

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**January 23, 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 7:01 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

Councilmember Arth led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

There were no special announcements.

IV. PROCLAMATIONS AND PRESENTATIONS

- A.** Proclamation Honoring Aidan Goltra, North Coast Section and State Cross Country Champion

Mayor Trotter presented a proclamation honoring Aidan Goltra, North Coast Section and State Cross Country Champion and declared January 23, 2013 as Aidan Goltra Day in the Town of Moraga in recognition of Mr. Goltra's outstanding achievements.

PUBLIC COMMENTS OPENED

Haley Shipway, Lafayette, expressed her pride in Mr. Goltra's accomplishments.

PUBLIC COMMENTS CLOSED

- B.** Proclamation Honoring Campolindo High School Girls Varsity Volleyball Team

Mayor Trotter presented a proclamation honoring the Campolindo High School Girls Varsity Volleyball Team and declared January 23, 2013 as 2012 Campolindo High School Girls Volleyball Day in honor of the 2012 Campolindo Girls Varsity Volleyball Team winning the North Coast Section (NCS) Championship and the NorCal Division III Championships.

PUBLIC COMMENTS OPENED

John Walker, Principal, Campolindo High School, congratulated Mr. Goltra and the Girls Varsity Volleyball Team for their representation of the Town and the school; thanked the Town and the Council for their support; and thanked the Town Council for the proclamations honoring the students.

John Vuong, Coach, Campolindo High School Girls Varsity Volleyball Team, thanked the Council for the recognition; the Girls Varsity Volleyball Team for its hard work and dedication; and expressed his appreciation for the community support.

The Town Council congratulated the Campolindo High School Girls Varsity Volleyball Team for its accomplishments and wished them the best in the next year.

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. 3, 4, and 5 were removed from the agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Chew/Wykle) to approve Consent Agenda Items 1 and 2. Vote: 5-0.

- | | | |
|----|---|----------------|
| 1) | Accounts Payable Claims for 1/11/13 (\$143,198.14) | Approved |
| 2) | Confirm Appointment of Town Council Representatives to Committees, Commissions and Boards for 2013 | Approved |
| 3) | <i>Adopt Resolution 4-2013 Establishing the Terms, Composition and Duties of the Local Sales Tax Oversight Committee Pursuant to Ordinance 238</i> | <i>Removed</i> |
| 4) | <i>Adopt Resolution 5-2013 Approving the On-Call Civil Engineering Design Services Consultant Shortlist that Prequalify BKF Engineers [Walnut Creek], Harris & Associates [Concord], Nichols Consulting Engineers [Richmond], Nolte Vertical 5 [Walnut Creek], Pakpour Consulting Group [Pleasanton], and RBF Consulting [Walnut Creek] for a Term of 3 Years</i> | <i>Removed</i> |
| 5) | <i>Review and Accept Town Council and Community Goals for 2013</i> | <i>Removed</i> |

B. Consideration of Consent Items Removed for Discussion

1. Adopt Resolution 4-2013 Establishing the Terms, Composition and Duties of the Local Sales Tax Oversight Committee Pursuant to Ordinance 238

There was Town Council consensus for the following changes to be made to Attachment A to the Resolution: a Redlined Version of the Local Sales Tax Oversight Committee Charter:

- Page 1, **Membership**, revise the third sentence to read: *Each member will serve a term of two years, except that the three members whose terms end in even-numbered years shall serve three-year initial terms.*
- Revise the Charter to include language that term limits shall be generally limited to three terms of two years, with a limit of three consecutive terms to be added to Page 1, just prior to the last sentence under the section Membership; and
- Page 2, **Specific Duties of the Committee**, item 4, revise the first sentence to read: *It shall not be within the purview of the committee to direct staff, recommend any particular contracts, or define the scope of a road repair project.*

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Wykle) to adopt Resolution 4-2013 Establishing the Terms, Composition and Duties of the Local Sales Tax Oversight Committee Pursuant to Ordinance 238, as amended. Vote: 5-0.

2. Adopt Resolution 5-2013 Approving the On-Call Civil Engineering Design Services Consultant Shortlist that Prequalify BKF Engineers [Walnut Creek], Harris & Associates [Concord], Nichols Consulting Engineers [Richmond], Nolte Vertical 5 [Walnut Creek], Pakpour Consulting Group [Pleasanton], and RBF Consulting [Walnut Creek] for a Term of 3 Years

Responding to the Council, Town Manager Jill Keimach advised that the Town of Moraga had conducted a similar prequalification process for an On-Call List for the Planning Department.

