

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**June 11, 2014
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 **Town Manager Jill Keimach**.

ROLL CALL

Councilmembers present: Councilmembers Phil Arth, Michael Metcalf, and Dave Trotter

Councilmembers absent: Mayor Ken Chew and Vice Mayor Roger Wykle

Town Manager Jill Keimach asked for a motion to nominate a Chair for the Town Council meeting.

ACTION: It was M/S (Metcalf/Arth) to nominate Councilmember Trotter to Chair the Town Council meeting of June 11, 2014. Vote: 3-0-2. Absent: Chew, Wykle.

Chair Pro Tem Trotter chaired the meeting at this time.

II. PLEDGE OF ALLEGIANCE

Chair Pro Tem Trotter led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

Chair Pro Tem Trotter reported that the Town Council had met in Closed Session prior to the regular meeting and there was no reportable action from the Closed Session.

IV. PROCLAMATIONS AND PRESENTATIONS

A. Presentation Honoring Saint Mary's College Gaels Men's 2014 Rugby Team

The item was to be rescheduled since the Saint Mary's College Gaels Men's 2014 Rugby Team was unable to be present at this time.

B. Update on Central Contra Costa Transit Authority by Al Dessayer

Al Dessayer, Moraga, in response to Mayor Chew's prior request for an analysis of the Lamorinda Spirit Van Program, reported that the Program budget had been based on a report from the City of Lafayette, with an increase in its budget over the past five years, over 70 percent due to labor costs. Although Program drivers were volunteers, overhead costs had increased. He offered a comparison of the ridership price for the Program compared to the

services provided by the Central Contra Costa Transit Authority - County Connection (CCCTA), and acknowledged that the Program offered more services and cost a bit more than County Connection.

Mr. Dessayer suggested the projected revenues for the Lamorinda Spirit Van Program could not be sustainable over time. He suggested the Town not increase the funds it had annually committed to the Program given that unsustainability. He cited the Mobility Management Plan under consideration by the County Connection and suggested the Program could be folded into and preserved if part of County Connection, at which time the Program could then offer services to riders outside of the Lamorinda area.

Mr. Dessayer also reported on the County Connection Pass concept for a company/entity to purchase bulk discount passes and explained the purpose of the concept to alleviate traffic, increase ridership, and meet the goals of traffic mitigation, while also allowing riders unlimited free rides on County Connection throughout the County for \$140 annually. If successful, the program would start in the fall. He understood that the program had been presented to all city/town councils within the CCCTA area.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

The Town Council thanked Mr. Dessayer for his report.

V. PUBLIC COMMENTS

There were no comments from the public.

VI. ADOPTION OF THE CONSENT AGENDA

A. Approval of Consent Items

Consent Items 2 and 3 were removed from the Consent Agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Arth) to adopt Consent Agenda Items 1, 4, 5, and 6. Vote: 3-0-2. Absent: Chew, Wykle.

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|----|----------------------------------------------------------------------|----------|
| 1) | Accounts Payable Claims for: 5/30/14 \$155,502.41 | Approved |
| 2) | Approve Minutes for the Town Council Regular Meeting on May 14, 2014 | Removed |

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| 3) | <i>Consider Resolution 47-2014 Authorizing Staff to Submit The Biennial Compliance Checklist for Measure J Calendar Year 2012 and 2013 Growth Management Program to the Contra Costa Transportation Authority to Receive Fiscal Years 2013/14 and 2014/15 Allocation of Local Street Maintenance and Improvement Funds</i> | <i>Removed</i> |
| 4) | Approve by Motion Authorization for the Town Manager to Deem Town-Owned Equipment as Surplus | Approved |
| 5) | Approve by Motion Authorization for the Town Manager to Deem Identified Town-Owned Vehicle as Surplus | Approved |
| 6) | Consider Resolution 48-2014 Authorizing the Town Manager, the Administrative Services Director, or the Public Works Director to Enter Into the Program Supplement No. N012 to the Administering Agency-State Agreement for Federal-Aid Projects No. 04-5415R for Reimbursement of Project Costs for the Canyon Road Bridge Replacement Project (Br. No. 28C0137, Federal Project No. BRLS-5415(011), Town Project No. CIP 14-101) | Approved |

B. Consideration of Consent Items Removed for Discussion

1. Approve Minutes for the Town Council Regular Meeting on May 14, 2014

Chair Pro Tem Trotter advised that redline changes had been made to the Town Council minutes of May 14, 2014, with copies provided on the dais and to the public that night. He asked that the Council approve the minutes, as modified.

ACTION: It was M/S (Arth/Trotter) to approve the Minutes for the Town Council Regular Meeting on May 14, 2014, subject to the redline changes provided to the Town Council. Vote: 3-0-2. Absent: Chew, Wykle.

