that the Town had collected revenues of \$6.3 million and expenditures of \$6.2 million with a current surplus of \$108,000 although final numbers would be reported as part of the audit process in December/January. She identified Attachment A to the staff report dated October 10, 2012, (a report of the FY 2011/12 budget to actual for revenues and expenditures through June 30, 2012), and Attachment B (a summary for FY 2011/12 and FY 2010/11, noting that FY 2010/11) was the first full year that the Town had captured revenue and expenditure data for the Hacienda. She explained the details of each of the documents and asked that the Town Council accept the Fiscal Year 2011/12 Year-End Unaudited Revenue and Expenditure Report, as presented.

In response to the Council, Ms. Hom explained how the expenses were allocated on the revenue side for the operation of the Hacienda, which was based on experience and history and through prorating staff time to different account codes for different Town departments. She was confident with the numbers based on the work done by staff and the consistent events and activities over the years which had been stable although non-staff time for supplies and materials and fees for instructors, as examples, were booked to the dollar. In terms of the Hacienda, she stated that the Town used \$220,000 from the General Fund to support activities at the Hacienda.

Mr. Ingram identified the numerous activities and community-wide events which utilized the Hacienda operations and which justified the Town's investment into the Hacienda.

PUBLIC COMMENTS OPENED

Barbara Simpson, Moraga, recognized that the Town sponsored many of the events at the Hacienda, although she was surprised with the number that were not self-supporting.

Mr. Ingram explained that municipal parks and recreation programs and community-wide special events were among the lowest section of cost recoveries (community benefits). Enrichment classes were considered on a percentage basis in terms of cost recovery to identify a price for each program.

Ms. Keimach added that the number under discussion was as high as it was because of the bandshell remodel, Pavilion remodel, and all things that had been done by posting events at the Hacienda, with the money going to the foundations then gifted back to the Town.

Mr. Ingram further explained that the property rental revenue had shown a decrease from the current to previous fiscal year, which he attributed to the economy, noting improvements which would be made to the facility. Staff was also reaching out to different marketing venues through the internet and local newspapers to better market the Hacienda. He added that the overall cost recovery for the Parks and Recreation Department was at 81 percent, as reflected in accounts 810 and 850.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Mendonca) to accept Fiscal Year 2011/12 Year-End Unaudited Revenue and Expenditure Report. Vote: 4-0-1. Absent: Metcalf.

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Councilmember Trotter reported that he had attended the October 9 Orinda Planning Commission meeting where the Commission had approved a development project around the Moraga Adobe. He understood that the project would be appealed and asked that an invitation be extended to the J & J Ranch developers for a presentation at the next Town Council meeting. He asked that an invitation also be extended to the Friends of the Joaquin Moraga Adobe and the Moraga Historical Society to allow the opportunity for those groups to share their perspectives on the proposal.

Ms. Keimach explained that an invitation had previously been extended to the developers although staff had not received a response. She recommended an invitation be extended to the Friends of the Joaquin Moraga Adobe and the Moraga Historical Society regardless and acknowledged that the invitation to the developers could always be made again if they were unable to attend the next meeting of the Town Council.

Councilmember Chew asked that the next Town Council meeting include a status report from the Climate Action Plan (CAP) Committee.

Ms. Keimach understood that the CAP committee may not be ready for a presentation although she would check with the committee on its schedule. There would be a report in the near future.

Barbara Simpson, Moraga, a member of the CAP committee, affirmed that the committee had been broken into a variety of subcommittees, met once a month, and due to the upcoming holiday period the committee looked forward to a January/February update to the Town Council.

XIII. COMMUNICATIONS

There were no communications.

XIV. ADJOURNMENT

**ACTION: It was M/S (Chew/Mendonca) to adjourn the meeting at 8:40 P.M. Vote: 4-0-1.
Absent: Metcalf.**

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Howard Harpham, Vice Mayor