Public Works Director/Town Engineer Edric Kwan added that cost was not a factor when staff contacted the firms on the shortlist, with consultant services based on qualifications.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Chew) to adopt Resolution 5-2013 Approving the On-Call Civil Engineering Design Services Consultant Shortlist that Prequalify BKF Engineers [Walnut Creek], Harris & Associates [Concord], Nichols Consulting Engineers [Richmond], Nolte Vertical 5 [Walnut Creek], Pakpour Consulting Group [Pleasanton], and RBF Consulting [Walnut Creek] for a Term of 3 Years. Vote: 5-0.

3. Review and Accept Town Council and Community Goals for 2013

Councilmember Arth commented that he had initially supported the Town Council and Community Goals during the Town Council Goals Workshop on January 12, 2013, although he had recently learned that the implementation of the bullet points under Goal #3* would significantly impact limited staff resources. He sought a discussion to defer the goal for a six-month period to allow the Planning Department to increase its staffing levels and asked that the first three bulleted items for Goal #3 be placed on hold for a six-month period.

***Goal #3: Initiate/Complete Targeted General Plan Amendments and Rezoning During 2013.**

- Put teeth into existing General Plan provisions to truly "protect ridgelines from development;" limit development in open space areas of Moraga consistent with MOSO.
- Develop General Plan amendment dealing with the Rheem Center area, consistent with previous joint directions from Town Council and Planning Commission.
- Consider adoption of development moratorium pending completion of General Plan Amendment process.
- Draft regulations to encourage small-scale wineries in Moraga while addressing neighborhood impacts.

PUBLIC COMMENTS OPENED

Dave Bruzzone, Moraga, stated that during the January 12 Town Council Goals Workshop he had raised a number of concerns; he expressed concern over an effort to force some issues that had been voted down in 2008 (citing the Moraga Open Space (MOSO) Ordinance), impacts on staff resources, and a direction that could be destructive to the community. He pointed out the passage of Measure K would be borne by the retail business community and expressed concern with potential revenues that should go towards roads, not towards legal expenses. He asked that the new Town Council remain productive; utilize Town staff; improve the Town's downtown; maintain stringent development controls; and not rehash old issues.

PUBLIC COMMENTS CLOSED

Councilmember Wykle suggested that it was time to update the Town's General Plan which could be done by a contract employee. He suggested that many of the issues had already been previously discussed by the Planning Commission and he believed the process would not take much staff time.

Councilmember Metcalf noted the previous Planning Director had indicated that an update to the General Plan would best be done in concert with the Housing Element. He suggested it made sense to husband the resources around the overall update of the General Plan which would include the mandatory update of the Housing Element. He found the language under the first bullet point under Goal #3 to "Put teeth into existing General Plan provisions" to be incendiary, noting that the Town was well regulated in its land use with many developments ongoing for many years, such as Palos Colorados. He also pointed out the implementation of Assembly Bill (AB) 32 and Senate Bill (SB) 375 would have a significant impact on the General Plan and the Planning Department and would have to be a high priority.

Councilmember Arth was also dissatisfied with the language in the first bullet point under Goal #3; understood the intent of the General Plan review was to tighten and coordinate policies to ensure they worked well; and recommended the Town Council defer the first bullet under Goal #3 pending a simultaneous update of the Housing Element.

In response to the Council, Planning Director Shawna Brekke-Read described the differences between a General Plan Update and a General Plan Amendment (GPA).

Vice Mayor Chew reported that during the Town Council Goals Workshop on January 12, he had expressed concern with the work that Goal #3 would place on limited staff resources. He pointed out that the Town Council had the discretion to decide whether to allow development on certain ridgelines, citing the approval of the Rancho Laguna II development; suggested the intent of the previous Council had been to leave some areas to the Council to exercise its discretion; and suggested if the current Council thought the issue should be evaluated, it could be brought back as a separate Town Council item for discussion. Currently, he could not support Goal #3, with the exception of the recommendation for draft regulations to encourage small-scale wineries in Moraga. He suggested that placing Goal #3 as a priority for the Town Council and staff would involve a significant undertaking costing the Town money in legal expenses and staff time and he would rather see staff focus on implementing Measure K.