2. Consider Resolution 47-2014 Authorizing Staff to Submit the Biennial Compliance Checklist for Measure J Calendar Years 2012 and 2013 Growth Management Program to the Contra Costa Transportation Authority to Receive Fiscal Years 2013/14 and 2014/15 Allocation of Local Street Maintenance and Improvement Funds

Chair Pro Tem Trotter referenced Page 7 of the Biennial Compliance Checklist for Measure J Calendar Year 2012 and 2013 Growth Management Program and offered language modifications, as reflected in a redline format, with copies provided on the dais and to the public that night. He asked that the Compliance Checklist be approved, as modified, and stated he would not vote to approve the Compliance Checklist absent the recommended modifications. He suggested the Town had not conducted enough outreach as related to the Livable Moraga Road Project.

Councilmember Metcalf agreed that the Town had not conducted enough outreach to date and that staff was aware of the Council direction to improve that outreach effort. He did not find that the Compliance Checklist misrepresented anything, and was showing what the Town intended to do. He did not see that the language modifications would make that much difference.

Councilmember Arth commented that he had not considered the redline changes but had read the material and had no problem with it, and unless material changes had been proposed he supported leaving the document as it was; however, if Chair Pro Tem Trotter was opposed to its approval absent the changes, he could support the redline revisions.

Chair Pro Tem Trotter offered a motion to approve Resolution 47-2014 Authorizing Staff to Submit the Biennial Compliance Checklist for Measure J Calendar Year 2012 and 2013 Growth Management Program to the Contra Costa Transportation Authority to Receive Fiscal Years 2013/14 and 2014/15 Allocation of Local Street Maintenance and Improvement Funds, subject to the redline changes.

There was no second to the motion and the motion died for lack of a second.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Arth) to approve Resolution 47-2014 Authorizing Staff to Submit the Biennial Compliance Checklist for Measure J Calendar Year 2012 and 2013 Growth Management Program to the Contra Costa Transportation Authority to Receive Fiscal Years 2013/14 and 2014/15 Allocation of Local Street Maintenance and Improvement Funds, subject to the language proposed by staff. MOTION FAILED: Vote: 2-1-2. Noes: Trotter. Absent: Chew, Wykle.

Assistant Town Attorney Karen Murphy advised that the motion failed given the need for three affirmative votes in favor, unanimity of those Councilmembers present.

ACTION: It was M/S (Trotter/Arth) to approve Resolution 47-2014 Authorizing Staff to Submit the Biennial Compliance Checklist for Measure J Calendar Year 2012 and 2013 Growth Management Program to the Contra Costa Transportation Authority to Receive Fiscal Years 2013/14 and 2014/15 Allocation of Local Street Maintenance and Improvement Funds, subject to the redline changes provided to the Town Council. Vote: 3-0-2. Absent: Chew, Wykle.

VII. ADOPTION OF MEETING AGENDA

By consensus, the Town Council modified the meeting agenda and moved Item C under Ordinances, Resolutions and Requests for Action, to Item B under Public Hearings.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Arth) to modify the meeting agenda and move Item C under Ordinances, Resolutions and Requests for Action, to Item B under Public Hearings. Vote: 3-0-2. Absent: Chew, Wykle.

VIII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Chew – Absent.

Vice Mayor Wykle – Absent.

Councilmember Arth – Reported that he had attended a Chamber of Commerce meeting on June 3, and described the development of a guide for prospective business owners in Moraga which had been presented to the Planning Department; Chamber of Commerce meetings had been re-scheduled for the second Wednesday of each month.

Councilmember Metcalf – No report.

Chair Pro Tem Trotter – Reported that he had been working with Mary Bruns on a fundraising appeal letter for the Lamorinda Spirit Van Program to run in the Lamorinda Weekly; participated in a teleconference call meeting on June 5 with Town staff and representatives from the Moraga Historical Society to discuss the planning for the 40th Anniversary Dinner Celebration to be held on October 18; attended a meeting of the Moraga Historical Society Adobe Fundraising Committee on June 9; and had learned later that evening that his father, Georgie Trotter Jr. had passed away.

- B. Town Manager Update – Town Manager Jill Keimach reported on a meeting with PG&E related to its annual tree removal and trimming program to keep electrical lines from potential fire hazards, with up to 180 trees to be removed. She hoped to have as much information as possible on the importance of public safety and fire hazards to provide awareness to the public. She also reported that the Town had been selected as part of a survey as the fifth safest city in the State of California.

IX. DISCUSSION ITEMS

There were no discussion items.

