

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**May 22, 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 7:05 P.M. by **Mayor Dave Trotter**.

ROLL CALL

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

Councilmembers absent: Councilmember Roger Wykle

II. PLEDGE OF ALLEGIANCE

Mayor Trotter led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

There were no special announcements.

IV. PROCLAMATIONS AND PRESENTATIONS

- A. Proclamation Honoring Frank Sperling for Dedicated Service to the Town of Moraga

Mayor Trotter read into the record a proclamation honoring Frank Sperling for dedicated service to the Town of Moraga, and declared May 24, 2013 as "Frank Sperling Day" in recognition of his true spirit of volunteerism and his many contributions to the Town.

Frank Sperling, Moraga, thanked the Town Council for the honor and recognition, emphasizing he was thrilled to have volunteered for the Town of Moraga for many different activities.

The Town Council expressed its appreciation to Mr. Sperling for his service to the Town of Moraga.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

- B. Proclamation Honoring Campolindo High School's Academic Decathlon Team

Mayor Trotter read into the record a proclamation honoring the Campolindo High School's Academic Decathlon Team and declared May 22, 2013 as "Campolindo High School Academic Decathlon Team Day" in recognition of the team's outstanding achievements.

PUBLIC COMMENTS OPENED

John Walker, Principal, Campolindo High School, expressed appreciation on behalf of the staff and students of Campolindo High School, and commended the achievements of the Academic Decathlon Team which had shown tremendous fight, tenacity, and camaraderie.

Paul Verbanszky, Coach for the Academic Decathlon Team, thanked the Town Council, faculty, students, and parents for their support of the Team, which was the first Northern California team to win Nationals.

Evelyn Steefel and Laura Gustafson, co-Captains of the Academic Decathlon Team, thanked Mr. Verbanszky for all of his hard work and support of the Team. They also thanked the Town Council for the recognition of the Team's accomplishments.

Marina Han, Campolindo High School, acknowledged the difficulties in obtaining student interest in the Academic Decathlon Team, noting their effort to solicit participation from all interested parties.

Zach Scherer, Campolindo High School, described the Team's theme for the year, "Russia," with competition in the subjects of art, economics, essay, interview, language, literature, mathematics, music, science, social studies, and speech.

PUBLIC COMMENTS CLOSED

- C. Proclamation Declaring National Public Works Week to be May 19 through 25, 2013

Mayor Trotter read into the record a proclamation declaring National Public Works Week to be May 19 through 25, 2013, in honor of public works for its outstanding achievements. The proclamation was presented to Public Works Director/Town Engineer Edric Kwan, who described the many efforts and accomplishments of the Public Works Department, and who commended all the efforts of Public Works Department staff.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

V. PUBLIC COMMENTS AND SUGGESTIONS

George Fisher, Moraga, reported on the success of the Senior Fair at the Hacienda; expressed his pride in the Hacienda's restoration, reminiscent of its glory days; and thanked the Town Council for its efforts, particularly the Town Manager, for keeping him informed during the process of relocating Town staff from the Hacienda to the new Town Offices.

Allen Sayles, Lafayette, asked the Town Council to consider revisiting action the Council had taken in 2001 related to the clarification of setback requirements. While the policy had been in place since 2001, he had recently submitted a project to the Planning Department and had been

informed an addition in his project must show setbacks relative to eaves. He offered photographs of his project and asked the Council to revisit the rule it had set in place in 2001.

Town Manager Jill Keimach advised that the issue was being discussed at the Planning Commission and Design Review Board (DRB) levels.

Planning Director Shawna Brekke-Read affirmed the issue had been discussed with the Planning Department, Town Attorney, and the Planning Commission, and that Mr. Sayles, a former member of the DRB, had pointed out the policy the Town Council had put into place to measure setbacks. The Town Attorney and Planning staff had determined the ordinance measured setbacks from the building or foundation, typical for most communities. She described the history of the policy since 2001, and that the Council had directed staff to measure setbacks from eaves. In the meantime, the DRB reviewed applications with eaves that extended into setbacks.

Shannon Zwakman, Moraga, reported that she and her husband had purchased their home a year ago with the intent to expand the home. They understood the Town's setback requirements followed the county's zoning. She had recently been informed that the Town's setbacks for her home would be 20 feet on each side. She found the Town's setback policy to be a detriment to her residence, and suggested the policy could possibly impact the value of her home. She asked the Town Council to honor the zoning as it existed and as she had been informed in writing.

Mayor Trotter understood the issue was being reviewed by the DRB and the Planning Commission, and urged staff to work with Mr. Sayles and keep him apprised given his experience with homes built and designed in Moraga.

VI. ADOPTION OF THE CONSENT AGENDA

A. Approval of the Consent Items

Consent Agenda Item No. 2 was removed from the Consent Agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Chew/Arth) to approve Consent Agenda Items 1, 3, 4, and 5. Vote: 4-0-1. Absent: Wykle.