Ms. Brekke-Read commented on the current Planning Department workload; stated the work involved in the update and amendment of a General Plan required updates and deadlines for the Housing Element in 2014; and noted that staff would be bringing to the Town Council the Annual General Plan Checklist in the spring. She stated that she expected to have the two vacant Planning Department positions filled by April or May.

Mayor Trotter suggested the first bullet point under Goal #3 could be revised to read: *"Consider modifications to General Plan provisions to truly "protect ridgelines from development;" limit development in open space areas of Moraga consistent with MOSO."* He pointed out the Town may process GPA requests from property owners desirous to make changes to the Town's General Plan and questioned why the Council could not consider a proposal which had the support of a substantial portion of the population. He supported additional modification to the first bullet point under Goal #3 to reflect that the matter could be considered further by the Town Council during the second half of 2013. He asked the Town Council whether those modifications would be acceptable.

Ms. Brekke-Read understood the logic behind a GPA and an update to the Housing Element at the same time although she commented there were two separate issues being discussed. The Housing Element was data oriented and the State Department of Housing and Community Development (HCD) was specific on the requirements, and an update of the Housing Element could be independent of a GPA. She was confident staff would be in a better position to conduct a review of the General Plan in six months.

Mayor Trotter suggested an additional bullet point (after the four bullet points) to read: *"Previous three to be brought up for consideration in the second half of 2013."*

On the discussion, **Vice Mayor Chew** remained concerned given that the potential impacts on staff resources in six months were unknown.

There was no consensus to support the Mayor's proposed modifications to Goal #3.

Assistant Town Attorney Karen Murphy acknowledged that a discussion of the potential legal impacts of imposing a development moratorium or a discussion of ridgeline protections could be agendaized for a future Closed Session.

Councilmember Wykle made a motion, seconded by **Councilmember Arth**, to Accept the Town Council and Community Goal #3 as modified by the Mayor, with a new fourth bullet under Goal #3 to read: *"Reconsider the first three bullets in the latter half of 2013."*

On the motion, **Mayor Trotter** recommended further modification to an additional fourth bullet under Goal #3 to read: *"Defer consideration of these first three items until the second half of 2013."*

ACTION: It was M/S (Wykle/Arth) to accept Town Council and Community Goal #3, as modified by Mayor Trotter. Vote: 3-2. Noes: Chew, Metcalf.

ACTION: It was M/S (Chew/Metcalf) to accept Town Council and Community Goals 1, 2, 4, 5, 6, and 7, as shown. Vote: 5-0.

VII. ADOPTION OF MEETING AGENDA

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

VIII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Trotter - Reported he had attended the Mayors' Conference on January 10 and an Executive Committee meeting; the Moraga Liaison meeting on January 11; the Audit and Finance (AFC) Committee on January 15; a supplemental Moraga Garbage Rate Setting session during the Central Contra Costa Solid Waste Authority Board meeting on January 16; a fundraiser for The New Rheem Theatre at Shelby's Restaurant on January 18; participated in a field trip to the El Cerrito Theater on January 20; and had participated in telephone calls and meetings regarding the proposal between J&J Ranch and Friends of Joaquin Moraga Adobe. He suggested it may be appropriate to re-form the Council Subcommittee for the Joaquin Moraga Adobe to discuss the proposal.

Vice Mayor Chew - Reported he had attended the League of California Cities Transportation, Communication, and Public Works Policy Committee meeting on January 18; the Moraga School District (MSD) Strategic Planning Committee meeting on January 23; and the supplemental Central Contra Costa Solid Waste Authority Board meeting and an orientation on January 16.

Councilmember Arth - Reported that he had attended the Mayors' Conference on January 10 at which time Councilmember Metcalf had been appointed to the East Bay Regional Communications System Authority (EBRCSA) Board of Directors; the Moraga Liaison meeting at the Moraga Library on January 11; and the new Mayors and Council Members Academy sponsored by the League of California Cities.

Councilmember Metcalf - Reported that he had attended the AFC meeting on January 15.

Councilmember Wykle - Reported that he, Councilmember Arth, and the Town Manager had attended the League of California Cities New Mayors and Council Members Academy.

B. Town Manager Update – Ms. Keimach reported that the Town had not received enough donations to reimburse the Town for the costs of lighting the Annual Holiday Tree.

Parks and Recreation Director Jay Ingram added that staff had not sent out mailers to those who donated to the Town annually although the event was well publicized in the About Town newsletter and the Town Crier.

