

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**October 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 7:02 P.M. by **Mayor Dave Trotter**.

ROLL CALL

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

Councilmembers absent: Vice Mayor Chew

II. PLEDGE OF ALLEGIANCE

Councilmember Arth led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

There were no special announcements.

IV. PROCLAMATIONS AND PRESENTATIONS

- A.** Introduction and Swearing in of New Moraga Youth Involvement Committee (MYIC) Members for 2013/14

Kimberly Nelson, Recreation Coordinator and Staff Advisor to the Moraga Youth Involvement Committee (MYIC), introduced the two new members of the MYIC for 2013/14, Iman Sigman and Andrea Lucacher.

Town Clerk Marty McInturf administered the Oath of Office to the two new members of the MYIC. The Town Council welcomed the new members of the MYIC.

PUBLIC COMMENTS OPENED

Sophie Lucacher, Moraga, hoped that all members of the MYIC would be proactive in contributing to the Town and making it more teen friendly.

PUBLIC COMMENTS CLOSED

- B.** Proclamation Declaring October 2013, as Domestic Violence Awareness Month

Mayor Trotter read into the record a proclamation declaring October 2013 as Domestic Violence Awareness Month, and urged all citizens to actively participate in the efforts to end

violence in homes, schools, and communities. The Town Council acknowledged the work of STAND! for Families Free of Violence.

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 Items 2 and 4 were removed from the agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

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

- | | | |
|----|---|----------------|
| 1) | Accounts Payable Claims for: 10/4/13 (\$469,080.38) | Approved |
| 2) | <i>Approve Minutes for Town Council Meeting on September 25, 2013</i> | <i>Removed</i> |
| 3) | Approve by Motion Proclamation Declaring November 6, 2013 to be "Shelter-in-Place Education Day" | Approved |
| 4) | <i>Consider Resolution 73-2013 Ratifying Moraga-Orinda Fire District Ordinance 13-01 Adopting the 2013 California Fire Code with Certain Moraga-Orinda Fire District Amendments and the 2012 International Fire Code by Reference</i> | <i>Removed</i> |

B. Consideration of Consent Items Removed for Discussion

1. Approve Minutes for Town Council Meeting on September 25, 2013

Councilmember Metcalf advised that he had submitted redline strikeout changes to the regular minutes of the September 25, 2013 meeting with copies provided on the dais and to the public that night. He asked that the meeting minutes be approved, as amended.

ACTION: It was M/S (Metcalf/Trotter) to approve the Minutes for the Town Council Meeting on September 25, 2013, as revised in the redline strikeout format. Vote: 4-0-1. Absent: Chew.

2. Consider Resolution 73-2013 Ratifying Moraga-Orinda Fire District Ordinance 13-01 Adopting the 2013 California Fire Code with Certain Moraga-Orinda Fire District Amendments and the 2012 International Fire Code by Reference

Mayor Trotter requested a discussion from Moraga-Orinda Fire District's (MOFD) personnel who were present in the audience on the MOFD's rationale for requiring sprinklers to be retroactively installed in homes involved in a substantial remodel.

Planning Director Shawna Brekke-Read understood that in 2010, the MOFD ordinance had proposed the adoption of regulations requiring more sprinkling of buildings than required by the Uniform Building Code (UBC), which was not consistent with Contra Costa County regulations. The proposed MOFD amendments were more in line with Contra Costa County regulations, which clarified when sprinklers would be required for larger structures.

Kathy Leonard, MOFD Fire Marshal, explained that the 2010 ordinance required a number of clauses which triggered the regulations. The new ordinance increased the allowance to 3,600 square feet and 50 percent of the floor area which aligned identically to Contra Costa County's regulations and which was a more positive approach to sprinkling. The MOFD also allowed alternate means and methods for commercial buildings.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Wykle/Metcalf) to adopt Resolution 73-2013 Ratifying Moraga-Orinda Fire District Ordinance 13-01 Adopting the 2013 California Fire Code with Certain Moraga-Orinda Fire District Amendments and the 2012 International Fire Code by Reference. Vote: 4-0-1. Absent: Chew.