- | | | |
|----|--|----------------|
| 1) | Accounts Payable Claims for 5/1/2013 (\$411.00);
5/3/13 (\$119,364.07) | Approved |
| 2) | <i>Approve Minutes for Town Council Regular and Special Meetings on April 10, 2013</i> | <i>Removed</i> |
| 3) | Adopt Resolution 27-2013 Approving Engineer's Report for the Town of Moraga Street Lighting Assessment District 1979-1 and Adopt Resolution 28-2013 Declaring The Town of Moraga's Intention to Levy and Collect Assessments Under Assessment District No. 1979-1, Town of Moraga Street Lighting In Fiscal Year 2013/14 and Setting a Public Hearing Date | Approved |

- 4) Adopt Resolution 29-2013 Awarding a Contract Services Agreement to Omni Janitorial Services, Inc. (Walnut Creek) for Custodial and Building Maintenance Services for Town-owned Facilities in the Amount of \$37,336 for a Term of Three (3) Years with a 15% Annual Contingency Approved
- 5) Adopt Resolution 30-2013 Authorizing the Filing of an Application for OneBayArea Grant Funding Through the Metropolitan Transportation Commission (MTC) for the 2015 Moraga Road (St. Mary's Road to Draeger Drive) Resurfacing Project, Committing any Necessary Matching Funds, and Stating the Assurance to Complete the Project Approved

B. Consideration of Consent Items Removed for Discussion

1. Approve Minutes for Town Council Regular and Special Meetings on April 10, 2013

Mayor Trotter reported that he had provided staff and the Town Council with copies of redline strikeout changes to Page 11 of the April 10, 2013 Regular Town Council meeting minutes to better reflect the intent of his comments.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Chew/Arth) to approve Minutes for Town Council Regular and Special Meetings on April 10, 2013, as amended. Vote: 4-0-1. Absent: Wykle.

VII. ADOPTION OF MEETING AGENDA

Mayor Trotter recommended that Item E under XI. Ordinances, Resolutions and Requests for Action be moved to IX. Discussion Items, as Item A.

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

VIII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Trotter - Reported that he had attended a Central Contra Costa Solid Waste Authority (CCCSWA) New Garbage Franchise Subcommittee meeting on May 10; the same evening participated in the celebration of the new Classic Movie Hall of Fame at the Orinda Theatre; attended the Moraga Community Faire on May 11; the Audit and Finance Committee (AFC) meeting on May 14; a performance at the Rheem Theatre on May 16; and, along with Councilmembers Arth and Metcalf, the Town of Moraga Open House at the new Town Offices at 329 Rheem Boulevard on May 21.

Vice Mayor Chew - Reported that he had attended the CCCSWA Board meeting on May 20, at which time two recruitment firms had been interviewed for the search for a new Executive Director.

Councilmember Arth - No report.

Councilmember Metcalf - Reported that he had attended the AFC meeting on May 14; would be attending the next Contra Costa Transportation Authority (CCTA) Board meeting; the East Bay Regional Communications System Authority (EBRCSA) formal roll-out of the system was now 99.9 percent complete; and he had attended a recent meeting of the Citizen Corps Council with Moraga Night Out tentatively scheduled for September 22, 2013.

Councilmember Wykle - No report.

B. Town Manager Update - No report

IX. DISCUSSION ITEMS

A. Discussion Regarding the Preparation of a Historic Preservation Ordinance, Including the Purpose, Definitions, Authority, and Process to Nominate and Designate Landmarks, Authority to Approve Alterations to Landmarks, Use of the Mills Act, and Provide Direction to Staff

Ms. Brekke-Read reported that the Town Council had identified addressing issues with the Rheem Theatre as a 2013 goal, including pursuing the possibility of designating the Rheem Theatre as a historic landmark. The first step would require an ordinance to allow for a historic designation, with a draft outline provided in the agenda packet. Policies from other local agencies similar to Moraga had also been evaluated and included Orinda, Lafayette, and Danville.

Ms. Brekke-Read identified the state requirements for a historic ordinance; outlined the regulations for the proposed ordinance and the process for nomination; and discussed the Mills Act provisions. She reported that courtesy notices had been sent prior to consideration of this item, including some "historic property" owners. She identified correspondence that had been received from the attorney for the Rheem Theatre owner, Saint Mary's College (SMC), an e-mail from Joan Bruzzone, and a letter from Dave Bruzzone.

PUBLIC COMMENTS OPENED

Edy Schwartz, Moraga, stated that she had been involved in the Town's business sector for over five years, was familiar with the Town and its businesses including the Rheem Theatre, recognized the financial investment put into the Rheem Theatre by the current operators, the assistance of the community in raising funds for the theatre, and the intent of the comments provided by the property owner. As a resident of Moraga, and a commercial property owner, she recognized the sensitivity needed to reach a solution for all involved. She supported a historic designation for the Rheem Theatre to preserve a valuable asset in the community.