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 Financing Plan Leveraging Local One-Cent Transaction and Use Taxes for Council-directed Street Repair Program; and

Adopt Resolution 7-2013 Authorizing the Town Manager to Enter Into Agreements with Stone & Youngberg to serve as Underwriter and Jones Hall to serve as Bond Counsel and Disclosure Counsel for Potential Infrastructure Financing Program; and

Adopt Resolution 6-2013 Authorizing the Examination of Sales or Transactions and Use Tax Records from the State Board of Equalization

Administrative Services Director Stephanie Hom explained that the Town Council was being asked to discuss the financing plan to leverage the local one-cent Transaction and Use Taxes for the Council-directed Street Repair Program. She introduced the consultants present to identify and describe each of the items and resolutions under consideration by the Town Council.

Mr. Kwan explained Table 1. Pavement Condition Index (PCI) Comparisons Based on Funding Scenarios: Pay-As-You-Go, Leveraging Revenue and Do Nothing; Figure 1. Comparisons of Network (Residential, Collector, and Arterials) as shown on Page 3 of the January 23, 2013 staff report.

In response to the Council, Mr. Kwan explained that Figure 1 had shown PCI comparisons of network Residential, Collector, and Arterials Streets and, while there was a focus on Residential, Collector and Arterials had the best opportunity to obtain grant funding. In terms of using the Town's money, the intent was to leverage it as much as possible and apply to streets that were not necessarily eligible for grant opportunities. Although Measure K had passed successfully, he explained it would not be enough to address the Town's street repair needs based on the most recent PCI analysis report and to achieve a PCI of 70. He further clarified the funding scenario through the leverage revenue option as shown on Table 1, the PCI Comparisons Based on Funding Scenarios. He added that the PCI demonstrations had been based on two databases including the Moraga appropriate analysis which had yielded better results at better costs, with a focus on the more cost-effective treatments.

Ms. Keimach added that staff was aware they had to be Moraga-appropriate since they did not have sufficient money regardless of whether Measure K passed; and with discussions with community members there was a desire to show the community the Town was doing something with the funds, which was the reason the leveraging option had been considered and which had shown a dramatic increase in the first five years as opposed to the status quo. With the Town able to prove to the community it was improving the roads and making a difference, the Town may consider other revenue measures including grant opportunities in five to ten years and potentially by the year 2025 the Town may have a second solution.

Mr. Kwan commented that Figure 1, PCI Comparisons of Network, had started the comparison of network starting in the year 2012, since the Town did have some monies budgeted which would be combined for the next Fiscal Year, and the future provisions had been based on 2013 dollar amounts. He added that the PCI numbers in the analysis had not included any federal grant monies; acknowledged that there were spikes that could be possible in the future although he had only used the revenue sources the Town may rely upon; and acknowledged Council direction to be as aggressive as possible in securing potential grant opportunities. He further clarified that the numbers in the analysis included not only Measure K funds but gas taxes and Measure J funds.

Ryan Shafer, Nichols Consulting Engineers, further clarified the information shown in Figure 1 and noted the analysis had commenced at the end of 2012, which was still accurate. He explained how the revenue had been modeled for year 2013, with a spike in 2014, and commented that he did not have the current PCI for the Town's arterials at this time.

Ms. Keimach commented that due to the One Bay Area Grant and future grants being tied to Priority Development Areas (PDAs), the Town was uncertain of its ability to secure said funds in the future. The analysis approach was intended to be realistic and conservative at the same time. The analysis could be modified as the program developed.

Eileen Gallagher, Stone & Youngberg, Underwriter, presented a PowerPoint on the potential infrastructure financing program; described how the sales tax revenue from Measure K could be pledged to a bond pursuant to state law absent special legislation through a General Fund borrowing method; described the leverage financing method; identified state and tax laws that applied to the financing method under consideration; described current market conditions including municipal market rates, tax reform for municipal debt, and current interest rates; and identified the range of the Town's borrowing capacity, and the steps in the financing process including the associated timelines. She also responded to questions from the Council on the financing mechanism, associated costs, and with Stone & Youngberg and Jones Hall working on a contingency basis with payment of fees only if and when the Town issued financing. She also confirmed the successful underwriting financing arrangement used by the Town for the 331 Rheem Boulevard remodel and purchase in 2010. If the Town Council decided to proceed with the bonding mechanism, once the bonds were closed, Stone & Youngberg would deliver the funds to the Town via a trustee (bank) within a three- to four-month timeframe.

