

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**October 8, 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 7:03 P.M. by **Mayor Ken Chew**.

ROLL CALL

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

Councilmembers absent: None

II. PLEDGE OF ALLEGIANCE

Mayor Chew led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

There were no special announcements.

IV. PROCLAMATIONS AND PRESENTATIONS

A. Proclamation Declaring October 2014 as Bullying Prevention Month in Moraga

Mayor Chew read into the record a proclamation declaring October 2014 as Bullying Prevention Month in Moraga.

PUBLIC COMMENTS OPENED

Bruce Burns, Superintendent of the Moraga School District (MSD), reported the MSD Governing Board would be considering the same proclamation in the next week as part of its effort to bring awareness in MSD schools, improve student safety, and combat bullying.

Shayan Tajbakhsh, a student at Diablo Valley College (DVC) and a former MSD student, stated he had been working with the MSD to spread the word of the Moraga iKind Project, and explained he had experienced bullying in middle and high schools.

Wendell Baker, representing the iKind Project, thanked the Town Council for the proclamation.

PUBLIC COMMENTS CLOSED

B. Proclamation Declaring October 2014 as Domestic Violence Awareness Month

Mayor Chew acknowledged the proclamation declaring October 2014 as Domestic Violence Awareness Month, noted no one was present to receive it, and stated staff would mail it to the recipients.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

C. Presentation of Government Finance Officers Association Award of Certificate of Achievement for Excellence for Financial Reporting

Administrative Services Director Stephanie Hom presented the Government Finance Officers Association (GFOA) Award of Certificate of Achievement for Excellence for Financial Reporting for the year ended June 30, 2013; reported her presentation had been prepared by Karan Reid, the State representative for the GFOA and the Finance Director for the City of Concord who had been unable to attend the meeting due to illness; and stated the presentation detailed the background and purpose of the GFOA Award of Certificate of Achievement for Excellence for Financial Reporting. She expressed her appreciation to the members of the Audit and Finance Committee (AFC) present in the audience and at the Council dais, who deserved credit for the GFOA accomplishments.

Town Manager Jill Keimach thanked Ms. Hom for her leadership in getting the GFOA Award completed and reported that Moraga was the first Lamorinda city to receive the award.

Councilmember Metcalf emphasized the importance of the GFOA Award and the fact that the Town of Moraga was far ahead of the cities of Lafayette and Orinda.

Mayor Chew also commended the excellence of staff which allowed the Town's receipt of the GFOA Award.

Councilmember Trotter concurred.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

V. PUBLIC COMMENTS

Emil Margolis, organizer for Evolve, a coalition of local governments calling for a reform of the commercial side of Proposition 13, urged the Town Council to agendize a resolution from Evolve, detailed the background of Proposition 13, and urged consideration of a reform of Proposition 13.

VI. ADOPTION OF THE CONSENT AGENDA

A. Approval of Consent Items

Assistant Town Attorney Karen Murphy reported that a redline revision had been provided to the Town Council related to Consent Item 6 - *Consider Resolution 76-2014 Authorizing the*

Town Manager to Purchase Vehicles for Town Departments in Excess of \$15,000 and Not More than \$40,000 From the California Multiple Award Schedules (CMAS) or Sole Sources Per Resolution 59-2012 if Included in Council Adopted Budget, to clarify that the purchase being authorized fell under the exceptions in the Moraga Municipal Code (MMC), and had tracked the language in the staff report.