Margaret DePriester, Moraga, commented that the Moraga Historical Society (MHS) had designated five landmarks in the Town with brass plaques prior to Moraga's incorporation. She was dismayed the MHS had not been contacted although contact had been made with the cities of Orinda and Lafayette. If the Town Council were to consider a Historic Preservation Ordinance, she asked that the MHS be included in any further discussions.

Joan Bruzzone, Lafayette, read into the record correspondence she had presented to Planning staff expressing her dismay that a Historic Preservation Ordinance was under consideration absent the courtesy of informing the private property owners involved, leading her to question the complete objectiveness of local Town Councilmembers.

Dave Bruzzone, Moraga, stated that he had also been surprised to learn the Town Council would be considering a Historic Preservation Ordinance. He also submitted correspondence to the Town Council, and stated that any more additional constraints impeding the ability to make positive improvements within the Moraga Center Specific Plan (MCSP) would be opposed. He pointed out that the Moraga Barn, which was not part of the MCSP, had undergone significant improvements and enhancements absent any additional constraints or new laws impeding improvements. He suggested the proposed ordinance would add another layer of rules and opposed a third party (other than the property owner) having the ability to make a historic designation.

PUBLIC COMMENTS CLOSED

Mayor Trotter stated for the record that the Town Council was not considering an ordinance at the time; noting it was a discussion which would include the participation of the property owners. He acknowledged the motivation was a concern with the Rheem Theatre, with direction to staff to return with a discussion for a potential Historic Preservation Ordinance specifically related to the Rheem Theatre.

Councilmember Metcalf commented on the history of historic preservation which had started with the Hacienda de las Flores and Americans with Disabilities Act (ADA) issues. He agreed a Historic Preservation Ordinance should be pursued, but had not considered the Bruzzone Ranch as having historic status, and encouraged the Bruzzone family to consider the merits of the Mills Act. He liked the idea of evaluating the ordinances of other cities, but he did not agree with removing property owners' rights. He questioned how the Town would proceed with a Historic Preservation Ordinance if the property owner was not in agreement with such an ordinance.

Councilmember Arth urged that a designation of a historical structure not be used as a tool to take someone's property. He did not support the taking of the Rheem Theatre and would rather see the property owner enticed to consider the historic landmark designation. He encouraged respect of ownership and liked the Danville ordinance which required property-owner consent.

Vice Mayor Chew clarified with Ms. DePriester that the historic landmarks designated by the MHS included the Moraga Barn, Willow Springs Church, Hacienda, and the baseball diamond at the entrance to Campolindo High School, with Moraga Ranch having been discussed. He agreed that the MHS be involved in the discussions, affirmed he had read the letter from the attorney for the property owner for the Rheem Theatre, and given the property owner was present in the audience, asked him to address the Town Council.

From the audience, the property owner declined to address the Town Council.

Vice Mayor Chew expressed concern with the staff resources involved in pursuing a Historic Preservation Ordinance and designation of a historic landmark for the Rheem Theatre, and sought more information from interested parties.

Mayor Trotter re-opened public comment at the time.

Dave Schnayer, Moraga, a Commercial Real Estate Broker, stated that he was not representing the property owner of the Rheem Theatre, and reported on a meeting to discuss alternatives to

the Parks and Recreation Department's desire to sublease a portion of the theatre for recreational activities in an effort to bring the business back to a financially feasible condition. He advised the property owner would not realize financial benefits through tax breaks with a historic designation; spoke to the issue of private property rights; opposed government taking of property through eminent domain; and recommended caution. He opposed any effort behind the scenes absent the involvement of the property owner.

On the question of whether a historic designation equated to a taking of private property, Town Attorney Karen Murphy explained that an ordinance would set forth a process to designate historic landmarks. She explained the ordinance would be adopted pursuant to the Town's police powers, which would not constitute a taking of property. Some of the ordinances staff had evaluated required property owner concurrence while others had not.

Mayor Trotter characterized the Rheem Theatre as an iconic part of Moraga and recognized it had not met the minimum age criteria for a structure when the General Plan had last been adopted. He suggested the Rheem Theatre, like SMC, the Hacienda, and the Moraga Commons identified Moraga. He liked the idea of a Historic Preservation Ordinance and suggested it was appropriate to direct staff to evaluate such an ordinance. He also wanted to consider incentives to bring the property owner on board; however, if not possible, he wanted the Town Council to have that ability. He recognized the full Town Council was not present at the time and supported directing staff to pursue the Town Council's ability to nominate and designate pursuant to a proper ordinance. He recognized that an ordinance must be put into place first prior to designating a historic property; emphasized the lease for the Rheem Theatre would expire in less than a year; and efforts to preserve the Theatre must include the adoption of an ordinance within that time period. He urged staff to work with the property owner to garner support for what the Town was trying to accomplish.