Ms. Hom explained that staff and the consultants had conducted two analyses of the financing estimates; one a rough draft in the early stages with an estimate around \$950,000 and after the successful passage of Measure K, the data used was based on statewide data, and as the Town realized its own history, sales tax revenues could then be tracked. With the sales tax consultants, the assumptions and numbers used involved a range between \$950,000 and \$1,080,000.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Ms. Keimach suggested the staff recommendation was realistic in terms of the assumptions and revenues from Measure K, with the value of Town assets conservative with enough cushion in terms of the facilities on the land and the land itself.

Ms. Hom added that she had a dialogue with Jones Hall as to the approach staff recommended; noted the Town had the \$7 million in assets covered with hard assets not counting land; and if the Town needed more it could be done. She was comfortable with the \$7 million figure under the leveraging approach.

Mr. Kwan reported that the Town's current street conditions were as follows: 30 percent Good, 20 percent Fair; 40 percent Poor; and 10 percent Very Poor. With the leveraging option, in the next five years the 30 percent Good would be increased to 48 percent; Fair would be reduced from 20 to 18 percent; and the Poor would be reduced from 40 to 13 percent. The Very Poor would be increased from 10 to 21 percent given the costs to repair those streets would be significant with the intent to maintain the better stock of streets (maximize the PCI average). He acknowledged that the subsequent maintenance costs would be lower if the streets were maintained before they reached a more deteriorated state.

The Town Council discussed the item at length; the pros and cons of Table 1, the PCI Comparisons Based on Funding Scenarios as shown on Page 3 of the January 23 staff report; and offered the following direction to staff:

- Council consensus to consider the Leverage Revenue Funding Scenario (\$9.5 million over 2012-2015 followed by \$650,000 a year), with \$7 million a target amount to raise.

ACTION: It was M/S (Chew/Metcalf) to adopt Resolution 6-2013 Authorizing the Examination of Sales or Transactions and Use Tax Records from the State Board of Equalization. Vote: 5-0.

ACTION: It was M/S (Chew/Arth) to adopt Resolution 7-2013 Authorizing the Town Manager to Enter Into Agreements with Stone & Youngberg to serve as Underwriter and Jones Hall to serve as Bond Counsel and Disclosure Counsel for Potential Infrastructure Financing Program. Vote: 5-0.

Mayor Trotter modified the meeting agenda with Council consensus to consider Agenda Item XI. Ordinances, Resolutions, and Requests for Action Item C prior to Item B.

- C. Adopt Resolution 8-2013 Authorizing the Town Manager to Award a Professional Service Contract to Nichols Consulting Engineers [Richmond] in the amount of \$129,900 for Pavement Management and Design Services for the 2013 Pavement Repair Project (CIP 08-106)

Mr. Kwan reported that the Town had conducted a thorough Request for Proposal (RFP) process at the end of November to select the most qualified and experienced civil engineering firm to provide pavement management and design services. Approval of the resolution would allow the immediate work to begin on the design of the 2013 Pavement Repair Project (CIP 08-106). As part of the design, the consultant would provide field surveys of candidate streets for the cape seal project. The consultant had extensive pavement management experience having worked with neighboring Lamorinda communities, the Town of Moraga, and many agencies throughout the state. In addition, the Town had received a Pavement Management Technical Assistance Program grant from the Metropolitan Transportation Commission (MTC) to help pay for the next survey in 2013, and as part of that process MTC had selected Nichols Consulting Engineers to be the consultant for that work.

PUBLIC COMMENTS OPENED

Ryan Shafer, Nichols Consulting Engineers, explained that Nichols Consulting Engineers had fully embraced new technologies. He noted the conservatism in many cities/towns not to take on new pavement technologies with Southern California ahead of Northern California in terms of some of the newer technologies used. He commented on the topography of the communities of Moraga and Orinda, as examples, consisting of a large street network formed by hillsides, the challenge of residential streets with low PCIs, difficult ground conditions, the need to not invest too much money in those residential streets, and the use of rubberized cape seals and base repairs rather than overlays. He noted Nichols Consulting was ready to proceed, had the tools to move forward, and had also been working on a statewide needs assessment.

PUBLIC COMMENTS CLOSED

The Council asked that Nichols Consulting Engineers provide information when available on how much more coverage the Town would get by repairing neighborhood streets based on the more cutting edge technologies to ensure the Town received the most coverage possible given the finite funds available.