X. PUBLIC HEARINGS

- A. Consider Resolution 49-2014 Confirming the Engineer's Report for the Town of Moraga Street Lighting Assessment District 1979-1, Approving Assessments and Assessment Diagram, and Levying Assessments for the Fiscal Year 2014/15

Randy Leptien, Leptien, Cronin, Cooper, Morris & Poore, reported that Street Lighting Assessment District 1979-1 had been formed in 1979 pursuant to the Streets and Highways Code; the Landscaping Lighting Act of 1972 had been formed to provide funding to pay the servicing and costs for providing street lighting related to safety, which required an annual report each year and a special public hearing on the subject of the work program and the amount of the individual and total assessments. In February 2014, the Town Council directed the Engineer's Report be filed for this upcoming fiscal year, which had been done and had been received by the Town Council in May, and the Town Council had adopted a Resolution of Intention to Levy the Collection of Assessments for the upcoming fiscal year under the existing authorization.

Mr. Leptien advised that the assessments had been levied by special benefit, with most of the assessments for single-family residential the same at \$58 per parcel per year, which had remained the same since 2010. No increase in the assessment had been recommended and there were sufficient funds to cover projected expenditures. He asked that the Town Council

conduct a public hearing and consider a resolution to continue the current assessment to fund operations and repairs of the Town's streetlights.

In response to the Council, Mr. Leptien advised that there were limitations on the funds that could be retained, which if not spent must be used to reduce the assessment. He explained that the Town had supplemental funds from another revenue source adding to the balance available for street light projects such as the Street Lighting Master Plan.

Public Works Director/Town Engineer Edric Kwan explained that the Town Council had recently approved a contract to prepare a Street Lighting Master Plan, which would identify needed street lighting projects and possible uses of those funds in the future.

Mr. Leptien also noted in the Request for Proposal (RFP) for the Street Lighting Master Plan the insertion of suggested projects such as the consideration of LED conversion and the possibility of acquiring a levy system, which had been studied in the past. Those two projects would ultimately have the effect of reducing the utility cost of street lighting. There were other capital improvements being studied within the Master Plan which could be funded by the Street Lighting Assessment District. Adding the maintenance of landscaping would require another Proposition 218 ballot proceeding in order to add another scope of work, and possibly an amendment to the initial Resolution of Intention to form the Assessment District. He commented that the cost of living increase had been a use-it-or-lose-it proposition with a cap of five percent for the cost of living increase for any given year.

PUBLIC HEARING OPENED

There were no comments from the public.

PUBLIC HEARING CLOSED

ACTION: It was M/S (Arth/Metcalf) to approve Resolution 49-2014 Confirming the Engineer's Report for the Town of Moraga Street Lighting Assessment District 1979-1, Approving Assessments and Assessment Diagram, and Levying Assessments for the Fiscal Year 2014/15. Vote: 3-0-2. Absent: Chew, Wykle.

- B. Consider Resolution 50-2014 Approving a Grading Permit for 1800 Donald Drive as Required by Town Council for an Approximate 4,270 Square Foot Single-Family Residence

Planning Director Shawna Brekke-Read reported that the Town Council had conducted public hearings on November 13, 2013 and January 22, 2014, to consider an appeal of the Planning Commission decision to approve the construction of a new single-family residence at 1800 Donald Drive; the Town Council had denied the appeal and had upheld the Planning Commission granting of the Hillside Development Permit (HDP), a Conditional Use Permit (CUP), and a Tree Removal Permit, and had added a condition that the applicant obtain a grading permit prior to building permit issuance subject to review and approval by the Town Council. A resolution of approval had been provided in the staff report, and a new blue line version of the resolution had also been provided to the Council. The plans had been peer reviewed by the Town's geotechnical consultant who estimated the total excavation, including under the foundation slab could be approximately 40 cubic yards, and the findings could be made to approve the grading permit. She affirmed that another trigger for grading could be if the grading exceeded three feet at the deepest point.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Arth) to approve Resolution 50-2014 Approving a Grading Permit for 1800 Donald Drive as Required by Town Council for an Approximate 4,270 Square Foot Single-Family Residence, in accordance with the blue line version of the resolution provided by staff. Vote: 3-0-2. Absent: Chew, Wykle.

- C. Consider Introducing and Waiving First Reading of an Ordinance Amending in its Entirety Chapter 8.88 Signs and Outdoor Advertising, of Title 8, Planning and Zoning, of the Town of Moraga Municipal Code

Associate Planner Ella Samonsky presented the staff report and noted that the Town Council had previously held a study session on May 28, 2014, at which time the Town Council had made recommendations to amend the Draft Sign Ordinance as outlined in detail in the staff report. She recommended that the Town Council introduce and waive the first reading of the Ordinance amending in its entirety Chapter 8.88, Signs and Outdoor Advertising, of Title 8, Planning and Zoning, of the Town of Moraga Municipal Code (MMC), subject to further modification directed by the Town Council. She added that copies had been provided on the dais and to the public that night of a redline version of the ordinance, with some additional changes in blue line, which had been made after the study session to ensure consistency throughout the ordinance and to further clarify some of the changes. She added that the Chair of the Planning Commission was present to answer any questions related to the Planning Commission's deliberations.