VII. ADOPTION OF MEETING AGENDA

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

VIII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Trotter - Reported that he had attended a Moraga Liaison meeting on October 11; a breakfast meeting the same date with the Town Manager, Councilmember Metcalf, and Dick Olsen to discuss issues related to MOFD finances; represented the Town at the inauguration of the new Saint Mary's College (SMC) President; volunteered and participated in the Oktoberfest on October 13; attended two subcommittee meetings of the Central Contra Costa Solid Waste Authority (CCCSWA) on October 17; attended the Mayor and Chairs Breakfast at Terzetto's on October 18; and on the same date was present along with other members of the Council to celebrate the completion of the Pavilion building on the Hacienda de las Flores grounds. He had also attended a Kick-Off fundraising event to acquire the Joaquin Moraga Adobe in the City of Orinda hosted by the Friends of the Joaquin Moraga Adobe on October 21; and represented the Town during a joint Town Council/Moraga School District (MSD) Governing Board meeting on October

22 to discuss items of mutual interest when an Ad Hoc Subcommittee had been formed to work with the MSD, with he and Councilmember Metcalf appointed to serve on the subcommittee. He added that a draft of the CCCSWA Nexus study had been distributed and was under review by the Town at the staff level.

Vice Mayor Chew - Absent.

Councilmember Arth - Reported that he had attended a meeting of the Traffic Safety Advisory Committee (TSAC) on October 22 with the next meeting scheduled for January 15, 2014. The group would be meeting on a quarterly (as opposed to a monthly) basis, and he emphasized the need for more members of TSAC to remain active, and if not, suggested the committee should be sunsetted.

Councilmember Metcalf - Reported that he had attended a meeting of the East Bay Regional Communications System Authority (EBRCSA) Board with the Chief of Police and updated the Council on the status of the system operations. A drill had been scheduled at the Alameda Emergency Operations Center (EOC) for October 25. He also reported that he had attended a Citizen Corps Council meeting with an update of Moraga Night Out, with the 2014 Moraga Night Out scheduled for August 5, 2014 to coordinate with the National Night Out event; and attended a meeting of the Lamorinda School Bus Transportation Agency Ad Hoc Committee to examine the annual contract for Lamorinda school buses.

Councilmember Wykle - Reported that he had attended the MYIC meeting on October 10 and updated the Council on the discussions and upcoming MYIC events.

- B.** Town Manager Update – Town Manager Jill Keimach reported that the Great Shake-Out, an annual event to conduct emergency preparedness training, had been successfully completed, and she took the opportunity to thank the MOFD staff for the success of the event. She affirmed that the event called attention to the fact that the Town must complete its EOC as soon as possible, and had raised an issue related to the connection between laptops and printers. After the training, she had visited the remodel at 331 Rheem Boulevard and emphasized the need for power, computer connections, and USB ports, along with other improvements, that would be useful to set up the EOC, and which was important to be done concurrently with the remodel.

Ms. Keimach also reported on a number of requests and safety concerns regarding parking along St. Mary's Road with "No Parking" signs having been installed along the opposite side of St. Mary's Road. She advised that SMC supported the plan and the Town had started to issue citations. In addition, the Climate Action Plan (CAP) Task Force had recently met, did not have a quorum to complete its work and would sunset on November 15. In addition, the Moraga Country Club Subcommittee would be meeting to discuss two proposals for appraisers to start that process; and reported that the Measure K sales tax receipts were better than expected at an estimated \$1.4 million.

IX. DISCUSSION ITEMS

There were no discussion items.

X. PUBLIC HEARINGS

- A. Consider Introducing and Waiving the First Reading of an Ordinance Amending Moraga Municipal Code Section 8.68.060, Lot Size, Yard and Setback Requirements and Finding the Amendments Categorically Exempt from the California Environmental Quality Act (CEQA)

Ms. Brekke-Read reported that a multi-year effort to overhaul the Town's zoning regulations would be conducted as part of the Capital Improvement Program (CIP) under the Planning Department's work program. The effort had been intended to streamline and clarify the zoning regulations with a strategic approach to the regulations starting with certain sections that needed clarification, such as Section 8.68.060 for Lot Size, Yard and Setback Requirements. She advised of the history of the County zoning and the Town's zoning regulations that had been adopted in 1980. Over time, staff had interpreted the zoning regulations in different ways at different times, as evidenced by the history outlined in the October 23, 2013 staff report.