Responding to the Council, Ms. Brekke-Read affirmed there were regulations pursuant to the California Environmental Quality Act (CEQA) related to historic preservation and provided examples of remodels which would require environmental review.

As to whether the Town may designate a historic landmark absent the adoption of an ordinance, Ms. Murphy explained that the process to designate Town property would also be through an ordinance process rather than just a designation, with certain findings required to designate a local historic site. She recommended the process of adopting an ordinance and then considering the designation of a site subject to the appropriate public hearings.

Ms. Keimach added that if the Council desired to conduct ADA improvements at the Hacienda, for example, it had two choices: to bring the facility up to ADA code which became stricter every two years pursuant to the Uniform Building Code (UBC) requirements; or, if designated a local historic structure, the Building Official had the ability to consider other means of access to the second floor which did not have to meet the letter of the UBC but which would not destroy the architectural integrity of the building.

David Bowie, Law Office of David J. Bowie, attorney for the property owner of the Rheem Theatre, stated that he had submitted written comments to the Town Council. He echoed earlier comments that it would be critical to have the property owner's permission and consent for a historic designation, which would avoid litigation. He cited information in his letter related to the state statute as to the feasibility, prudence, and consent of the property owner.

By consensus, the Town Council directed staff to move forward with the development of a Historic Preservation Ordinance; conduct a thorough outreach to property owners, the MHS, and the Hacienda Foundation; keep the issue of whether to require property owner approval

open at the time to be explored as an option; and recognize the urgency with respect to the Rheem Theatre.

X. PUBLIC HEARINGS

A. Adopt Resolution 31-2013 Authorizing Updates to the Town of Moraga Master Fee Schedule to be effective July 22, 2013

Administrative Services Director Stephanie Hom reported that there were annual updates to the Master Fee Schedule as part of a review process to ensure the proposed fees reflected the best estimate of the costs to provide those services. She identified changes in the Master Fee Schedule for the Parks and Recreation Department given the observance over the past few years of fewer rentals and weddings, with prices having increased, and after consulting with other venues with similar restrictions, such as the Brazilian Room at Tilden Park. Parks and Recreation staff proposed to reduce the fees to build the market and encourage more events, and at the same time staff had proposed to reduce the overall revenue expectations for the Hacienda de las Flores.

PUBLIC COMMENTS OPENED

Judy Dinkle, Moraga, representing the Hacienda Foundation, referenced the completion of recent renovations of the Pavilion in partnership with the Town and the Hacienda Foundation, and explained that the new renovations allowed the building to be rented more frequently, increasing revenue potential for the Hacienda buildings overall. She asked that the Hacienda Foundation also be informed of any historic designations and strategic planning efforts.

Ms. Hom affirmed the AFC had considered the waiver of fees for all commercial applications, and had recommended the Council offer direction to staff on any waiver of fees. An estimate had been included in the staff report, showing a reduction of \$15,000 to \$20,000 if the fees were waived, and assuming relatively easy projects.

Allen Sayles, Moraga, presented the Town Council with written information on the municipal and planning codes for the City of Lafayette as compared to the Town of Moraga. He suggested the primary impact to businesses was the Conditional Use Permit process which impacted prospective tenants and landowners, and was costly and time-consuming. He sought consideration of a Permitted Use Permit process as a matter of right, and suggested the fee was not the issue as much as the time associated with the permit process.

PUBLIC COMMENTS CLOSED

Ms. Keimach explained if staff were to remove \$20,000 from the Master Fee Schedule, there would not be a balanced budget. She noted there could be agreement not to have a balanced budget, and during the mid-year review in January 2014, staff could review potential cost savings at which time the budget could be balanced again.

Ms. Brekke-Read explained that the number of permits being processed now was the same as 2009, the year fees had been waived.

The Town Council discussed the proposed updates to the Master Fee Schedule and offered the following comments and/or direction to staff:

- There was no consensus on fee waivers for all commercial applications (with a 2-2 split vote);

- Recognized the upside of waiving the fees which may encourage more businesses in the Town; and
- Recommended approval of the proposed Master Fee Schedule, with the Town Council to consider an adjustment to the Master Fee Schedule during the Mid-Year Budget Review in January 2014.

ACTION: It was M/S (Metcalf/Trotter) to adopt Resolution 31-2013 Authorizing Updates to the Town of Moraga Master Fee Schedule, to be effective July 22, 2013; with the understanding the Town Council would consider fee waivers during the Mid-Year Budget Review in January 2014. Vote: 4-0-1. Absent: Wykle.

XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

- A. Adopt Resolution 32-2013 Accepting Construction Improvements and Funds from the Moraga Park Foundation for Capital Improvement Project (CIP 12-402) (Commons Park Bandshell and ADA Improvements) and Receive and File the Certificate of Occupancy/Completion from the Contra Costa County Department of Conservation and Development

Parks and Recreation Director Jay Ingram expressed his appreciation and gratitude to Park Foundation members for all their efforts to beautify the parks and landscape in the Town of Moraga, and reported that the Park Foundation had received statewide recognition and designation as a *Champion of the Community* in March 2013 during the California Park and Recreation Society Statewide Conference. He described the history of the expansion project for the Commons Park Bandshell and ADA Improvements and reported the project was now complete; the Park Foundation had raised over \$450,000 since its incorporation and he identified the numerous activities and programs offered at the facility; and again thanked the Park Foundation for its work on this, past, and future projects. He asked that the Town Council adopt a resolution accepting construction improvements and funds from the Moraga Park Foundation for Capital Improvement Project (CIP 12-402) (Commons Park Bandshell and ADA Improvements) and receive and file the Certificate of Occupancy/Completion from the Contra Costa County Department of Conservation and Development.

PUBLIC COMMENTS OPENED

Bob Reynolds, Moraga, President of the Moraga Park Foundation, was pleased to provide the improvements to the bandshell complex that he described as a legacy in honor of Ellis Langley. He expressed his appreciation to the hundreds of volunteers, donors, Town staff, and the County's Environmental Health Department, all of which had been instrumental during the planning process, and recognized the East Bay Regional Park District (EBRPD) and the use of Measure WW Funds to complete the improvements.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Chew) to adopt Resolution 32-2013 Accepting Construction Improvements and Funds from the Moraga Park Foundation for Commons Park Bandshell and ADA Improvements (CIP 12-402) and Receive and File the Certificate of Occupancy/Completion from the Contra Costa County Department of Conservation and Development. Vote: 4-0-1. Absent: Wykle.

- B. Presentation of the Lamorinda Spirit Van Program by Mary Bruns, Program Coordinator and Budget Request

Mary Bruns, Program Coordinator for the Lamorinda Spirit Van Program, provided the Town Council with written information on the Program which served Lamorinda seniors. She thanked the Town Council for budgeting \$9,000 a year for the program in past years and asked the Town Council to consider contributing \$15,000 for the next fiscal year. The same request of \$15,000 had been made to the City of Orinda and \$30,000 from the City of Lafayette. She emphasized the importance of providing rides for seniors and the disabled. She reported that the City of Lafayette had provided \$35,000 for the program last year, and had consistently offered support over the years in the amount of \$25,000; emphasized that all efforts had been made to secure federal grants; service clubs had contributed approximately \$500; she was hopeful the City of Orinda would contribute pursuant to her request; recognized the Town's limited resources; and acknowledged the staff report had indicated if the request from Moraga in the amount of \$15,000 was fulfilled the budget might need to be re-balanced. She also acknowledged that a Moraga resident had made up the difference monetarily between what she had requested from Moraga and what the Town had provided last year, which could be another avenue to pursue for the next fiscal year. Based on her estimate, Moraga residents received approximately 28 percent of the rides per day. She stated she would provide the Council with information on the Program's revenues and expenditures, and clarified the cost of rides for Moraga residents had been estimated at \$14 per ride.

PUBLIC COMMENTS OPENED

Mauna Wagner, Pleasant Hill, dispatcher and volunteer driver for the Lamorinda Spirit Van Program, noted that passengers were also taxpayers; the service was really valued; and expressed her hope the Town would give something back while considering the request for additional funds.

Dave Cummins, Moraga, thanked the Town Council for its past contributions to the program. As a volunteer driver, he spoke to the benefits and importance of the program for its passengers.

Sophie Braccini, Moraga, spoke to a recent article from Lamorinda Village, which had conducted outreach to Lamorinda seniors, and which had determined the most important service for seniors in the community was transportation. She asked the Town Council to take that into consideration while making its deliberations on the budget request.

Julie Fisher, Moraga, urged the Town Council to consider the request to increase its financial contribution to support the Lamorinda Spirit Van Program for the reasons expressed.

George Fisher, Moraga, spoke to the efforts to create a virtual Lamorinda Village in the fall of 2014 designed to handle all of the needs of those who wanted to remain in their homes, with a survey of individuals' needs indicating transportation as the most important need. He too urged consideration of increasing the financial contribution to the Lamorinda Spirit Van Program, particularly given the increase in the aging population.

PUBLIC COMMENTS CLOSED

Mayor Trotter stated that a few years ago the Town Council had given up its personal Council budget to fund the Lamorinda Spirit Van Program; the Town's budget continued to be tight with limited resources; the increase in funding from \$9,000 to \$15,000 would result in an unbalanced budget; the budget request would impact Measure J funds; and funding in the amount of \$9,000 would essentially equate to a \$9 per ride subsidy, a reasonable subsidy for the Town to provide for the service particularly compared to the limited funding contributions from the City of Orinda. He urged greater outreach to service organizations.