ACTION: It was M/S (Arth/Chew) to adopt Resolution 8-2013 Authorizing the Town Manager to Award a Professional Service Contract to Nichols Consulting Engineers [Richmond] in the amount of \$129,900 for Pavement Management and Design Services for the 2013 Pavement Repair Project (CIP 08-106). Vote: 5-0.

- B. Accept Fiscal Year 2012/13 Mid-Year Revenue and Expenditure Report with No Proposed Mid-Year Budget Adjustments

Ms. Hom identified Attachment A to the Resolution; the Fiscal Year 2012/13 Mid-Year Revenue and Expenditure Report, and welcomed questions from the Council. Speaking to Page 2, Sales and Use Tax, which had shown a shortfall of \$20,000 for the past report, she noted that another report from Muni Services had been received and she did not expect the shortfall numbers to change. She recommended no Mid-Year Budget Adjustments be made at this time.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Arth/Wykle) to accept the 2012/13 Mid-Year Revenue and Expenditure Report with No Proposed Mid-Year Budget Adjustments. Vote: 5-0.

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

Chief of Police Robert Priebe reported the item had been brought to the Town Council on January 9, 2013, at which time the Council considered the ordinance and provided direction on three recommended changes as outlined in the January 23, 2013 staff report. He recommended the Town Council Introduce and Waive First Reading of an Ordinance Adding Chapter 9.10 to the Moraga Municipal Code Entitled "Peddlers and Solicitors."

Responding to the Council as to the potential application fee for a Town-issued permit, Chief Priebe explained that a specific fee had not been determined and would be better clarified once cost recovery had been identified. As part of that process, he expressed his intention that brochures would be prepared to educate the public on the requirement for Town-issued permits for peddlers and solicitors pursuant to the ordinance.

Ms. Keimach advised that the fee, once determined, would be part of the Master Fee Schedule to be brought back as part of the annual budgeting process.

Mayor Trotter recommended any processing of Town-issued permits between now and when the Master Fee Schedule was approved be processed with no fee.

Ms. Murphy suggested concerns with the fee could be handled by not enforcing the ordinance yet; determining a ramp-up period for enforcement while the process was being determined; issuing permits when people come in, or just adopting a fee earlier. That fee could not be determined at this time given that staff would have to evaluate the actual cost of processing, and then submit a resolution with that fee to the Council for consideration.

Mayor Trotter recommended the following revisions to the redline version of Attachment A, Draft Ordinance, Adding Chapter 9.10 to the MMC, Amending the Conflict of Interest Code:

- Page 5, Section 9.10.100, Permit Renewal, revise the third and fourth sentences to read: *The Chief of Police shall determine if the permit holder is in compliance with the requirements of this chapter and the terms of the permit. The permit shall be renewed if the Chief of Police finds the permit holder to be in compliance.*

Ms. Murphy affirmed that the ordinance could be adopted by the Town Council at this time with the Mayor's recommended changes if the Council so directed.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Wykle/Chew) to Introduce and Waive First Reading of an Ordinance Adding Chapter 9.10 to the Moraga Municipal Code Entitled "Peddlers and Solicitors," as modified. Roll Call Vote: Vote: 5-0.

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Ms. Keimach reported that the property owner of The New Rheem Theatre was out of the country for the next four weeks; and expressed concern about holding a discussion about a private property or a discussion with the business operator without first having a discussion with the private property owner. In the meantime, outreach could be brought to the Town Council as discussed during the Town Council Goals Workshop. She acknowledged the interest from the community for fundraising, which could be brought to the Town Council prior to discussions with the private property owner and the Town may help to publicize fundraising efforts and assist in educating the public. She also acknowledged the Council's emphasis on the importance of the issue, and affirmed the item could be brought back for Town Council discussion once all involved parties were available.

Ms. Keimach added that at the direction of the Town Council during the January 9 Town Council meeting, an appeal of the hours of operation for the intramural field lights at Saint Mary's College would be brought back to the Town Council during the second meeting in February.

XIII. COMMUNICATIONS

- A. Letter of Condolence to the Langley Family from the Moraga Town Council dated January 11, 2013

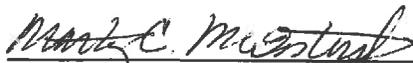
The Town Council acknowledged receipt of the condolence letter to the Langley family.

Mayor Trotter thanked Bob Reynolds for his assistance in drafting the letter.

XIV. ADJOURNMENT

ACTION: It was M/S (Wykle/Chew) to adjourn the meeting at 10:27 P.M. Vote: 5-0.

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Dave Trotter, Mayor