Ms. Brekke-Read advised that staff had worked with both the Planning Commission (PC) and the Design Review Board (DRB) to determine how the regulations should be changed, and she outlined the discussions of the PC, DRB, and the public during a number of public study sessions. Based on those discussions and during its regular meeting on October 7, 2013, the PC had amended a draft resolution recommending the following clarifications to the ordinance:

- The ordinance would apply to residences were to be constructed prior to 1980;
- Setbacks applied were to be either the County setbacks in effect at the time of construction or the development standards that were recorded for the structure;
- The ordinance would apply to detached single-family residences; and
- Provided modified language to Section 8.68.060.

Ms. Brekke-Read asked that the Town Council conduct a public hearing, waive the first reading, introduce the ordinance, and continue the public hearing to the November 13, 2013 meeting.

In response to the Council, Ms. Brekke-Read clarified the setback requirements for an exterior side yard at a minimum of 15 feet; affirmed there were issues with properties within the Moraga Country Club in terms of remodels and setback requirements; explained that these amendments would not address the attached single-family homes in the Moraga Country Club; and commented that the remaining setback issues in the Moraga Country Club related to Planned Development, since those setbacks were significantly smaller, and suggested a minor development amendment to address those setbacks. She commented that the next update to the Moraga Municipal Code (MMC) would be amendments to the Sign Ordinance. She also affirmed that the amendments to the MMC may save applicants/property owners of single-family residences money in terms of deposits.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Mayor Trotter recommended the following revision to Section 8.68.060 Front and Side yard setbacks established under county zoning, to read:

Notwithstanding any provision in this title to the contrary, the front and side yard setbacks applicable to a lot on which a detached single-family residence was constructed in the former R-10, R-15, and R-20 zones under county zoning regulations in effect prior to November 1, 1980 shall be the front and side yard setbacks that were in effect at the time of development pursuant to the subdivision's development standards or

county zoning regulations. County zoning regulations prior to November 1, 1980 are shown below:

ACTION: It was M/S (Metcalf/Wykle) to Introduce and Waive the First Reading of an Ordinance Amending Moraga Municipal Code Section 8.68.060, Lot Size, Yard and Setback Requirements, as amended; Finding the Amendments Categorically Exempt from the California Environmental Quality Act (CEQA), and continue the public hearing to the Town Council meeting of November 13, 2013. Roll Call Vote: Vote 4-0-1. Absent: Chew.

XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

- A. Consider Resolution 74-2013 Authorizing the Town Manager to Execute a Consulting Services Agreement with BKF Engineers (Walnut Creek) for Surveying and Engineering Services to Prepare the Site Plan for the Hacienda de las Flores Property (2100 Donald Drive) in an Amount Not to Exceed \$17,000 from the Hacienda Improvement Program (Annual) (CIP 14-302)

Edric Kwan, Public Works Director/Town Engineer presented a request for Town Council approval to authorize the Town Manager to execute a Consulting Services Agreement with BKF Engineers for surveying and engineering services to prepare the site plan for the Hacienda de las Flores property in an amount not to exceed \$17,000 from the Hacienda Improvement Program. He noted that staff had gone through a Request for Proposal (RFP) process after which two consultants had provided proposals. BKF had been chosen as the best candidate for the project.

PUBLIC COMMENTS OPENED

Robert Stevens, BKF, Engineers, Walnut Creek, advised of the intent to complete the work by early December 2013.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Wykle) to adopt Resolution 74-2013 Authorizing the Town Manager to Execute a Consulting Services Agreement with BKF Engineers (Walnut Creek) for Surveying and Engineering Services to Prepare the Site Plan for the Hacienda de las Flores Property (2100 Donald Drive) in an Amount Not to Exceed \$17,000 from the Hacienda Improvement Program (Annual) (CIP 14-302). Vote: 4-0-1. Absent: Chew.