Vice Mayor Wykle reported that he would abstain from the approval of Consent Item 2.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Wykle/Arth) to adopt Consent Agenda Items 1, 2, (Vice Mayor Wykle abstained), 3, 4, 5, 6 (as amended) and 7. Vote: 5-0.
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| 1) | Accounts Payable Claims for: 9/5/14 (\$742,376.61); 9/15/14 (\$50.00); 9/19/14 (\$122,565.03) | Approved |
| 2) | Approve Redline Minutes for the Town Council Special Meeting on July 16, 2014 (<i>Vice Mayor Wykle abstained</i>) | Approved |
| 3) | Approve Minutes for the Town Council Regular Meeting on August 27, 2014 | Approved |
| 4) | Approve Motion to Cancel the November 26 and December 24, 2014 Town Council Meetings and Direct Staff to Schedule a Special Meeting if Needed | Approved |
| 5) | Review and Accept Third Quarter Update of Town Council Adopted Goals for 2014 | Approved |
| 6) | Consider Resolution 76-2014 Authorizing the Town Manager to Purchase Vehicles for Town Departments in Excess of \$15,000 and Not More than \$40,000 From the California Multiple Award Schedules (CMAS) or Sole Sources Per Resolution 59-2012 if Included in Council Adopted Budget, (<i>subject to the redline revisions presented October 8, 2014</i>) | Approved |
| 7) | Approve Proclamation Honoring the Town of Moraga for 40 Years of Incorporation from 1974 to 2014 | Approved |

B. Consideration of Consent Items Removed for Discussion

No items had been removed from the Consent Agenda.

VII. ADOPTION OF MEETING AGENDA

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Arth) to adopt the meeting agenda, as shown. Vote: 5-0.

VIII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Chew – Reported that he had attended the California Independent Film Festival (CAIFF) on September 11; a conference at Moraga Country Club on the same evening; the Lamorinda Mayors' Breakfast on September 12; a Liaison Meeting on September 19; a meeting of the Central Contra Costa Solid Waste Authority (CCCSWA) to discuss rate setting for Moraga on September 22; had met with a representative from City Ventures on September 26; the Pear and Wine Festival on September 27; an AFC meeting with a proposal for asset replacement funding options to be presented to the Town Council at a future meeting; the Contra Costa Mayors' Conference in the City of Pleasant Hill on October 2; and a reception for new Police Lieutenant Jon King on October 7.

Vice Mayor Wykle – Reported that he had attended the CAIFF on September 11; the Contra Costa Mayors' Conference on October 2; most of the Emergency Preparedness Training seminar on September 23; served as an unsolicited volunteer inspector for Measure K on October 7; and had participated in a tour of Carr Ranch to visit the site for potential pre-annexation on October 8.

Councilmember Arth – Reported that he had attended the Emergency Preparedness Training seminar on September 23; a reception sponsored by the Contra Costa Association of Realtors (CCAR) in Walnut Creek on September 25; the Pear and Wine Festival on September 27; the AFC meeting on September 30; a Moraga-Orinda Fire District (MOFD) Badge Pinning Ceremony on October 3; a reception for the new Police Lieutenant Jon King on October 7; and a meeting of the Chamber of Commerce on October 8.

Councilmember Metcalf – Reported that he had attended two meetings of the Joint Ad Hoc Facilities Subcommittee, with one of the meetings a field trip to the Pleasant Hill Recreation and Park District's recreational facilities. He briefed the Council on the efforts of Pleasant Hill Councilmember Michael Harris for that city's recreational facilities, and on the efforts of the Subcommittee to refine three potential sites and concepts to be studied by professionals.

Ms. Keimach reported that the Moraga Swim and Tennis Club, which had been identified by the Subcommittee as one of the potential concepts and had been on and off the market for some time, was now under contract. The new owner was desirous for the site to continue its past history of being a recreation center with tennis, swimming and exercise for all ages. A new use permit would be required pursuant to the MMC given that the site had been vacant for more than six months.

Councilmember Trotter – Reported that he had also attended the opening night of the CAIFF on September 11; the Fandango fundraiser for Friends of the Joaquin Moraga Adobe at the Maynard Buehler Home in the City of Orinda on September 13; a CCCSWA Board meeting on September 22; a small portion of the Emergency Preparedness Training seminar on September 23; the Pear and Wine Festival and Toast to Moraga on September 27; meetings of the Joint Ad Hoc Facilities Subcommittee on September 30 and October 6; participated in the

Moraga Candidates Forum on October 1; the Mayors' Conference in the City of Pleasant Hill on October 2; the Annual Holy Trinity Serbian Orthodox Celebration on October 4; the Swearing in Ceremony for new Police Lieutenant Jon King on October 7; and participated in the continued efforts to prepare for the Town's 40th Anniversary Celebration Dinner on October 18 at Saint Mary's College (SMC).

