

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**January 9, 2013
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 Dave Trotter**.

ROLL CALL

Councilmembers present: Mayor Dave Trotter, Vice Mayor Ken Chew, and Councilmembers Phil Arth, Michael Metcalf, and Roger Wykle

Councilmembers absent: None

II. PLEDGE OF ALLEGIANCE

Mayor Trotter led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

There were no special announcements.

IV. PROCLAMATIONS AND PRESENTATIONS

- A.** Presentation of Executive Certificate to Robert Priebe, Chief of Police, by Bob Stresak, Interim Executive Director for Peace Officer Standards and Training

Bob Stresak, Interim Executive Director for Peace Officer Standards and Training (POST), presented an Executive Certificate to Chief of Police Robert Priebe in recognition of and pursuant to the State of California POST. He described the training process; noted that few achieved this level; and commended Chief Priebe for his accomplishments.

Chief Priebe thanked Mr. Stresak for the presentation of the Certificate, commented on his efforts throughout his career and since he had become Chief of Police, and recognized and expressed his appreciation to the Town Council, the Moraga Police Department (MPD), and the community for its support.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

- B.** Presentation on State of the County by Contra Costa County Supervisor, District 2, Candace Andersen

Candace Andersen, Contra Costa County Supervisor, District 2, provided an update on the State of the County; reported that the County Board of Supervisors had conducted its reorganization with Federal Glover elected as Chair and Karen Mitchoff as Vice Chair; reported that the main issue before the Board was the closure of four fire stations within the County; reported that meetings would continue to be held on the issue given that the current system within the Consolidated Fire District was not sustainable; and reported that the County was also struggling with public safety realignment and would be approving a budget within the next week to provide new services to assist in defeating recidivism which would be an ongoing issue for the County. Additional issues before the Board included competing needs for Delta water; economic development; pensions; and advocacy of cities to be able to have control over return-to-source funds for streets and roads. She welcomed her constituents to contact her and sign up for her monthly e-newsletter available through her office with copies at the dais.

In response to the Council, Ms. Andersen described the Contra Costa County Employees' Retirement Association (CCCERA), an independent body of the Contra Costa Board of Supervisors, which planned to address the rate of return on investment and hopefully adjust down to reflect an actual rate of return.

Mayor Trotter thanked Ms. Andersen for her presentation.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

C. Presentation and Update on Status of East Bay Regional Communications System Authority (EBRCSA) by William McCammon, Executive Director

William McCammon, Executive Director, East Bay Regional Communications System Authority (EBRCSA), updated the Town Council on the completion of the Alta Mesa Communications site. He described the background and purpose of the EBRCSA for both Alameda and Contra Costa counties for a regional communications system with 43 public agencies participating in the system. He explained that all users were expected to transition by July 1, 2013, with approximately 13,000 users in the two counties. He displayed a map of the Alta Mesa site which was now complete and which was Moraga Open Space Ordinance (MOSO) compliant, with the top of the antenna at 20 feet consisting of a concrete shelter, emergency power generator, and small microwave dish connecting into the system.

As to the funding for the system, Mr. McCammon advised that most of the system had been designed with Homeland Security Grants; \$17 million of local revenue from local jurisdictions pursuant to a prepay or borrowing structure set up with Alameda and Contra Costa counties with a rate set by the number of subscribers in the EBRCSA. The EBRCSA Finance Committee had determined the operations and maintenance fee be set at \$25 per month per radio, and \$15 per month per additional radio for those subscribers participating in the debt service; with debt to start in Fiscal Year 2013/2014. Additional details of the financing structure were also identified.

Responding to the Council, Mr. McCammon explained that currently there were no gaps in the coverage map although over time some adjustments might be needed. He described the purpose of EBRCSA, the benefits of the technology being used, benefits of being a participant in EBRCSA, and benefits of having one system for all of the participants to communicate.

Chief Priebe affirmed that the EBRCSA had been tested and was working as proposed, with no issues at the time.