- B. Consider Resolution 75-2013 Authorizing the Town Manager to Award a Consultant Services Contract to Nolte Vertical 5 (Walnut Creek) in an Amount Not to Exceed \$567,016 for Civil Engineering and Bridge Design Services for the Canyon Road Bridge Replacement Project and Accept and Appropriate \$365,377 (Measure J Major Arterial Projects Category) Towards the Project (CIP 14-101)

Mr. Kwan reported that the Canyon Bridge Replacement Project had been placed in the CIP for this year given that the bridge was dilapidated and in need of replacement. Prior to the fiscal year, the Town had received a bridge replacement grant in the amount of \$2.8 million, although there was a shortfall for the local match requirement. Recently the Town had been able to secure the local match from the Contra Costa Transportation Authority (CCTA) in the Major Arterial Category for Measure J funds, and the Town had received a commitment letter from the CCTA committing those funds to the Town. He asked that the Town Council authorize the Town Manager to award a Consultant Services Contract to Nolte Vertical 5 in an amount not to exceed \$567,016 for civil engineering and bridge design services for the Canyon Road Bridge

Replacement Project and accept and appropriate \$365,377 (Measure J Major Arterial Projects Category) towards CIP 14-101.

Mr. Kwan reported that staff had solicited proposals from the Council-approved short list for on-call design engineers, found that five of the consultants had experience with bridges, and of the five consultants two had provided proposals, and Nolte Vertical 5 had been selected as the most qualified and experienced consultant. He reiterated that the \$2.8 million grant had already been included in the CIP. He also clarified the fiscal impacts to the Town, noting that the Town would need to request from Caltrans reimbursement of expenditures after the Town paid the contractors, as required by the grant process.

Mr. Kwan clarified the intent to widen the bridge to 40 feet, and again explained the process for the funding noting that CCTA would be programming the funds to the project on an upcoming agenda for their board approval. He emphasized that for the project to remain on schedule, staff had requested a commitment letter from the CCTA so that the Town could accept and appropriate the funds into the Town's CIP.

Councilmember Metcalf stated that as a member of the Southwest Area Transportation Committee (SWAT), he was aware that the project had been included in the SWAT Strategic Plan Update and it was likely the CCTA would follow the SWAT recommendations. He recommended that the Town Council proceed as if the money was available and suggested that there was minimal risk.

Ms. Keimach commented that in the unlikely event the Town did not receive the funds from the CCTA, the Town would likely not have spent all of the \$567,016 and staff could return to the Town Council and advise of the status and need to possibly find another funding source.

Mayor Trotter recommended that such direction be given now and in the event the funding from the CCTA was not committed, that Nolte Vertical 5 be instructed to stop work until the matter could be resolved.

Mr. Kwan affirmed that such direction could be given. He added that TSAC, Moraga residents, and the Canyon community would all be part of the public outreach effort.

Councilmember Metcalf commented that it was likely the Canyon community was not aware of the proposal, reporting that he had spoken with Supervisor Andersen on the matter and she too had been unaware of the project. He emphasized the importance of public outreach with the Supervisor's Office and with the Canyon community.

Mr. Kwan explained that he had spoken with Supervisor Andersen, acknowledged that public outreach to the Canyon community would commence following action on the subject item, and affirmed that Nolte Vertical 5 would assist the Town with public outreach efforts.

Councilmember Arth added that during the recent TSAC meeting, staff had discussed doing half of the project in one year with the remaining half in the next year to ensure egress for the Canyon community.

Mr. Kwan further clarified that the project would ensure that the bridge was at an elevation to ensure its stability during a flood event and to ensure that access point in the event of an emergency. He replied to concerns with stagnant water upstream from the bridge which would have to be evaluated and he expressed the willingness to contact the former Public Works Director/Town Engineer to inquire of the history of that issue. He would also work with Nolte Vertical 5 on that issue to determine what information could be provided while still under the parameters of the grant.

PUBLIC COMMENTS OPENED

Caroline Wood, Moraga, clarified the location of the bridge, noted the creek was always pretty high along the trail, acknowledged there was an area of the creek that was always stagnant, and asked if that would be addressed under the auspices of the subject project. She also asked where the sidewalk would be located.

Mr. Kwan stated that the sidewalk would be located on one side of the bridge, and likely where the best connectivity could be provided to the pedestrian path and circulation.

John Valentine, Moraga, Chair of TSAC, thanked staff for consideration of the project which was good for the community, cyclists, pedestrians, and vehicular traffic throughout the corridor. He objected to the fact that the staff report had made no mention of public input for the project, and suggested there would be significant public input at some point. He encouraged public outreach to occur earlier rather than later in the process and spoke to the significant volume of bicycle traffic on the bridge and also encouraged outreach to the local bicycle community.