- B. Town Manager Update – Town Manager Keimach welcomed Lieutenant King to the Moraga Police Department; and reported that the Town of Moraga had been chosen as the 5th Safest City in the State, 7th in the Nation, with said designation to be posted in the About Town newsletter. She also reported that the Emergency Preparedness Training seminar had specifically been for elected officials and senior staff for annual training. In addition, the Annual Great American Shake-Out had been scheduled in partnership with SMC as part of the Statewide Great American Shake-Out Event on October 16; if the Council desired to be part of the event, staff would send out a text.

IX. DISCUSSION ITEMS

- A. Receive Presentation of the 2014 Draft Countywide Transportation Plan by Martin Engelmann, Executive Deputy Director, Planning, Contra Costa Transportation Authority, and provide Direction to Staff

Martin Engelmann, Executive Deputy Director, Planning, Contra Costa Transportation Authority (CCTA), presented a PowerPoint presentation on the 2014 Draft Countywide Transportation Plan and identified the background of the CCTA and the Measure C half cent sales tax initiative which had generated a billion dollars in transportation improvement funds to fund local street improvements, and assist in extending the Bay Area Rapid Transit system (BART) to Pittsburg/Bay Point, the Richmond Parkway, and other major projects. Measure C included an innovative Growth Management Program (GMP) requiring new development to help pay to mitigate transportation impacts it created and required all cities to cooperate and work together on transportation planning. In 2004, Contra Costa County voters approved a 25-year extension of Measure C to 2034, and that measure generated another \$2 billion assisting in the completion of the Highway 4 east improvements, extension of BART all the way to the City of Antioch, and further improvements on I-680. The Countywide Transportation Plan (CTP) must be updated every five years, and had last been updated in 2009.

Mr. Engelmann identified changes in employment, housing prices, and smart phone usage since the 2009 update of the CTP, identified the accomplishments of the CCTA over the past five years including the Fourth Bore of the Caldecott Tunnel, State Route 4 widening with High Occupancy Vehicle (HOV) lanes and BART in the median, carpool and merge lanes on I-680, a parking garage at the Richmond BART Station, two new Intermodal Terminals, and the new Robert Schroder Pedestrian Overcrossing at Treat Boulevard at the Pleasant Hill BART Station.

Mr. Engelmann described the efforts of the CCTA to invest billions of dollars in the transportation system by leveraging sales tax dollars with other sources of state and federal funds, with 60 percent of the Measure J funds going to local streets and road improvement programs. He explained that the CTP update would go out to 2040 and he identified the challenges including population growth, number of housing units, and jobs increases, with traffic in 2040 showing a projected increase of 25 percent. Other challenges involved State Assembly Bill (SB) 32, which required the reduction of greenhouse gases (GHGs) in 2020 and 2035, which posed a significant challenge. In order to meet those challenges a number of projects were proceeding including construction of the State Route 4 widening to Antioch and the East Contra Costa BART Extension (eBART) extension to Antioch, to be completed in the year 2017.

He stated the CCTA GMP was in force and the CCTA ensured that every jurisdiction had an adopted and voter approved Urban Limit Line (ULL), with 65 percent of the County to remain rural and 35 percent where development could occur, with development focused on transit priority areas. The CCTA also supported clean technology and alternative modes of travel.

Mr. Engelmann described the innovative programs for smart phone users to get transportation and identified the details for the Carma Pilot Program for carpoolers using the Bay Bridge to travel into San Francisco. Further alternative modes of transportation included autonomous vehicles. He identified the vision, goals and strategies of the CTP, noted that it included the Action Plans from West, Central, East, and the Tri-Valley counties of Contra Costa County, and had compiled all the projects expected in the next 25 years, which included a list of over 1,200 projects expected to be implemented but also expected to face financial constraints.

Mr. Engelmann reported that five public workshops had been held on the CTP including one in the City of Lafayette on September 10. The public comment period remained open until November 3, 2014. Community outreach tools were also available on the Internet through www.keepcontracostamoving.net and the CTP itself was available online through ccta.net.