As to when all agencies may communicate with one another, Mr. McCammon advised that the last groups to be transitioned would be Walnut Creek, Pleasant Hill, and Concord which would be brought online in March, with everyone online by July 1, 2013.

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 Agenda Item Nos. 5 and 6 were 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: 5-0; with Councilmembers Arth and Wykle abstaining from Consent Agenda Item 2.

- | | | |
|----|---|----------------|
| 1) | Accounts Payable Claims for 12/14/12 (\$219,792.95) | Approved |
| 2) | Approve Minutes for Town Council Regular Meeting for November 14, 2012 (as amended) | Approved |
| 3) | Approve Minutes for Town Council Regular Meeting for December 12, 2012 (as amended) | Approved |
| 4) | Adopt Resolution 1-2013 Amending Town of Moraga's Conflict of Interest Code and Rescinding Resolution 9-2011 | Approved |
| 5) | <i>Adopt Resolution 2-2013 Finding Moraga 2002 General Plan Consistent with Complete Streets Policies and Principles and Consistent with the California Complete Streets Act of 2008 (AB 1358) and Stating that Next Substantial Revision of the Town of Moraga General Plan Circulation Element Shall State and Further Incorporate Complete Streets Policies and Principles by Name Consistent with the California Complete Streets Act of 2008 (AB 1358)</i> | <i>Removed</i> |

- 6) *Adopt Resolution 3-2013 Designating Alternates to Serve as Standby Officers to Allow the Town Council to Reconstitute Itself in the Event of Emergency-caused Vacancies and Provide Continuity of Government*

Removed

B. Consideration of Consent Items Removed for Discussion

1. Adopt Resolution 2-2013 Finding Moraga 2002 General Plan Consistent with Complete Streets Policies and Principles and Consistent with the California Complete Streets Act of 2008 (AB 1358) and Stating that Next Substantial Revision of the Town of Moraga General Plan Circulation Element Shall State and Further Incorporate Complete Streets Policies and Principles by Name Consistent with the California Complete Streets Act of 2008 (AB 1358)

Planning Director Shawna Brekke-Read explained that federal transportation monies from the Metropolitan Transportation Commission (MTC) were being consolidated into one master grant, the One Bay Area Grant, with the MTC passing those dollars on to each of the congestion management agencies, in this case the Contra Costa Transportation Authority (CCTA). MTC and ABAG had also identified the requirements to be eligible for the funds. The criteria required agencies have a Certified Housing Element and must also have either a Circulation Element that complied with the 2008 Complete Streets Act, or adopt a Complete Streets policy. The Complete Streets Act did not contain specifics for the General Plan contents. In addition, she noted that the Moraga General Plan had been adopted in 2002 prior to the use of the term "complete streets." Nevertheless, it contained policies addressing complete streets, even though that specific term had not been included.

Ms. Brekke-Read commented that after a discussion with Councilmember Metcalf, and after a meeting of the Southwest Area Transportation Planning Committee (SWAT), she had a conversation with CCTA staff, and discussed the Town of Moraga staff recommendation that the Council adopt findings that its General Plan complied with the Complete Streets Act. CCTA staff indicated that this approach sounded reasonable. She added that the issue had been presented to the Planning Commission on two separate occasions and the Planning Commission recommended the Town Council adopt the resolution stating that the Moraga General Plan already complied with Complete Street requirements.

As a member of the Planning Commission when the item had been discussed, **Councilmember Wykle** stated that he had asked the Planning Director whether there would be any unintended consequences if the Planning Commission were to recommend the Town Council adopt the resolution as proposed and had been advised that she did not see any issues at that time.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

On the discussion of revising language in Resolution 2-2013, Ms. Brekke-Read advised that a draft of Resolution 2-2013 had not been reviewed by MTC staff although the concept had been reviewed and Moraga's approach was being considered by other cities. She understood that the City of Lafayette had proposed a technical amendment at the end of last year, which involved minor California Environmental Quality Act (CEQA) analysis, and she understood that the Town of Danville had also dealt with the issue.