Planning Commission Chair Christine Kuckuk reported that there had been a great deal of input from the Moraga Chamber of Commerce which had been present at all Planning Commission meetings and the primary concern during the public meetings on the Draft Sign Ordinance related to multi-tenant sites and the requirement for a Master Sign Program. Another issue of concern had been the use of "open" signs, when the Planning Commission had discussed the use of illuminated business signs, particularly for those businesses located off the road. The Planning Commission had considered the sign used by Tangelo's, an attractive illuminated business sign, as an example of a sign that could be used in lieu of an "open" sign, with requirements that those signs be smaller than what would normally be allowed for a window sign. She commented that all involved were pleased with the way the Draft Sign Ordinance had been structured, with this effort a dramatic improvement over a prior effort years ago. There had also been support for a more streamlined process beyond the current process that required Design Review Board (DRB) review on everything.

Ms. Kuckuk acknowledged that the sign for the Presbyterian Church had been discussed by the Planning Commission during the public hearings. In that case, the sign was located on land owned by Sonsara and would require approval from the land owner.

PUBLIC COMMENTS OPENED

Kathe Nelson, Moraga Chamber of Commerce, thanked the Planning staff and the Planning Commission for the exhaustive effort and process in drafting a new Sign Ordinance. She was confident that while the ordinance may not be supported by everyone, it included sufficient avenues for an appeal and/or modifications in order to expedite the process, removing an enormous burden from the DRB and the Planning Commission. She emphasized that the Moraga Chamber Commerce Board of Directors supported the Draft Sign Ordinance.

Edy Schwartz, Moraga, suggested the Draft Sign Ordinance was a step in the right direction; requested clarification as to how many signs were permitted for service stations; clarification of the 100-foot distance requirement for a monument sign as part of a Master Sign Program; and the use of banner signs.

Dave Bruzzone, Moraga, stated he had submitted written correspondence to the Town Council with suggested changes to the Draft Sign Ordinance and cited the sections of the ordinance he would like to see modified. He asked that a Master Sign Program be voluntary with clear and acceptable guidelines in terms of maximum square footage; that signage already existed at the built out Moraga Center and reported that Union Bank may want additional signage and a monument sign; that property owner and tenant should be allowed to consider additional signage without imposing a new sign regimen on the entire shopping center; and that a blanket prohibition of neon signs was not appropriate. He questioned the consideration of an electronic sign on Town-owned property, and if allowed, suggested such signage should be allowed for all parties and entities and not solely for the Town.

Mr. Bruzzone added that the Draft Sign Ordinance had neither addressed nor identified standards for freestanding signs; cited the five-acre putting green lot which was owned by the Bruzzone family, and commented that based on the maximum sign area he could not sell lots in the Moraga Country Club appropriately since the maximum sized sign would be 12 feet in the Moraga Open Space Ordinance (MOSO) area; pointed out that existing neighborhood directional signs and signage currently used by SMC would be out of compliance with the Sign Ordinance, if adopted; and while he supported a more efficient process, he asked that his proposed language modifications as identified in his correspondence be considered.

In response to the Council, Mr. Bruzzone reiterated his concern that the Sign Ordinance included regulations that prohibited electronic message board signs other than on Town-owned property, although message board signs had been used in the past in the community.

Ms. Keimach clarified that the redline version of the Draft Sign Ordinance had included regulations to treat future electronic message board signs the same as on Town-owned property subject to Town Council approval.

Ms. Samonsky affirmed that she had received Mr. Bruzzone's correspondence and clarified that the existing signs in the Moraga Center would not have to be modified or removed and she referred to the Master Sign Program requirement pursuant to Section 8.88.070 C, Existing Signage.

Ms. Keimach added that the Sign Ordinance version that had been presented and discussed at the Planning Commission and staff level included a number of triggers, such as the remodel of an existing tenant space. Based on the feedback from the Chamber of Commerce and the Bruzzone family, that regulation had been changed and a Master Sign Program would now be required for a new multi-tenant site. The ordinance would apply to existing sites and to the Town's two shopping centers only if proposing a new monument or marquee sign, and then a master plan for only the monument sign and marquee sign would be required. The change to the ordinance had been made in response to the concerns raised by Mr. Bruzzone in his letter.

PUBLIC COMMENTS CLOSED

Ms. Samonsky highlighted Mr. Bruzzone's correspondence and clarified that permanent freestanding signs were monument signs by definition and were also regulated pursuant to Temporary Freestanding Signs, which were allowed without a permit pursuant to Section 8.88.100, Temporary Freestanding Signs; and that the College zoning district was a unique

district comprised of institutional uses and a self-contained campus, with non-commercial banners allowed without a permit, which had been added in response to concerns from Saint Mary's College. She added that section had been easily identified using the zoning; the Town could not pick out a classification of user, such as school; and could not regulate signs by user group but by zoning district or physical form of the sign.