In response to the Council, Mr. Engelmann stated that regarding the status of some issues that had arisen recently with the new Bay Bridge span, the CCTA was not directly involved with the bridge which was under the authority of the Bay Area Toll Authority and the Metropolitan Transportation Commission (MTC), which funded those improvements. He was hopeful the problems on the bridge would be resolved and settled. As to whether the CCTA Board would consider a ballot measure for a sales tax reauthorization, he advised there was no formal word yet from the CCTA Board other than interest and discussions. New capital projects would require an increase of the sales tax from half a cent to a full cent, which would be a possibility that would generate an additional \$80 million per year or a billion every ten years, positioning the CCTA to invest in major new projects throughout the County. If that were to occur, that would likely not happen until the 2016 ballot.

Mr. Engelmann also recognized concerns with the issue of reaching BART in a timely manner from Moraga, and noted that one percent of funds went to transportation demand management (TDM) to help fund 511 Contra Costa which implemented carpool and ride-sharing programs. He emphasized that innovative ways were being considered to keep the 8:00 a.m. peak from being so sharp; identified efforts for pilot programs where people could walk out of their homes to a bus stop; and noted signal timing on Mt. Diablo Boulevard was being evaluated. He emphasized that traffic smoothing was something that the CCTA was always interested in, with polls showing a frustration in the traffic over the years. It was hoped they could be able to achieve traffic management containment and prevent traffic from getting worse through innovative approaches.

PUBLIC COMMENTS OPENED

Mary Kate Ivanetich, Moraga, asked whether there had been any consideration of helicopter commuting or small airports in the CTP. She also asked whether there would be transportation access to non-urban areas of East Contra Costa County, such as Morgan Territory Road.

Mr. Engelmann referenced Amazon's plans to use drones for some of its products, and identified the two existing small airports in Contra Costa County located in the cities of Concord and Byron, with no air service planned for the Lamorinda area. He again encouraged the public to provide any ideas on the Plan through the CCTA community link previously identified.

PUBLIC COMMENTS CLOSED

X. PUBLIC HEARINGS

There were no public hearings.

XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

- A. Consider Adopting and Waiving Second Reading of Ordinance No. 250 Amending Moraga Municipal Code Chapter 8.48 to add 10-PD-RP Land Use Classification and Modify Planned Development (PD) Standards, and Amending the Zoning for the Via Moraga Property from Limited Commercial to 10-DUA-Planned Development (10-PD-RP)

Planning Director Ellen Clark reported that this was the second reading of Ordinance No. 250 amending MMC Chapter 8.48 to add 10-PD-RP Land Use Classification, modify Planned Development (PD) Standards, and amend the zoning for the Via Moraga property from Limited Commercial to 10-DUA-Planned Development (10-PD-RP). The item had been brought to the Town Council on September 10, 2014, when the Council had introduced and waived the first reading. The approval of the zoning amendment was associated with the related approval of the Via Moraga project which the Town Council had also approved on September 10, 2014 for a Conceptual Development Plan (CDP), and would implement and bring the Zoning Ordinance into compliance with General Plan Policy LU3.3 which included a similar 10-DUA land use designation. The Town Council had considered and made minor changes to the proposed ordinance, as reflected in the October 8, 2014 staff report.

Ms. Murphy spoke to Attachment A, Draft Ordinance, and made a correction to Page 3 of the resolution, Section 2. A. 6, to be amended to read: **10-PD-RP** as to the Rheem Park Specific Plan Area as defined in the General Plan.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Arth) to adopt and waive the Second Reading of Ordinance No. 250 Amending Moraga Municipal Code Chapter 8.48 to add 10-PD-RP Land Use Classification and Modify Planned Development (PD) Standards, and 10-DUA-Planned Development (10-PD-RP), subject to a revision to Page 3 of the resolution as read into the record by the Assistant Town Attorney. Roll Call Vote: 4-1-0. Noes: Wykle.

- B. Consider Resolution 77-2014 Authorizing the Town Manager to Sign an Amended Contract with Ben Noble for On-Call Planning Services in an Amount Not to Exceed \$250,000 for a Total Contract Period of Three (3) Years

Ms. Clark explained that, if approved, the request would provide additional resources for the Planning Department in keeping with the Town Council and General Plan philosophy for minimal government and flexibility to have contract services to meet the needs of the Town's applications and be responsive to the staff needs in an efficient manner. The work would be authorized on a specific-task basis and available funds, through applicant fees and in the short term staff cost savings.