The Town Council discussed the item and recommended the BE IT FURTHER RESOLVED clause as shown on Page 4 of Resolution 2-2013 be amended to read:

BE IT FURTHER RESOLVED that the Town of Moraga in its next substantial revision of the General Plan Circulation Element shall consider further incorporation of Complete Streets policies and principles by name consistent with the California Complete Streets Act of 2008 (AB 1358) and with the guiding principles, goals, and policies included and restated in this resolution.

ACTION: It was M/S (Metcalf/Trotter) to adopt Resolution 2-2013 Finding Moraga 2002 General Plan Consistent with Complete Streets Policies and Principles and Consistent with the California Complete Streets Act of 2008 (AB 1358) and Stating that Next Substantial Revision of the Town of Moraga General Plan Circulation Element Shall State and Further Incorporate Complete Streets Policies and Principles by Name Consistent with the California Complete Streets Act of 2008 (AB 1358), as amended. Vote: 5-0.

2. Adopt Resolution 3-2013 Designating Alternates to Serve as Standby Officers to Allow the Town Council to Reconstitute Itself in the Event of Emergency-caused Vacancies and Provide Continuity of Government

Responding to the Council, Town Manager Jill Keimach stated that if the Town Council adopted the resolution, each standby officer would be required to take an oath of office individually or as a group with the Town Clerk. The intent was that some people may show up at a scheduled time to take the oath, intended as a convenience for those participants, with the oath of office able to be taken in the Town Clerk's Office. Such action would not require a formal Town Council meeting and should have been done years ago to ensure the continuity of Town government in the event of an emergency. The item had been placed on the Consent Calendar for action since the item would be brought back every January when any changes to the list would be made. Each Councilmember was asked to choose three (3) names to be placed on the list. She acknowledged that this action had been taken by other cities, was considered good practice, and had come about as part of the approval of the Emergency Preparedness Plan.

The Town Council discussed the item and made the following comments and/or direction to staff:

- Recommended the Town Clerk prepare a letter explaining the intent of the issue; with a short recitation of the duties required to each of the volunteers on the list;
- The letter would also include information if a volunteer ultimately decided not to take on the duties required whereby the volunteer would have the opportunity to back out and be replaced; and
- Acknowledged that the list of volunteers would be updated and reconsidered on an annual basis.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Chew/Wykle) to adopt Resolution 3-2013 Designating Alternates to Serve as Standby Officers to Allow the Town Council to Reconstitute Itself in the Event of Emergency-caused Vacancies and Provide Continuity of Government. Vote: 5-0.

VII. ADOPTION OF MEETING AGENDA

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

VIII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Trotter – Reported that he had attended a Central Contra Costa Solid Waste Authority meeting on December 13; a Moraga Liaison meeting on December 14; a Retirement Party for Walnut Creek City Councilmember Gary Skrel on January 8; and that he had been contacted about the closure of three of the theaters at the Rheem Theatre due to non-compliance with the Americans with Disabilities Act (ADA). He asked that the issue be included as part of the Town Council Goals Workshop scheduled for January 12.

Vice Mayor Chew - No report.

Councilmember Arth - No report.

Councilmember Metcalf – Reported that he had attended a SWAT meeting on January 7 at which time ABAG issues had been discussed at length.

Councilmember Wykle - No report.

- B.** Town Manager Update – Ms. Keimach reminded the public of the Town Council Goal Setting Workshop scheduled for Saturday, January 12, 2013, beginning at 8:30 a.m. at the Hacienda; and reported that she and the two new Councilmembers would be attending a League of California Cities New Councilmember Academy January 15 through 18 in Sacramento.

IX. DISCUSSION ITEMS

There were no discussion items.

X. PUBLIC HEARINGS

There were no public hearings.

XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

- A.** Discuss Potential Terms, Composition, and Duties of the New Local Sales Tax Oversight Committee Pursuant to Ordinance No. 238, Section 3.20.140 - *Oversight, Annual Audit and Public Report* and Provide Direction to Staff

Ms. Keimach explained that this would be the first opportunity for the Town Council to direct staff on one of the key items in Ordinance No. 238, Measure K, which called for an Oversight Committee to be created by April. She advised that staff desired to bring the matter to the Council at the current time to allow a discussion, including how to conduct interviews prior to April. The staff report had identified six separate items for staff direction including the number of committee members, term of appointments, frequency of meetings, committee duties and responsibilities, experience and skills, and committee selection process. Based on the direction

from the Town Council, staff would prepare a resolution including a final version of the Committee Charter for the January 23, 2013 Town Council meeting.

PUBLIC COMMENTS OPENED

Seth Freeman, Moraga, volunteered to serve on the Oversight Committee. He questioned whether the annual audit would be specific to the source and use of the tax money itself, whether it would be part of the annual audit, and if there should be a reconciliation of the tax revenue and how it was spent. He recommended a matrix to evaluate performance; that the term of appointments overlap election years to prevent any undue political influence; no fewer than quarterly meetings; questioned how the money would be spent over the 20-year lifespan of the measure with no allocation of a budget for the committee; and pointed out that the duties and responsibilities of staff to the committee had not been outlined.

Ms. Keimach clarified that the committee would be receiving the Town's audit and a specific look at how the funds of Measure K would be spent; involve a transparent process; staff would work with the auditor to ensure it was clear for the Oversight Committee, the public, and the Town as to how the funds were being spent; and that the term of appointments had been intended to be staggered as had been the policy for all Town committees/commissions.

Mr. Freeman asked whether the auditor would require the consent of the Oversight Committee prior to releasing the Town's annual report to ensure no conflicts or lack of clarity for the Measure K expenditures and oversight.

Administrative Services Director Stephanie Hom explained that there would still be the standard annual audit of the Town's financial statements and this source of revenue would be part of that audit; how the funds were received would be segregated in discussions with the auditors and how it would be highlighted and it would be at a high level; the ordinance was clear there was to be an additional report down to the detail of a staff developed report; with the Oversight Committee reviewing the details of that report in addition to the audit. The report provided to the Oversight Committee would scrutinize the receipts as well as the expenditures. She clarified that asking the current auditors or separate auditors to review the report for the Oversight Committee would incur additional expenses to the Town.

Ms. Keimach clarified that the numbers given would have background behind them and the Oversight Committee would not be able to alter those numbers. Her intent was that the Oversight Committee review and publicize its own recommendations, with no changes in numbers. The independent Oversight Committee may comment on how the money was spent to ensure transparency to the Council and the public.

Tom Westhoff, Moraga, wanted the Oversight Committee to assure the report included significant detail as to how the money was being spent.

PUBLIC COMMENTS CLOSED

The Town Council discussed the six key points as outlined in the January 9 staff report and offered the following comments and/or direction to staff:

- **Number of Committee Members** - Council consensus for seven members with a quorum of four members;
- **Term of Appointments** - Council consensus that three appointees have a three-year term and, initially, four appointees granted two years in order to establish staggered terms;

- **Frequency of Meetings** - Council consensus for the addition of language to the Oversight Committee Charter: "*The Oversight Committee to hold between two and four meetings per year, as reasonably determined by the Committee or the Town Council;*"
- **Committee Duties and Responsibilities** - Council consensus that the Town Council Goals Workshop scheduled for January 12, 2013, include a discussion on how Measure K funds were spent (in terms of a gray area identified by staff as follows: should local sales tax include ADA curb cuts, storm drains, the Skatepark parking lot; sidewalk repair; and staff costs as part of project costs). Council consensus that the Committee Charter for the Duties and Responsibilities section include a reference that the independent Committee generate its own annual report, that would indicate whether the committee concurs with the presented staff report and audit; and the Committee not be charged with developing an outreach program, as recommended by staff. The Charter should include language as to what was not within the purview of the Oversight Committee, with a revision to the following statement as shown on Page 3 of the January 9 staff report for this section to read: "*The Committee shall not direct staff, recommending any particular contracts or defining the scope of road repair project;*"

Mayor Trotter declared a recess at 8:52 p.m. The Town Council meeting reconvened at 8:58 p.m. with all Councilmembers present.