Ms. Murphy advised that there were many First Amendment issues with respect to the Sign Ordinance and content neutrality for non-commercial signs, although there was more flexibility for commercial signs. As a result of the new language under discussion, every sign in the College zoning district would have to comply with the new sign regulations. If there was another use in that zoning district, it would also have to comply with the sign regulations. SMC was uniquely zoned; other private schools were located within residential districts, and the sign standards would conform with the district; and if there were other uses in that residential zoning district, they would be entitled to the same type of signage as the school, such as churches.

The Town Council discussed the Draft Sign Ordinance and offered the following comments and/or direction to staff:

- The Council opposed changing the language Mr. Bruzzone had recommended to Section 8.88.070, Master sign program B) Variations, since it would take away any regulation;
- The Council recognized that the square footages referenced in the Draft Sign Ordinance had involved input from the Moraga Chamber of Commerce and others; and
- **Chair Pro Tem Trotter** recommended that language be added to Section 8.88.070, Master sign program B) to reflect that the requirement *would not apply to any application that had been filed and pending review before the Town at the time that this ordinance becomes effective.*

Ms. Brekke-Read clarified that the DRB had considered a monument sign for Union Bank and had expressed concern that a single business would have a monument sign at one of the driveways. The DRB had directed Union Bank to return with a uniform Master Sign Program, which application was on hold pending Union Bank's return.

Ms. Murphy affirmed that the language **Chair Pro Tem Trotter** had proposed could be added to the Draft Sign Ordinance.

Ms. Brekke-Read clarified that the second reading of the Sign Ordinance would be at the June 25, 2014 Town Council meeting, and that the ordinance would become effective 30 days thereafter; allowing Union Bank to resubmit its application.

Ms. Murphy recommended a modification to the second sentence of Section 8.88.070, Master sign program A) Requirement, to read:

For existing multi-tenant sites a master sign program for monument and marquee signs shall be required prior to approval of a monument sign or marquee sign, except for applications for a monument sign or marquee sign received prior to the effective date of this ordinance.

Chair Pro Tem Trotter re-opened public comment.

Mr. Bruzzone stated he was uncertain how quickly Union Bank would be able to respond.

Ms. Brekke-Read clarified that technically Union Bank would not have to resubmit its application since it was an active application prior to the effective date of the ordinance. Once the Sign Ordinance had become effective, Union Bank could request a reactivation of its application.

Chair Pro Tem Trotter suggested that Union Bank have an application on file prior to the implementation of the Sign Ordinance.

The Town Council offered further comments on the Draft Sign Ordinance, as follows:

- The Council did not support any changes to the Sign Ordinance suggested by Mr. Bruzzone regarding the use of neon signs; and
- Modified Section 8.88.020 Definitions, Electronic message sign, to read: *A changeable message sign consisting of a matrix of lamps, light emitting diodes (LEDs), or similar devices which are computer-controlled. An electronic message sign may include an animated sign or flashing sign if approved by the Town Council.*

Ms. Murphy requested further amendments to the latest blue line version of the Draft Sign Ordinance as follows:

- Section 8.88.080 Prohibited signs E) to be further revised to read: *An animated sign, or a flashing sign, except as part of an approved electronic message sign;*
- Delete Section 8.88.080 Prohibited signs F, with the subsequent subsections to be re-lettered; and
- Section 8.88.060, Sign review procedure D) 1) revised to read: *Electronic message sign.*

In response to Ms. Schwartz's concerns with the 100-foot distance requirement for a separation between monument signs, Ms. Keimach commented that if there were a number of monument signs closer than 100 feet apart, they may block each other and may not be readable or noticed, particularly along Moraga Road and Moraga Way.

Motion by **Councilmember Metcalf**, seconded by **Councilmember Arth** to Introduce and Waive the First Reading of an Ordinance Amending in its Entirety Chapter 8.88 Signs and Outdoor Advertising, of Title 8, Planning and Zoning, of the Town of Moraga Municipal Code, subject to the following revisions:

- Modification to Section 8.88.020 Definitions, Electronic message sign, to read: *A changeable message sign consisting of a matrix of lamps, light emitting diodes (LEDs), or similar devices which are computer-controlled. An electronic message sign may include an animated sign or flashing sign if approved by the Town Council;*
- Modification to the second sentence of Section 8.88.070, Master sign program A) Requirement, to read: *For existing multi-tenant sites a master sign program for monument and marquee signs shall be required prior to approval of a monument sign or marquee sign, except for applications for a monument sign or marquee sign received prior to the effective date of this ordinance;*
- Modification to Section 8.88.060, Sign review procedure D) 1) revised to read: *Electronic message sign;*

- Modification to Section 8.88.080 Prohibited signs E) revised to read: *An animated sign, or a flashing sign, except as part of an approved electronic message sign*; and
- Delete Section 8.88.080 Prohibited signs F, with the subsequent subsections to be re-lettered.