Responding to the Council, Ms. Clark reiterated that the work would be authorized on a task-specific basis, with part of that process to ensure funds were available in a budget line item, and to ensure an applicant deposit with the up-to-amount on a task-specific basis. In response to

concerns if the deposit was not sufficient to complete the work, staff did its best to monitor the budget and if getting close to the budget amount on hand and in the deposit account, staff would request additional funds, or the work would be stopped. She acknowledged that from time to time, staff had experienced times when there had been insufficient funds to complete the work primarily because of the way the billing cycles worked. She added that the billing rate for an Associate Planner position was comparable to Mr. Noble's as a private consultant.

Ms. Keimach also pointed out that benefits also added to the cost including approximately 30 percent in benefits for a staff position

Ms. Clark noted that the Planning Department had seen an increase in development applications to which staff needed to be responsive and that this model had proven successful. The contract would have to be renewed after the three years at which time it could be revisited. She affirmed that Mr. Noble had worked with the Town in the past, was currently working on the Hillsides and Ridgelines project as the Project Manager, and would continue that work as a contract employee with the firm PlaceWorks. She emphasized she had worked with Mr. Noble in the past and he had an excellent standard of work.

PUBLIC COMMENTS OPENED

Mary Kate Ivanetich, Moraga, volunteered her services to the Town as a consultant. She identified her background as a graduate from U.C. Berkeley in Environmental Design and Architecture and City Planning, and asked that she be considered for that effort.

Mayor Chew encouraged Ms. Ivanetich to consider volunteering her time by submitting an application for vacancies on the Design Review Board or the Planning Commission.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Metcalf) to adopt Resolution 77-2014 Authorizing the Town Manager to Sign an Amended Contract with Ben Noble for On-Call Planning Services in an Amount Not to Exceed \$250,000 for a Total Contract Period of Three (3) Years. Vote: 5-0.

- A. Consider Resolution ___-2014 Authorizing the Town Manager to Increase the Council Chamber/Community Room Renovations Project (CIP 08-302) Budget to Fund High Speed Data Connections Between 331 and 329 Rheem Boulevard Properties for \$35,000 From Comcast PEG Funds and to Fund Installation of Clay Tile on the Main and Lower Roof Elements Halfway to the Rear of the Structure for \$87,000 from FY 2014/15 Operating Surplus for a Total Project Budget Increase of \$122,000

Ms. Keimach reported that the Town Council had looked at the project on April 9, 2014 with a full set of design plans. The DRB had reviewed the plans on April 14, 2014, appreciated the design, and had the foresight to indicate the project would be beautiful but would have to be 'value engineered' given the tight budget.

Ms. Keimach identified the background and process for the interior remodel as outlined in the October 8, 2014 staff report, noting that the interior contractor had declined to provide a bid for the exterior roof structure and landscaping given the need for specific expertise. The Town had gone out to bid and had received and selected a bid from the contractor who had done the work on the Moraga Commons Bandshell. As shown in the staff report, three design options had been identified and detailed including: Option A, amend the project budget to add \$87,000 to install clay tile on the main and lower roof elements half way to the rear of the structure; Option

B, not amend the project budget for the roof element and instead reduce the clay tile roof to only the center portion of the roof and install parapets on lower roof elements on each side; or Option C, amend the budget to add \$212,000 to complete the clay roof around the entire building as initially designed and engineered.

Ms. Keimach asked the Town Council to consider the three options, and consider authorizing the Town Manager to increase the Council Chamber/Community Room Renovations Project (CIP 08-302) Budget to fund high speed data connections between 331 and 329 Rheem Boulevard properties for \$35,000 from Comcast PEG Funds, which she clarified was important for emergency preparedness.