Councilmember Metcalf supported the budget request for the Program in the amount of \$15,000; recognized the importance of the service to seniors; recognized the budget was tight; and emphasized the importance of a community's support for its seniors. He commented that the Lamorinda Program Management Committee (LPMC) had discussed a voucher system and the Lamorinda Spirit Van Program could be a good candidate for that program; he suggested the LPMC consider the Spirit Van Program which could be done less expensively. He encouraged the Mayor to discuss the matter with the Mayor of Orinda in the hopes Orinda may positively consider the budget request from the Lamorinda Spirit Van Program.

Councilmember Arth supported the Program after a presentation had been made to Moraga Movers and would have agreed to a greater budget request, although from an accounting standpoint he found the Town's estimated budget surplus to be very thin. After discussion of the budget and if additional funds could be found, he might be convinced to grant the request.

Vice Mayor Chew recognized the budget request was made each year and clarified that his comments were not meant to be insensitive. Having reviewed the numbers, he found the rides for Moraga residents to be two to three rides per day, which was very minimal; supported a budget request capped at \$9,000 so that the request for funds did not have to be made each year; and preferred to see the remaining \$6,000 matched from another source.

Mayor Trotter stated the Council could not legally grant a request or impose a policy that would be binding for future budget cycles. He acknowledged there was no consensus to increase the level of funding from \$9,000 to \$15,000 and therefore a final decision could not be made; however, the budget would be approved at a future meeting at which time it was his hope all five Councilmembers would be present to discuss the item and consider possible options as part of the annual budget process. He agreed to discuss the matter with the Orinda Mayor during the next Lamorinda meeting in an effort to encourage Orinda to approve the budget request, and would be willing to assist in private fundraising efforts if needed.

On the discussion, Ms. Murphy advised that the Town Council was being asked to provide direction to staff, with final action to be taken when the budget was adopted. At this time, \$9,000 had been included in the budget to contribute to the Lamorinda Spirit Van Program, and through the budget discussions that number could be amended if the Council so directed.

- C. Adopt Resolutions Establishing Compensation Packages and Approving the Memorandums of Understanding for Town of Moraga Employees Effective July 1, 2013 through June 30, 2015:
1. Adopt Resolution 33-2013 Establishing Compensation Package for Department Directors; and
 2. Adopt Resolution 34-2013 Establishing Compensation Package for Mid-Management Professional Employees; and
 3. Adopt Resolution 35-2013 Establishing Compensation Package for Confidential Employees; and
 4. Adopt Resolution 36-2013 Approving the Memorandum of Understanding (MOU) between the Town of Moraga and the Moraga Employees Association (MEA); and
 5. Adopt Resolution 37-2013 Approving the Memorandum of Understanding (MOU) between the Town of Moraga and Moraga Police Officers Association (MPOA)

Ms. Keimach characterized the process for each item as long but very rewarding since it demonstrated how terrific staff was and showed the support of the Town Council for staff, with the goal to maintain the budget and deal with the uncontrollable rising health care costs. Employees and employee groups had agreed to all items contained in the Memorandums of Understanding (MOUs) and resolutions to pay 100 percent of the employee's share of the California Public Employees' Retirement System (CalPERS) Pensions; in exchange there would be a two-percent salary increase for the first year and one percent in the second year; employees had agreed to a 9/80 work schedule (working 80 hours over nine days) with increased public counter hours for the public and every other Friday off. In addition, Moraga Employees Association (MEA) Public Works and Parks Maintenance workers would be using their uniform allowance to purchase Town-identified uniforms and would no longer have call-out pay, and while it had not been reflected in the MEA agreement but had been reflected in the budget, the Public Works Department included components for Park Maintenance and Streets for Town and Rental Facilities with a small reorganization in that Department; the Parks and Recreation Director would be responsible for Park Maintenance and Facility Rental and would have three Public Works staff reporting to him. The primary focus for the Public Works Director/Town Engineer now and in the next five years would be streets, street maintenance workers, and contractors involved in the Pavement Management Program. Further, there were now three options for the Town's medical plans, with the current plan a base Kaiser plan paid by the Town; and if health care increased over 12 percent in the next year employees would cover any additional health care costs above 12 percent up to 24 percent; if over 25 percent, the amount would be re-negotiated. The traditional HMO Kaiser rate desired by the employees involved a co-pay option where employees would pay 20 percent of that cost.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

The Town Council complimented the Town Manager and the Administrative Services Director on the negotiation efforts without alienating any employee group, and thanked staff for its hard work for the Town.

ACTION: It was M/S (Metcalf/Arth) to adopt Resolution 33-2013 Establishing Compensation Package for Department Directors effective July 1, 2013 through June 30, 2015. Vote: 4-0-1. Absent: Wykle.