Mr. Kwan emphasized the intent to fully engage the public throughout the design process. He clarified that the Caltrans inspection report on the condition of the bridge, as outlined in the staff report, determined that the bridge was in need of replacement. He also clarified the high volume of traffic across the bridge each day.

The Town Council emphasized the importance of public outreach, particularly to the Canyon community, and informally to the bicycle community.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Wykle) to adopt Resolution 75-2013 Authorizing the Town Manager to Award a Consultant Services Contract to Nolte Vertical 5 (Walnut Creek) in an Amount Not to Exceed \$567,016 for Civil Engineering and Bridge Design Services for the Canyon Road Bridge Replacement Project and Accept and Appropriate \$365,377 (Measure J Major Arterial Projects Category) Towards the Project (CIP 14-101). Vote: 4-0-1. Absent: Chew.

- C. Consider Draft Scope of Work and Request for Proposal for General Plan Amendment and Zoning Ordinance Revisions Related to Regulations on Development for Hillside and Ridgelines

Ms. Brekke-Read reported that the Town Council had considered one of its 2013 goals at the September 25 meeting to protect ridgelines and hillsides from development consistent with the Moraga Open Space Ordinance (MOSO). Prior to and during the meeting, the Town Council had received numerous written and verbal comments with the Town Council indicating consensus on several items, including directing staff to prepare a draft scope of work, and a Draft RFP for a consulting team to consider a comprehensive set of revisions to the Town's hillside and ridgeline regulations and/or policies. The Town Council offered feedback to staff on what should be included in the scope of work and directed the use of Palos Colorados funds to fund the effort.

Ms. Brekke-Read explained that staff had prepared a draft scope of work and draft RFP as attached to the October 23 staff report, with the focus on the technical aspects of hillsides and ridgelines and extensive public outreach, as outlined in depth in the staff report. She commented that the cost to complete the analysis, community engagement, and any regulatory or policy revisions was unknown at this time. She reiterated the Town Council direction to use

Palos Colorados funds to complete the project, and recommended that the Town Council offer direction to staff to finalize the scope of work and draft RFP, and send out to potential consultants offering the consultants a month to respond to the RFP.

PUBLIC COMMENTS OPENED

William Dick, Moraga, understood the subject was long range, although he asked the Town Council to consider what part the Town should play in protecting Moraga citizens from actions by outside agencies or companies. He referenced a recent newspaper article dated October 15, 2013, in the Contra Costa Times, copies of which were presented to the Town Council, titled, "PG&E plans massive electric line overhaul," and offered an overview of the article. He took the opportunity to identify the potential health and safety risks from high voltage power lines. His reason for bringing the issue to the Town Council was to advise of his concerns. He read into the record a statement which had been included in the consultant's study for the PG&E project, and provided further written research material he had gathered on this matter. He expressed his hope that the Town Council would be able to apply pressure on PG&E to address the issues he had identified.

Suzanne Jones, Preserve Lamorinda Open Space, thanked the Council and staff for their work on this issue and commended staff on a clear and well written staff report, RFP, and scope of work. She asked that the Town Council direct staff to proceed with the scope of work and RFP but noted that during the September 25 Town Council meeting, she had asked that the scope of work include a review of the MOSO Guidelines' treatment of high risk lands, which she asked be included specifically in the scope of work and RFP, as was done for the slopes and ridgelines that had previously been discussed.

Caroline Wood, Moraga, asked that the project be given a name, the "Painted Rock Project," which already had an extensive website. She questioned the proposed makeup of the steering committee which she did not find to be a balanced representation of the Town since it would consist of elected or appointed officials. She questioned how the land would be graded to be flat and large enough to provide playing fields along with the other proposed improvements planned for the property.

Dave Bruzzone, Moraga, expressed concern with the process and how it would apply to property which was already significantly controlled, regulated, and which prohibited development. He also spoke to the number of letters that had been submitted from residents asking for a fair and balanced process, and the fact that the majority of the Town Council had active support from the no growth/no more development contingent in Moraga represented by Preserve Lamorinda Open Space, the Town Council appointment of PC and DRB members who were anti-growth, and with no property owner recommended to be represented on the steering committee to ensure a transparent, fair and balanced process. He found that the staff reports for these meetings had been biased in nature, not telling the entire story. He sought a fair and complete analysis and pointed out in the past the Town had prepared analyses and development capability maps which should be referenced in the staff report. He emphasized the need for information to be provided to allow the public the opportunity to determine whether there would be detrimental and visual impacts of development on some of the Town's hillsides.