Staff expressed concern with the deletion of Section 8.88.080 Prohibited signs F, and Ms. Samonsky explained that temporary traffic signs had been addressed under Section 8.88.100, Temporary Signs, and the Town's traffic signs were governed under a different section. Community message board signs were identified in the Definitions, and pursuant to Section 8.88.060, Sign review procedure C) Design Review Board.

On the discussion, no change was made to the motion, which remained as stated.

ACTION: It was M/S (Metcalf/Arth) to Introduce and Waive the First Reading of an Ordinance Amending in its Entirety Chapter 8.88 Signs and Outdoor Advertising, of Title 8, Planning and Zoning, of the Town of Moraga Municipal Code; subject to the revisions as stated. Roll Call Vote: 3-0-2. Absent: Chew, Wykle.

In response to **Chair Pro Tem Trotter's** request to discuss changing the meeting start time for the June 25, 2014 Town Council meeting in order to accommodate an event at the Rheem Theatre on the same night, Ms. Keimach advised that the action had not been agendaized although the Town Council may state it may be considering holding a Special Meeting on June 25, 2014, with a start time at 7:30 P.M. as opposed to 7:00 P.M., which could be discussed under Council Requests for Future Agenda Items.

XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

- A.** Consider Resolution 51-2014 Establishing the Annual Gann Appropriations Limit for the Fiscal Year 2014/15 Budget

Administrative Services Director Stephanie Hom reported that the Town Council had been provided a resolution establishing the Annual Gann Appropriations Limit for the Fiscal Year 2014/15 Budget, an annual process per State mandate as part of Proposition 4, the Gann Initiative to limit the growth of government spending. The resolution included the price factor and changes in population factor to calculate the Appropriations Limit and established the Appropriations Limit for the following fiscal year at \$12,493.740, which calculation had been shown in Attachment B, as contained in the resolution, with the proposed budget appropriation at \$8.9 million, well below the Appropriation Limit for FY 2014/15. She asked that the Town Council approve the resolution as shown.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Arth/Metcalf) to adopt Resolution 51-2014 Establishing the Annual Gann Appropriations Limit for the Fiscal Year 2014/15 Budget. Vote: 3-0-2. Absent: Chew, Wykle.

- B.** Consider Resolution 52-2014 Adopting the Fiscal Year 2014/15 Operating and Capital Improvement Program Budgets, Including the Five-Year Financial Plan, and Five-Year Capital Improvement Program

Administrative Services Director Stephanie Hom reported that during the May 28, 2014 Town Council meeting, staff had presented the Proposed Fiscal Year 2014/15 Operating Budget including Capital Improvement Program (CIP) Budget, and the Five-Year Financial Plan and Five-Year CIP. The items discussed by the Town Council on May 28 had been included in the June 11, 2014 staff report including funding in the amount of \$9,000 for the Lamorinda Spirit Van Program; \$5,000 in support of the Friends of the Moraga Library to continue Sunday hours of operation for the Library; and 40th anniversary celebration banners estimated at a cost of \$3,500, to be placed in locations throughout the Town similar to those used for the Community Faire and the California Independent Film Festival (CAIFF). The expenditure of \$3,500 had been placed in the Parks and Recreation Department budget, and to keep the budget balanced, a like amount was decreased in the Police Department budget based upon discussion during the May 28 Town Council meeting that the Chief of Police was expecting lower than budgeted police dispatch costs.

Ms. Hom reported that the California Public Employees Retirement System (CalPERS) employer rates were provided in a chart form in the staff report. She emphasized that CalPERS rates were expected to increase in future years and she expected increases higher than experienced in the past, with increases between one and three percent for future years.

Ms. Hom identified the funding sources for the CIP projects proposed in the next fiscal year, with all funding sources relying on existing fund balances. She also clarified the scope of work for the Hacienda de las Flores, Main Power Replacement Project, as detailed in the staff report, and explained that the identified improvements had been budgeted.

Ms. Hom advised that the General Fund revenue sources totaled \$8.98 million, with \$1 million in Transfers In from restricted funds, and \$1.7 million in Transfers Out to the Street Rehabilitation Program, with \$1.7 million in direct revenue from the Measure K local sales tax and new garbage vehicle impact fee revenues expected next year. The Operating Budget would be \$7.2 million, the CIP budget with new funding would be \$5.3 million including \$4.46 million for the Street Rehabilitation Program (Fund 711).

Ms. Hom clarified that the Gann Appropriation Limit applied only to the annual revenues received and annual operating expenses. The calculations had been conservative because of the \$8.9 million in General Fund revenue sources and the Town would be putting a large amount into capital one-time funding projects. The auditors were required to review the Gann Appropriations Limit each year.