ACTION: It was M/S (Metcalf/Chew) to adopt Resolution 34-2013 Establishing Compensation Package for Mid-Management/Professional Employees effective July 1, 2013 through June 30, 2015. Vote: 4-0-1. Absent: Wykle.

ACTION: It was M/S (Metcalf/Chew) to adopt Resolution 35-2013 Establishing Compensation Package for Confidential Employees effective July 1, 2013 through June 30, 2015. Vote: 4-0-1. Absent: Wykle.

ACTION: It was M/S (Metcalf/Arth) to adopt Resolution 36-2013 Approving the Memorandum of Understanding (MOU) between the Town of Moraga and the Moraga Employees Association (MEA) effective July 1, 2013 through June 30, 2015. Vote: 4-0-1. Absent: Wykle.

ACTION: It was M/S (Metcalf/Chew) to adopt Resolution 37-2013 Approving the Memorandum of Understanding (MOU) between the Town of Moraga and the Moraga Police Officers Association (MPOA) effective July 1, 2013 through June 30, 2015. Vote: 4-0-1. Absent: Wykle.

ACTION: It was M/S (Chew/Metcalf) to extend Town Council meeting to 12:00 A.M. Vote: 4-0-1. Absent: Wykle.

By consensus, the Town Council modified the meeting agenda to proceed with Item F prior to consideration of Item D.

F. Adopt Resolutions for Planning and Environmental Review Services:

1. Adopt Resolution 38-2013 Authorizing the Town Manager to Sign an Amended Contract with Natalie Macris for Planning and Environmental Review Services in an Amount Not-to-Exceed \$250,000 for a Total Contract Period of Three (3) Years, with the Primary Source of Funding Derived from Funds Provided by Applicants; and
2. Adopt Resolution 39-2013 Authorizing the Town Manager to Sign a Contract with LAK Associates for Planning and Environmental Review Services in an Amount Not-to-Exceed \$250,000 for a Total Contract Period of Three (3) Years, with the Primary Source of Funding Derived from Funds Provided by Applicants.

By consensus, the Town Council waived the presentation of a staff report for this item.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Chew) to adopt Resolution 38-2013 Authorizing the Town Manager to Sign an Amended Contract with Natalie Macris for Planning and Environmental Review Services in an Amount Not to Exceed \$250,000 for a Total Contract Period of Three (3) Years, with the Primary Source of Funding Derived from Funds Provided by Applicants; and to adopt Resolution 39-2013 Authorizing the Town Manager to Sign a Contract with LAK Associates for Planning and Environmental Review Services in an Amount Not to Exceed \$250,000 for a Total Contract Period of Three (3) Years, with the Primary Source of Funding Derived from Funds Provided by Applicants. Vote: 4-0-1. Absent: Wykle.

- D. Consider Proposed Fiscal Year 2013/14 Operating and Capital Improvement Program Budgets, Including Updates to the Five-Year Financial Plan, and Financial Policies**

Given the lateness of the hour, Ms. Keimach recommended the Town Council not discuss the Financial Policies at the time. She offered a PowerPoint presentation on the Proposed Fiscal Year 2013/14 Operating and Capital Improvement Budget with revenues and property taxes identified as the Town's largest generator to the General Fund representing 37 percent of the budget, and sales taxes representing 25 percent of the budget. She identified the General Fund expenditures and revenues, and fund balance at 44.7 percent of the Operating Budget excluding Palos Colorado and other restricted funds.

Ms. Hom advised that the Fiscal Year 2013/14 Budget was structurally balanced, meaning staff proposed to use ongoing revenue sources to support the ongoing expenditures of the Town. An adjustment of \$28,000 in the negative had been shown for anticipated payouts for vacations for anticipated retirement, using prior years' savings proposed to achieve the adjustment. She offered a slide presentation on the Five-Year Financial projections and characterized the budget as very stable; identified a surplus incorporating conservative revenue and estimates, sales taxes from municipal services, property rents for the Moraga Country Club, decreased Parks and Recreation Department revenue estimates, with an increase in the Planning Department as a result of collection of accounts for ongoing projects; and identified expenditures and estimated future rates for CalPERS, and zero salary adjustments projected for Fiscal Year 2015. She noted that years 4 and 5 of the Five-Year projection had shown deficits.

Ms. Hom identified the Town's services and detailed the expenditures for each of the Town's Departments; identified Other Funds sources; the Asset Replacement Fund noting that the AFC had agreed to form a subcommittee to revisit the structure of that fund, come up with items the funds should be used for, and how to replenish it in the long term, with the subcommittee to return to the AFC with its recommendations.