- **Experience and Skills** - Consensus to revise the second sentence of the Charter under **Membership Composition** to read: "*The following may be represented on the committee, as reasonably practicable;*" revise the second bullet point under this section to read: *Pavement Management/Engineering*; and recommendation for the elimination of the staff recommendation as shown on Page 3 of the January 9 staff report under Experience and Skills for a voting or non-voting Council liaison.

On the discussion of the appropriateness of including a liaison to the Audit and Finance Committee (AFC), Assistant Town Attorney Karen Murphy explained that the added section to the Moraga Municipal Code (MMC) as to the annual audit and public report had been drafted in a manner to provide different levels of public review and numerous opportunities to review the report. She commented that the first layer was the annual audit and the section clarified that Measure K funds would be included in the audit statement, the second layer was that the Director of Administrative Services would conduct a report in conjunction with the audit of Measure K sales tax funds, and the third layer was that the Oversight Committee would review and comment on the report.

Bob Kennedy, Town Treasurer, suggested that any of the liaison options were viable; recommended that an AFC member should be asked to attend the Oversight Committee meetings to ensure communications back and forth given the monies involved with Measure K; and recommended consideration of a process similar to the Planning Commission Liaison to the Design Review Board (DRB), a non-voting member.

- **Experience and Skills** - On the discussion, Council consensus was that there be a liaison from the AFC, that the Charter be clear the liaison from the AFC not be a sitting Councilmember, and involve a process similar to the Planning Commission Liaison (non-voting member) to the DRB;

- **Committee Selection Process** - Council consensus to follow the staff recommendation for a full Council process to interview all candidates.

Ms. Keimach thanked the Council for the comments and direction with the Charter to be revised and brought back on the next Town Council agenda as a Consent Item. She reported that staff had received a number of applicants interested in serving on the Oversight Committee and she expected even more to be submitted.

- B. Consider and Authorize the Mayor to Sign the Mayors Against Illegal Guns Coalition (MAIG) Letter to President Barack Obama dated December 19, 2012

Ms. Keimach reported that the Mayor had requested the full Council consider whether the Mayor should add his name to the list of Mayors signing an open letter to President Obama, identified as Attachment A in the staff report dated January 9, 2013, in response to the Newtown, Connecticut, massacre on December 14, 2012. She affirmed that the request had been made of all cities in the country and she summarized the content of the letter at the time.

Mayor Trotter understood that an overwhelming majority of Mayors in Contra Costa County supported the letter and would be asking their Councils to support the letter during upcoming Council meetings.

Chief Priebe stated that he had read the letter with the goal to express to the federal government a desire for definitive action. In his personal opinion, the end goal may not be achievable; that the larger issue was mental health given the number of serious crimes which had involved those with mental health issues.

PUBLIC COMMENTS OPENED

Larry Beans, Moraga, supported the Mayor signing the letter and agreed with Chief Priebe that mental health issues should be addressed but should not be a reason for not signing the letter.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Arth/Wykle) to authorize the Mayor to Sign the *Mayors Against Illegal Guns* Coalition Letter to President Barack Obama dated December 19, 2012. Vote 4-0-1. Abstain: Metcalf.

- C. Introduce and Waive the First Reading of an Ordinance Adding Chapter 9.10 of the Moraga Municipal Code Entitled "Peddlers and Solicitors"

Chief Priebe reported that the Moraga Police Department (MPD) had, since its inception in 1980, fielded and responded to citizen complaints regarding door-to-door solicitors and rude behavior, which issues had been dealt with consistently over the years with the MPD having been able to talk people out of the Town. Over the years, the Town had received conflicting information on its authority to address this issue and, until recently, it was believed that the Town had adopted a Contra Costa County Ordinance, requiring a license to peddle or solicit. However, through an extensive archival search by the Chief of Police and the Town Clerk, no record of such an adoption had been found and the Town had no ability to prevent, control, regulate, or license unwanted peddlers or solicitors.