Ms. Hom asked that the Town Council adopt a resolution approving the Operating and Capital Improvement Budgets.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Councilmember Metcalf found the budget to be remarkably clear and expressed his appreciation to staff.

ACTION: It was M/S (Trotter/Arth) to adopt Resolution 52-2014, Adopting the Fiscal Year 2014/15 Operating and Capital Improvement Budgets, including the Five-Year Financial Plan and Five-Year Capital Improvement Program. Vote: 3-0-2. Absent: Chew, Wykle.

Ms. Hom affirmed that all Councilmembers would be provided with a final version of the budget.

- C. Code Enforcement Ordinances, Penalties and Appeal Fees - Consider Waiving the Second Reading and Adopting:
- 1) Ordinance 245 Repealing and Replacing Moraga Municipal Code Title 7 Health and Safety, Chapter 7.16 Nuisance Abatement; and
 - 2) Proposed Ordinance adding Title 1 General Provision, Chapter 1.28 Administrative Penalties; and Consider:
 - 3) Resolution ___-2014 Authorizing Administrative Citations Penalty Amounts; and
 - 4) Resolution __-2014, Authorizing Updates to the Town of Moraga's Master Fee Schedule

Ms. Samonsky reported that the staff report included the changes requested by the Town Council during the May 28, 2014 meeting; with the two resolutions authorizing the addition of updates to the Moraga Master Fee Schedule for appeal application and late fees, and authorizing administrative citations and penalty amounts.

PUBLIC COMMENTS OPENED

Edy Schwartz, Moraga, supported the agenda item and asked that the Town Council include penalties given the time and money involved with respect to some nuisance abatement issues in the past.

PUBLIC COMMENTS CLOSED

Chair Pro Tem Trotter commented that the item had been considered by the Town Council for a first reading during its May 21, 2014 meeting, and while he supported the Nuisance Abatement updates, he had broken with the remainder of the Council on the issue of administrative penalties given his desire for specific language that would issue warnings prior to the issuance of a citation. As a result, he had voted against the first reading since he did not have support from the remainder of the Council on that issue and sought a dialogue on that issue at this time. He had no concerns with Ordinance 245 but remained concerned with the proposed Ordinance as written.

Councilmember Metcalf understood that an agreement from the Council on the ordinance would require a unanimous vote.

Ms. Murphy advised that this was the second reading of the ordinance and if there were any changes it could not be approved on its second reading, and would have to return as a first reading.

Chair Pro Tem Trotter provided the background of the discussion during the May 21, 2014 Town Council meeting for the benefit of Councilmember Metcalf who had not been present, regarding the desirability of requiring a warning to modify behavior prior to citations and the levying of a fine. At the time he had offered some language changes to the ordinance but did not have support from the rest of the Council. From a policy standpoint, he suggested it was a wise thing to do and noted from the nuisance abatement context that notice must be given. As a result, he questioned why the same policy would not be followed for code enforcement issues.

He remained in support of language in the ordinance to address that issue, understood that any change to the ordinance would require a return for a first reading, and stated he would not support the proposed Ordinance in its current form.

Councilmember Arth stated he would not support a change to the proposed Ordinance; he understood there could be instances where the Town was within its right and as a necessity had to take strong action.

Ms. Murphy explained that the Town Council could take action on the Nuisance Abatement and the remaining agenda items and the two resolutions could wait.

Chair Pro Tem Trotter suggested it would be appropriate prior to the return of the other items for staff and the Town Attorney to provide alternative language that could be considered at a subsequent hearing. He wanted to see examples of warning language from other jurisdictions.

Ms. Murphy advised that the item would not have to be renoticed and could be noticed in terms of the Brown Act, which could be clarified. She acknowledged that alternative language could be presented if the desire was to bring the proposed Ordinance back for a possible first reading.

Chair Pro Tem Trotter suggested that direction could be a way to address both his and Councilmember Arth's concerns.

Ms. Samonsky described the reasoning behind the proposed Ordinance, as drafted, since issuance of citations could be used for any violation of the MMC. Some circumstances may require immediate citation rather than a process of writing a letter and waiting for a response since many of the issues involved were something transitory or that could be done repeatedly and would therefore require a warning for each and every incident.

Chair Pro Tem Trotter pointed out that the proposed Ordinance would change the existing Noise Abatement regulations. He reiterated his concerns and requested an analysis by staff to determine how to address both his and Councilmember Arth's concerns.

Ms. Keimach suggested if something was considered that addressed an immediate and not a recurring concern, a notice could identify a specified number of days to abate. She emphasized there could be incidents where there could be an immediate need to address a violation of the MMC and those activities should be identified at the staff level in terms of what would not require a courtesy notice, which was preferred. She affirmed that two separate ordinances could be brought back to the Council.