Responding to the Council as to whether there were potential Measure J funds that could be used to fund the request for the Lamorinda Spirit Van Program, Ms. Hom referenced Page 87 of Appendix A, which had shown the expected revenues for Other Funds, 210 Measure J, and acknowledged that Measure J funds were an eligible source for that Program, with \$9,000 in Measure J funds proposed for the next year. If the Council were to approve the request for \$15,000, there would be a fund deficit. She also referred to Page 104 and identified the fund balance for the Asset Replacement Fund including the ending year balance, and the creation of a new Fund 711, Street Pavement Management Program, to account for revenues and expenditures related to the local sales tax and other funds used to support the fund. Outstanding budget items were identified as the request for \$15,000 in funds for the Lamorinda Spirit Van, which had been currently budgeted at \$9,000, and membership to the National League of Cities, both issues the Council would need to discuss further.

Mr. Kwan offered a brief presentation on the Capital Improvement Program (CIP) Budget, as outlined in Attachment A to the staff report, and highlighted the following capital improvement projects: the Council Chambers at 331 Rheem Boulevard, Hacienda Improvement Program, Municipal Building Repainting Program, Calle La Mesa Outfall Repairs, Laguna Creek Embankment Re-stabilization/Repair, Canyon Bridge Replacement Project, Pavement Management Program, and General Plan Update, and Zoning Consistency. He also referenced Attachment C which identified a variety of Planning and Parks projects that did not have identified funding sources.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

The Town Council discussed the Proposed Fiscal Year 2013/14 Operating and Capital Improvement Program Budgets and offered the following comments and/or direction to staff:

- Town Council consensus to budget the General Plan and Housing Element Update from the General Fund Reserves with staff to make an effort to achieve the updates at a lesser cost;

- Recommended a future discussion to partner with the Hacienda Foundation to conduct a survey as part of the strategic planning efforts for the Hacienda, assuming the use of Palos Colorados funds;
- Staff to discuss the matter of the survey further before the issue returned to the Town Council, with staff to discuss further with the Hacienda Foundation any willingness to share in the costs for the survey;
- Discussed the CIP identified priorities for Fiscal Year 2013/14 in detail, with the projects with funding sources to proceed;
- Discussed unfunded projects as identified in Attachment B in detail, with the Mayor opposed to proceeding with CIP Project No. 1; and with Councilmember Metcalf emphasizing the importance of the preparation of a Master Plan for the Hacienda property.

**ACTION: It was M/S (Metcalf/Arth) to extend the Town Council meeting to 12:10 A.M.
Vote: 4-0-1. Absent: Wykle.**

- Staff agreed to contact the Hacienda Foundation before the next Town Council meeting to determine whether the Town's priorities for the Hacienda matched those of the Hacienda Foundation; there was no Town Council consensus that staff proceed with the essential maintenance items for the Hacienda until communicating with the Hacienda Foundation.

As to whether the Town Council could continue the discussion of the Proposed Fiscal Year 2013/14 Operating and Capital Improvement Program Budgets, Including Updates to the Five-Year Financial Plan, and Financial Policies to a Special Meeting of the Town Council, Ms. Murphy affirmed that could be done absent any prohibition in the Town Council Rules, and confirmation upon review of the Moraga Municipal Code (MMC).

**ACTION: It was M/S (Trotter/Chew) to extend the Town Council meeting to 12:15 A.M.
Vote: 4-0-1. Absent: Wykle.**

Given the need to adopt the budget prior to July 1, and a desire to have the full Council present, by consensus, the Town Council tentatively scheduled a Special Meeting of the Town Council for June 19, 2013 with the budget to be the only item on the agenda, which would still allow for the adoption of the budget on June 26, subject to verification by the Town Attorney.

- G. Designate Town of Moraga's Voting Delegate and any Alternates at the League of California Cities Annual Meeting on September 18 to 20, 2013 in Sacramento, California, for the Purpose of Voting on League Resolutions Regarding Issues of Statewide Concern

By consensus, the Town Council continued the item to the Town Council meeting of June 12, 2013.

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

There were no Council requests for future agenda items.

XIII. COMMUNICATIONS

The Town Council acknowledged receipt of the following items:

- A. Comment Letters on Sustainable Communities Strategy (SCS):
From Town of Moraga dated May 1, 2013

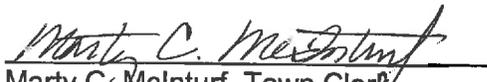
From City of Lafayette dated May 16, 2013
From City of Orinda dated May 16, 2013
From Contra Costa Transportation Authority (CCTA) dated May 16, 2013

- B. Comment Letter on Proposed State Legislature Banning Single-Use Bags from Moraga Chamber of Commerce Board of Directors to Mayor Dave Trotter dated May 8, 2013
- C. Letter from Stanley Nielsen, Nielsen Architects, regarding the Hillside Ordinance dated April 22, 2013

XIV. ADJOURNMENT

**ACTION: It was M/S (Metcalf/Chew) to adjourn the meeting at 12:14 A.M. Vote: 4-0-1.
Absent: Wykle.**

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Dave Trotter, Mayor