Chief Priebe advised that the MPD had experienced an increase in complaints about aggressive, confrontational, rude, and threatening peddlers and solicitors, particularly from out-of-state groups. He cited a 2005 murder case which involved a Lafayette resident and a suspect believed to be a magazine subscription salesman from out of state. He explained that

the proposed new ordinance balanced First Amendment Rights with the rights of property owners to privacy and security in their own homes, and that a system requiring peddlers and solicitors to register with the Town and obtain a Town-issued permit was a reasonable process utilized by other municipalities (including Orinda and Lafayette) to provide some level of Town control with minimal intrusion on would-be peddlers and solicitors, and through codifying the requirements and attaching an infraction penalty for violators, enforcement capabilities would be enhanced. Staff also urged all residents to continue to use caution; to not open their doors to unwanted peddlers or solicitors; to notify the MPD when confronted; as well as post signs to prohibit peddlers or solicitors. Through the adoption of the ordinance, the MPD would have the legal authority to make contact, inspect for possession of a Town-issued permit, and issue a citation for any violation(s).

Chief Priebe stated that the fiscal impacts were not known at the current time. As part of the ordinance, staff time would be involved to conduct background investigations, create permits and associated records, and additional enforcement costs such as police response time, report writing, review time, and potential court overtime. He asked the Town Council to introduce and waive the First Reading of an Ordinance Adding Chapter 9.10 of the MMC, Entitled, "Peddlers and Solicitors," subject to Council direction.

Responding to the Council, Chief Priebe acknowledged the legitimacy of a requirement for a thumbprint; clarified that citation of the MMC was not required on "No Peddlers or Solicitors" signage and should not be a requirement since it would be an added expense to a homeowner and may cause more confusion. The ordinance would also not prevent Council or School Board candidates or those collecting signatures for referendums from going door-to-door. As to the potential fee for the Town-issued permits, that remained to be identified. He added that pursuant to the regulations of the ordinance, the Town-issued permits would be reviewed annually and any violation of the Town-issued permit could result in revocation. Further, any sale of food products door-to-door (taco or burrito trucks) controlled by the Health Department would be referred to that Department for approval. The sale of Girl Scout cookies, for example, would not require a permit for those under the age of 15. He clarified he had not received any complaints regarding Girl or Boy Scout organizations.

Ms. Murphy affirmed that citation of the MMC was not legally required on a "No Peddlers or Solicitors" sign. The proposed ordinance was not intended to deal with mobile food trucks, although if someone was selling food products door-to-door, they would be referred to the Health Department.

Chief Priebe clarified the proposed ordinance had been borrowed heavily from the cities of Lafayette and Orinda, with the intent being that every person who solicited would be required to have a Town-issued permit; the ordinance was intended as an enforcement tool; the MPD would make a good faith effort to advertise the ordinance on the Police Department website and in the About Town newsletter; with the intent to create a brochure identifying the information to be available in the Town Hall lobby. He identified a 10-day turnaround for the permit process with the permit to be valid for one year.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

The Town Council discussed the proposed ordinance and made the following recommendations and/or direction to staff:

- Amend Page 5 of Attachment A, Draft Ordinance, Adding Chapter 9.10 Entitled "Peddlers and Solicitors" to the MMC Section 9.10.100 - Permit Renewal, add the following sentence: *"Grounds for non-renewal of a permit would be the same as grounds for revocation"* with a cross reference to Section 9.10.080, Review by the Chief of Police; Issuance or Denial;
 - Amend Page 5, Section 9.10.110 - Permit Revocation - Town Attorney recommended language as follows: *"Upon revocation the permit holder shall give up permit"* with reference to the peddler or solicitor receiving written notice who would be subject to the appeals process to ensure due process;
 - Require a thumbprint as part of the Town-issued permit;
 - Staff to return with a revised draft for a first reading; and
 - Clarified that the costs for the process for a Town-issued permit would be part of the Master Fee Schedule to be reviewed annually.
- D. Appointment of Town Council Representatives to Committees and Boards for 2013