ACTION: It was M/S (Trotter/Arth) to waive the Second Reading and Adopt Ordinance 245 Repealing and Replacing Moraga Municipal Code Title 7 Health and Safety, Chapter 7.16 Nuisance Abatement, in the form of the ordinance as presented in Attachment A to the staff report dated June 11, 2014. Roll Call Vote: 3-0-2. Absent: Chew, Wykle.

Chair Pro Tem Trotter offered a motion to continue the proposed Ordinance adding Title 1 General Provision, Chapter 1.28 Administrative Penalties; and consider Resolution __-2014 Authorizing Administrative Citations Penalty Amounts; and Resolution __-2014, Authorizing Updates to the Town of Moraga's Master Fee Schedule, to a future meeting of the Town Council. Councilmember Arth seconded the motion.

On the motion, Ms. Keimach explained that staff had discussed the ordinance to craft language that would meet everyone's interests and which would require some time to re-draft. She suggested the items could be returned to the July 16, 2014 meeting although a second reading could not be considered during a special meeting of the Town Council. After

the legislative break, the next possible meeting dates would be August 27, 2014 and September 10, 2014 and it was her hope the entire Council would be present at that time.

Chair Pro Tem Trotter modified his motion, seconded by **Councilmember Arth** to continue the items to the Town Council meeting of September 10, 2014.

Ms. Murphy noted that the fourth item, the authorization to update the Town of Moraga's Master Fee Schedule, included Administrative Citation and Nuisance Abatement, which would become effective in 30 days. As such, the reference to Administrative Citations would have to be removed and a resolution with the fees for Nuisance Abatement would be brought back to the Town Council on June 25, 2014 to allow the fees to be put into place.

Ms. Keimach added that the item could be placed on the meeting agenda for June 25, 2014 as a consent item and staff would ensure it was clean and did not include any administrative citations, just nuisance abatement fees, with a redline of the changes.

ACTION: It was M/S (Trotter/Arth) to continue a Resolution Authorizing Updates to the Town of Moraga's Master Fee Schedule with respect to Nuisance Abatement fees only to be placed on the Consent Agenda for the June 25, 2014 Town Council meeting; with the proposed Ordinance adding Title 1 General Provision, Chapter 1.28 Administrative Penalties; and Resolution __-2014 Authorizing Administrative Citations Penalty Amounts and any conforming changes to the Town's Master Fee Schedule with respect to administrative penalties to be continued to the Town Council meeting of September 10, 2014; subject to providing the additional alternative information and language as suggested by the Town Manager. Vote: 3-0-2. Absent: Chew, Wykle.

- D. Designate Town of Moraga's Voting Delegate and any Alternates at the League of California Cities Annual Meeting on September 3 to 5, 2014 in Los Angeles, California, for the Purpose of Voting on League Resolutions Regarding Issues of Statewide Concern

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Arth) to designate Mayor Ken Chew and Vice Mayor Roger Wykle as the Delegate and Alternate to the League of California Cities Annual Meeting on September 3 to 5, 2014 in Los Angeles, California for the Purpose of Voting on League Resolutions Regarding Issues of Statewide Concern. Vote: 3-0-2. Absent: Chew, Wykle.

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Ms. Murphy spoke to the Town Council meeting scheduled for June 25, 2014 and a possible change in starting time, and advised the meeting would be a regular meeting to allow for the adoption of ordinances, and she and the Town Manager would work on the agenda to address what action items would take place. They recommended a meeting start time of 7:00 P.M. in order to allow Councilmembers to attend the celebration of The New Rheem Theatre's 4th Anniversary and new lift.

Ms. Murphy stated if a quorum of the Town Council was not available until 7:30 P.M., staff could notice that to the public on the agenda. On the discussion, she affirmed that the Town Council

Rules stipulated that if a quorum of the Council was not present for 30 minutes after the stated meeting time, the meeting would be canceled, and she emphasized the need for a quorum to be present prior to 7:30 P.M.

Ms. Keimach suggested that the meeting of June 25, 2014 be held as a regular meeting in the hope that a quorum would be available prior to 7:30 P.M. She affirmed the meeting agenda would not include a footnote regarding the quorum.

The Town Council also discussed the fact that it would not have a quorum for the Town Council meeting scheduled for July 9, 2014.

Chair Pro Tem Trotter reported that he would be on vacation in Oregon on July 16 and hoped to attend a portion of the Town Council meeting of July 16, 2014 via teleconference. He asked that the agenda item for the approval of the paving contract be agendized early on that agenda.

Ms. Keimach clarified that the Mayor had not finalized plans to travel to China but might be present for the meeting scheduled for July 9, 2014, with staff to have a better idea of the Mayor's plans by Monday, June 16, 2014.

XIII. COMMUNICATIONS

There were no communications.

XIV. ADJOURNMENT

**ACTION: It was M/S (Arth)/Trotter) to adjourn the meeting at 9:38 P.M. Vote: 3-0-2.
Absent: Chew, Wykle.**

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Ken Chew, Mayor