Mr. Bruzzone emphasized that significant action had taken place after the 2002 General Plan had been adopted with hillside studies from 2002 to the present, and with every General Plan Amendment (GPA) including the hiring of geotechnical personnel. He commented that the 20 percent slope designation was a MOSO identified area and suggested applying that regulation to slopes outside of MOSO could open the Town to legal challenges. He reiterated his request for a property owner to be represented on the steering committee; and suggested that legal problems would be minimized in the future if the process was done correctly.

PUBLIC COMMENTS CLOSED

Councilmember Metcalf reiterated the issue was the need to further clarify existing regulations. He found the regulations to be inconsistent and incomplete, and spoke to recent experiences which had demonstrated large community groups trying to solve a complex problem. Given the need for the Town to resolve this issue, he did not believe a large committee was necessary and suggested those who had the ultimate responsibility for establishing the regulations should be on the steering committee, with significant input from stakeholders and the public.

Councilmember Metcalf commented that volunteers were appointed to advisory committees to advise the Town Council through an open process. He suggested the makeup of the proposed steering committee would be a cross section of the Town, and he opposed the formation of a large committee citing past history when very few large committees had been successful in getting the work done with the exception of the Revenue Enhancement Community Outreach to Neighborhoods (RECON). Given the money to be spent on this effort with funds from Palos Colorados, he wanted the work done right and supported the staff recommendation to allow the process to proceed.

In response to **Councilmember Wykle**, Ms. Brekke-Read affirmed the background section of the RFP had looked at work done in the past, and while high risk areas had not been spelled out in the scope of work, it had addressed the issue with respect to the MOSO Guidelines in its entirety. She reiterated that the estimated cost of the effort was uncertain at this time.

Councilmember Arth found the methodology staff had prepared made sense, and he encouraged the Council to accept it. He complimented the Planning Director and Planning staff on the work done thus far.

As to whether the Council may appoint members to the Steering Committee at the current time, Assistant Town Attorney Karen Murphy advised that such action had not been agendized. The Town Council was being asked to consider the draft scope of work and RFP, with the makeup of the steering committee part of the draft scope of work. As such, the Town Council could only discuss the composition of the steering committee and the scope of work.

Mayor Trotter was comfortable with the proposed composition of the steering committee and identified a consensus from the Town Council on the makeup of the steering committee. As to the draft scope of work, he found it to be implicit, although he liked things to be clear and explicit so there would be no doubt of the scope. He commented that the scope of work had not referenced the General Plan very often which should be injected at various points. He offered the following amendments to Attachment B, Draft Scope of Work:

- Revise the first sentence of the first paragraph of Page 1 to read:

The project comprises planning, technical study, and community engagement to develop and adopt draft General Plan and Municipal Code amendments and other amendments related to the development and protection of hillside lands and ridgelines in Moraga.

- Revise the first sentence of paragraph 4) Draft Revisions to Hillside and Ridgeline Regulations a) as shown on Page 3 to read:

a) *Develop Revised General Plan Policies, Ordinances, and Guidelines based on outcomes of Tasks 1-3.*

- Revise the first bullet point shown on Page 4, to read:

New regulations and guidelines, such as General Plan Amendments, Hillside Development Guidelines or adoptions of a new Hillside Overlay District, to appropriately regulate development of hillsides and ridgelines.

Ms. Keimach clarified that direction to staff was to look at MOSO and hillside development, and that any General Plan or zoning amendments required would then be submitted to the PC. She recommended that staff return with a set of recommendations, and as a next step identify the appropriate GPAs. She suggested that it could be a very expensive process if the consultants were asked to look at inconsistencies in the entire General Plan in addition to Hillside and MOSO Guidelines, and should not draft GPA language prior to public and Council input.

On the discussion **Mayor Trotter** recommended further revision to the first sentence of the first paragraph of Page 1 to read:

The project comprises planning, technical study, and community engagement to develop and adopt draft General Plan and Municipal Code amendments and identify possible General Plan and other amendments related to the development and protection of hillside lands and ridgelines in Moraga.

Ms. Keimach suggested the scope of work could state that if GPAs were identified and if the Council was to do it, offer a proposal with options to develop GPAs.