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

The Town Council discussed and made the following appointments to the Town Council Representatives to Committees and Boards for 2013:

<u>Standing Committees</u>	<u>First Appointment</u>	<u>Second Appointment/Alternate</u>
AFC (Audit & Finance Committee)	Trotter	Metcalf
TSAC (Traffic Safety Advisory Committee)	Arth	None
<u>Ad Hoc Committees</u>		
Country Club Golf Course Negotiating Team	Trotter	Chew
Saint Mary's College Subcommittee	Chew	Arth
<u>Liaison</u>		
ABAG (Association of Bay Area Governments)	Arth	Wykle
AUHSD (Acalanes Union High School District) Liaison	Wykle	Chew (Alternate)
Contra Costa Mayors' Conference	Trotter	Chew (Alternate)
East Bay Municipal Utility District (EBMUD) Liaison	Chew	Wykle (Alternate)
Emergency Preparedness Committee Liaison from Council to Citizen Corps Council* <i>* New Liaison Committee Appointment</i>	Metcalf	
League of California Cities East Bay Division	Trotter	Chew (Alternate)
Moraga Chamber of Commerce Liaison* <i>* Revise the Description/Expectations to read: Attend monthly <u>Chamber meetings</u>. <u>May attend Board meetings at invitation of the Board.</u> Report activities to Town Council.</i>	Arth	Trotter (Alternate)

MOFD (Fire District) Liaison	Metcalf	Chew
Moraga School District Liaison	Trotter	Wykle
Moraga Youth Involvement Committee (MYIC)	Wykle	Arth
<u>Voting Delegate/Boardmembers</u>		
CCCSWA (Solid Waste Board)	Trotter	Chew
League of California Cities (LCC) Delegate	Trotter	Chew (Alternate)
Lamorinda School Bus Transportation Agency (LSBTA)	Metcalf	
SWAT/LPMC/LFFA (South West Area Transportation Planning Committee; Lamorinda Program Management Committee; Lamorinda Fee & Financing Authority) (RTPC Regional Transportation Planning Committee)	Metcalf	Wykle
Specific Plan Implementation Subcommittee* * Subcommittee to remain on the list as a placeholder with no appointments at this time		
RECON/Infrastructure Subcommittee* * Subcommittee to be disbanded		
<u>Non-Council Appointments</u>		
League of California Cities Transportation, Communication and Public Works Committee	Chew	
League of California Cities (East Bay Division) Executive Committee* *Mayor Trotter to verify whether his appointment to the Executive Committee expired in December 2012	Trotter	
Mayors' Conference Executive Committee	Trotter	
EBRCSA* (East Bay Regional Communications System Authority) * Add to list of Non-Council Appointments, possibly subject to revision	Metcalf	
<u>Non-Council Liaisons</u>		
CCCTA (Contra Costa County Transit Authority)	Al Dessayer	
CCMVCD (Contra Costa Mosquito & Vector Control District)	Myrto Petreas	
Library Commissioner for Moraga	Rodger Lum	
CCTA (Contra Costa Transportation Authority Citizen's Advisory Committee)	Russell Driver	
ACOA (Contra Costa County Advisory Council on Aging)	Cliff Dochterman	

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Councilmember Metcalf requested a future agenda item include a discussion on the potential role local government could play in regards to the Rheem Theatre in response to a recent newspaper article and correspondence. He asked that the item be given a priority on a future agenda as soon as possible.

Ms. Keimach commented that staff had been in discussions with the Rheem Theatre operators on a range of options prior to the publication of the recent newspaper article on this issue. She

noted that the Rheem Theatre was a Historic Theatre but was faced with an ADA lawsuit; the latest correspondence from a local resident had evolved into a larger conversation separate from the ADA issues as to the long-term viability of the theatre, willingness of the community and whether the Town would like to partner in such efforts. She spoke to the efforts in the City of Orinda to preserve its local historic theatre. In speaking with the Parks and Recreation Director, the intent was to present the Town Council with a staff report identifying a spectrum of options and a plan for community input prior to asking the Council for direction. She envisioned a community-wide meeting at the Rheem Theatre in February with input brought back to the Town Council and acknowledged the issue could be added to the list of Town Council Goals during the upcoming Goal Setting Workshop.

Councilmember Wykle understood that Saint Mary's College (SMC) had appealed the decision of the Planning Commission regarding the hours of operation for the intramural fields lights. He asked staff the status of the appeal.

Ms. Keimach advised that the appeal had initially been scheduled for a Town Council meeting in November although SMC had requested an extension to January 23, 2013. She understood that another request for an extension beyond January 23 was likely since SMC had obtained a facilitator to discuss the issue with the neighbors.

PUBLIC COMMENTS OPENED

Frank Comprelli, Moraga, emphasized that there had been no constructive conversations between SMC and the neighbors; although two meetings had been held, which in his opinion, had been designed to convince the neighborhood that SMC was right, and reported that the neighbors would not meet with the facilitator with no further meetings with the neighborhood since the neighbors had given up in frustration and SMC would win since the neighbors were about to give up. He asked the Town Council to do the right thing.

Councilmember Wykle requested that the issue be agendized for a future Town Council meeting as soon as possible to allow both sides to address the Council.

Ms. Brekke-Read reiterated that the appeal was to have been heard by the Town Council in November but SMC requested a continuance and planned to speak with the neighbors. Staff planned to place the matter on the January 23, 2013 agenda although SMC had requested another continuance. She asked the Town Council to consider whether to place the appeal on the January 23 Town Council agenda at the current time to allow for proper notification.

Ms. Murphy clarified that it was not appropriate to have a discussion on a potential appeal that had not been agendized. She identified the process in the MMC, if an appeal was withdrawn, the appeal period was extended and someone else may file an appeal. She added that sometimes public agencies agendized a request for a continuance so that it could be heard at the meeting.

Ms. Keimach explained that the appeal could be agendized for the Town Council meeting of January 23 pursuant to public notification; SMC may on January 23 ask for a continuance, and the Town Council could then decide to continue to a date certain or uncertain or hear any public comment and make a decision.

Ms. Murphy stated that agendizing the appeal for January 23, 2013, would be consistent with everything that had occurred to this date and on the meeting date of January 23, SMC or anyone else may request a continuance of the item.

ACTION: It was M/S (Trotter/Metcalf) to extend the Town Council meeting to 11:10 P.M. Vote: 5-0.

Mr. Comprelli stated that he had been designated as the spokesperson for the neighborhood and was willing to meet and negotiate with SMC as soon as possible; emphasized there were three separate issues, not just the appeal of the Planning Commission decision from October 1, 2012; and expressed concern that the discussion on the appeal would be limited to the appeal item itself and was the least important of the issues.

ACTION: It was M/S (Arth/Chew) to extend the Town Council meeting to 11:15 P.M. Vote: 5-0.

By consensus, the Town Council requested that an appeal by SMC for a decision of the Planning Commission be agendized for Town Council consideration as soon as possible during a Town Council meeting in February (to be determined by staff) given discussions with SMC, the facilitator, and the neighbors.

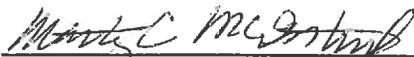
XIII. COMMUNICATIONS

- A. Draft Correspondence from League of California Cities to All Members Regarding *Proposed Multi-Year Advocacy Strategies to Expand and Protect Local Control* dated December 3, 2012

XIV. ADJOURNMENT

ACTION: It was M/S (Wykle/Arth) to adjourn the meeting at 11:15 P.M. Vote: 5-0.

Respectfully submitted by:



Marty C. McInturf, Town Clerk

Approved by the Town Council:



Dave Trotter, Mayor