Mayor Trotter suggested that the second bullet point under paragraph 4, as shown on Page 4 Draft Revisions to Hillside and Ridgeline Regulations a) adequately encompassed what he intended. He also recommended the first bullet point under the same section to read:

Amendments to the existing MOSO Guidelines including but not limited to average slope calculation and treatment of high risk areas.

The Town Council accepted the Mayor's recommended revisions, as discussed.

Ms. Brekke-Read advised of the intent to submit consideration of appointments to the steering committee to the various Town commissions/boards while the RFP was out to the consultants to avoid wasting any time.

Mayor Trotter asked that the appointment of Councilmembers to the steering committee be agendaized for the next meeting.

Ms. Keimach recommended concurrently that staff issue the RFP and go to the various commissions/boards and the Town Council to appoint members to the steering committee.

Ms. Murphy advised that at the next Town Council meeting staff would bring back the formation of the steering committee, which would be a charter committee similar to the formation of other Town committees and appointments from the Town Council.

ACTION: It was M/S (Trotter/Wykle) to approve the Draft Scope of Work and Request for Proposal for General Plan Amendment and Zoning Ordinance Revisions Related to Regulations on Development for Hillsides and Ridgelines, as discussed and as amended. Vote: 4-0-1. Absent: Chew.

- D. Accept Fiscal Year 2012/13 Year-End Unaudited Revenue and Expenditure Report

Administrative Services Director Stephanie Hom presented the Fiscal Year 2012/13 Unaudited Revenue and Expenditure Report with the Town ending the year with a surplus of approximately \$386,475. She reported with that figure divided by the amount of expenditures, the Town would reach over its 50 percent General Fund Reserve goal. Once the figures were audited, staff would return in January to discuss the Town Council policy to take the excess over 50 percent and move it to the Infrastructure Preservation and Improvement Fund. She noted that the auditors had been on-site, had offered draft figures, and staff had reviewed the figures and planned an upgrade to its typical financial statements through the creation of a Comprehensive Annual Financial Report (CAFR). With the issuance of the 2013 Certificates of Participation (COP), the Town was required to disclose this information as part of the COP. She would be speaking with the Audit and Finance Committee (AFC) on that issue and commended the work of the Town Treasurer who had provided assistance to complete some of the data. She identified the auditors, Maze & Associates, who had offered the Town recommendations as to how to improve some of the internal controls. She also highlighted Attachment A, the Fiscal Year 2012/13 Year-End (Unaudited) Revenue and Expenditure Report at this time.

Ms. Hom affirmed that the Measure K sales tax receipts were better than expected, estimated at \$1.4 million, and once the final report was available it would be provided to the Town Council and could show where the sales taxes were coming from.

Ms. Keimach understood that the vast majority of the better-than-expected increase in sales tax receipts had been a result of car and internet sales.

Responding to the Council, Ms. McInturf identified the expenditures for State-mandated public noticing requirements in which the State was not reimbursing the Town, and Ms. Hom commented that there were also expenditures on the side of the Police Department where the Town was not being reimbursed by the State. She also identified the property taxes the Town received from the Calle la Montana property and the volatility of gas taxes with revenues less than expected, which would continue to be monitored carefully by staff.

Parks and Recreation Director Jay Ingram highlighted Attachment B, the Hacienda de las Flores Revenue and Expenditure Summary. He affirmed, when asked, that the high fees the Town paid for the use of MSD playing fields was the reason recreation revenues had declined and he was hopeful consideration of a shared agreement for the use of MSD facilities could be achieved as part of the discussions between the MSD and the Town Council.

Mayor Trotter acknowledged the Town Council's past action to adjust the rental fees for the use of the Hacienda and was curious to see what the revenues would be in the spring when it may be necessary for the Town Council to further adjust the fees. Referring to the Hacienda expenses, he noted there were large personnel and supply expenses (for both the Parks and Recreation and Public Works Departments) which were quite a bit higher than the revenue side.

Mayor Trotter asked the percentage of Parks and Recreation Department personnel costs that had been allocated to the Hacienda as opposed to everything else at the Hacienda. Responding to the Mayor's question, Ms. Hom advised that the allocation was based on a rough estimate of the staff time spent and an adjustment had been made for the current year. She noted that the allocation was not tracked on a daily or weekly basis.

Councilmember Metcalf preferred to see a breakdown of the expenditures for the various Town parks and recreation facilities and suggested it may be time for the AFC to discuss tracking that information, particularly as it related to the allocation for the Hacienda. He referenced past public testimony that the wedding industry was on a downturn and suggested

the reduction in revenues could be associated with the wedding industry, which could inform the Town of strategies to be pursued for the Hacienda.

Mayor Trotter agreed the issue should be discussed with the AFC but wanted to be sensitive to the cost of a cost study. He preferred to rely upon sensible allocations which must be re-thought each year based upon what past experience suggested.

Mr. Ingram also clarified that most local non-profit groups paid a non-profit fee which was substantially less than the commercial or private rental rate. A large portion of the community used the Hacienda at non-profit rates which had been identified in the fee schedule for uses at the Hacienda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Wykle) to accept the Fiscal Year 2012/13 Year-End Unaudited Revenue and Expenditure Report. Vote: 4-0-1. Absent: Chew.

- E. Consider Resolution 76-2013 Approving and Authorizing the Mayor to Execute the Employment Agreement between Town of Moraga and Jill Keimach, Town Manager

Ms. Murphy reported that the item under Town Council consideration would approve and authorize the Mayor to execute the Employment Agreement between the Town of Moraga and Jill Keimach, the Town Manager. She advised that the original employment agreement entered into on November 1, 2010 had been amended three times and incorporated the primary amendments into a new single employment agreement as well as revised the compensation and terms for the Town Manager. A proposed resolution had been included in the staff report for Town Council consideration and recommended adoption.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENT

In response to the Mayor, Ms. Murphy advised that the term of the employment agreement for the Town Manager was for an eight-month period from November 1, 2013 to June 30, 2014, with the agreement providing for the discussion of a new agreement after that date.

ACTION: It was M/S (Metcalf/Arth) to adopt Resolution 76-2013 Approving and Authorizing the Mayor to Execute the Employment Agreement between Town of Moraga and Jill Keimach, Town Manager. Vote: 4-0-1. Absent: Chew.

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Councilmember Metcalf requested that a future agenda item include a brief report on PG&E's upgrade of the power lines, to which Ms. Keimach stated that PG&E could be invited to make a presentation to the Town Council on its plan, which she understood did not include a discussion of EMF and other health and safety issues raised as a concern by Mr. Dick.

Councilmember Wykle also understood that a new gas line was being installed along St. Mary's Road and asked for a status of that project as part of the presentation from PG&E.

Mr. Dick understood the PG&E project was due to commence in summer 2014, clarified he had raised the issue since it involved the ridgelines and hillsides, and again referenced the potential health and safety issues related to EMF.

Mayor Trotter also asked for consideration of a future agenda item to include a discussion of the leasing and other operational issues related to Café Hacienda.

Ms. Keimach explained that the Town had a three-month lease with Café Hacienda and the next three-month lease had gone from a net to a gross percentage with the operator experiencing difficulty meeting that requirement. She agreed that the issue should be brought back to the Town Council for a discussion in the future.

Councilmember Metcalf asked that the future item related to Café Hacienda also include a discussion as to whether a restaurant use in the Hacienda should be pursued. By consensus, the Town Council agenda'd a discussion of the leasing and other operational issues related to Café Hacienda at a future meeting.

Responding to a request by **Councilmember Arth** to discuss the status of TSAC, Ms. Keimach, advised that there were five positions on TSAC, all of which would be vacant by March 1, 2014.

Mayor Trotter recommended that a discussion of TSAC be agenda'd for early 2014, although he was informed that the recruitment process for vacant positions on the Town's boards/committees typically occurred in November/December, and he was uncertain the topic could be discussed and agenda'd prior to the end of the year.

Ms. McInturf affirmed that the remaining Town Council agendas for the rest of the year were full.

XIII. COMMUNICATIONS

- A. League of California Cities Final Report of Resolutions Approved at the 2013 Annual Conference

XIV. ADJOURNMENT

ACTION: It was M/S (Wykle/Arth) to adjourn the meeting at 9:55 P.M. Vote: 4-0-1. Absent: Chew.

Respectfully submitted by:



Marty C. McInturf, Town Clerk

Approved by the Town Council:



Dave Trotter, Mayor