Responding to Council, Ms. Keimach stated that if the Council authorized the use of Comcast PEG funds, there was approximately \$200,000 remaining, excluding funds earmarked for the marquee, with additional funds received annually. She clarified that the sidewalk had not been included in the agenda title but was on the list for street pavement work as a change order since it did not meet current Americans with Disabilities Act (ADA) cross slopes because of the three driveways. The Town would be required to upgrade the sidewalk. She noted that some funds had been withheld from the pavement contractor, and because of that the contractor did not want to bid on the sidewalk. As a result, if the matter could not be resolved in the next two weeks, she may return to the Town Council with a consent item to cover the sidewalk costs which would come from the ADA compliant funds set aside annually to repair non-compliant sidewalks.

Ms. Keimach identified the costs associated with Option C and acknowledged the high costs of the beams across the rear. She noted that the building had been designed over time in three different areas and the rear of the building was the least structurally sound.

PUBLIC COMMENTS OPENED

Steven Forster, Architect, explained that when the structural engineer had done the analysis for the building, he had determined the new tile hip roof would not require any new lateral bracing across the building, although when the new tile roof had been added across the rear it would necessitate a wood beam across the rear of the building for support. He liked the initial design that had been approved by the Town Council and DRB, but understood the issues with value engineering which was the reason he had provided additional options for consideration. If the value engineering was done, the rear of the building did not need the tile roof, but as one approached from the east and west, the sides of the building and front elevations remained prominent and it was important to carry the tile roof halfway back.

Responding to Council, Mr. Forster confirmed his preference was to see the tile go all the way to the rear of the building although halfway across was a compromise.

David McElroy, General Building Contractor, understood the building had been re-engineered and brought to seismic standards in 1987 and should be in pretty good shape. He commented that if the roof tile was not installed to the rear of the building, the building would still be in great shape.

Mr. Forster suggested if the tile roof was not installed to the rear of the building, the building had adequate structural integrity since they would not be adding additional weight and since the structural engineer had determined it was sufficient. In response to concerns with half a hip tile roof appearing unsightly as did the roof for the 5A Rent-A-Space building, he suggested this was not the same situation since the building was not situated the same as the 5A Rent-A-Space building. He did not recommend Option B as a potential option given the fact that the building would be visible from the east and west sides. If Option A was selected it would not be

like the original design. He favored Option C, although absent the hip roof along the rear of the building which would eliminate the need for the wood beam as the structural engineer had requested.

Mr. McElroy acknowledged it would be possible to install the clay tile all the way back just to the rear and not install the wood beam across the back although they would end up having to use all the money in the Option C request to accomplish that consideration. He noted that looking at the top of the building there would be a hipped roof all the way around both the lower roofs and on three sides of the higher roof, with the tile not visible across the back other than the angles down the sides from the rear.

Mr. Forster affirmed that Option C, as modified, would solve the aesthetics problem.

Mr. McElroy clarified that there would not be a great deal of savings by not installing the wood beam across the rear, although he would have to re-value engineer the project with the new concept. He commented that most of the cost would be in the building of the project as the architect had originally designed, factoring in items such as plumbing for roof drains, gutters on the eaves, and the like. Adding more tile would reduce the built up roofing but increase the roofing budget. He stated that going from Option A to Option C could cost \$10,000 more than shown.

Ms. Keimach advised that the staff report had included the source of funds being considered to fund the project and the fund balances in each fund. Option C, as modified, would result in a total budget of \$267,000 including the \$35,000 from the Comcast PEG Funds but would not include the potential ADA sidewalk costs in the event the pavement contractor was unable to settle with engineering. The ADA fund balance was identified as \$47,000. She clarified that the Town's current contract with the contractor was for the base work, which must be done within the budget unless the Council amended the contract to allow an alternative. While the Council could decide to go out to bid, she stated that would add significantly to the construction time and the project had already experienced several months in delays to obtain additional bids. She stated staff was pleased with the contractor based on the experience with the Commons Bandshell project.

Mary Kate Ivanetich asked why the fence would be changed from wood to stucco material; about material costs; and commented that a stucco fence would be taller but not in the modern ranch style.

Ms. Keimach explained that the existing fence was in disrepair, must be replaced, and the intent was to match the Spanish style of the remainder of the building. One of the reasons for a six-foot high stucco wall was that the site also served as the Town's Corporation Yard, with equipment at the rear. From a security and visual point of view, a stucco wall would be appropriate.

PUBLIC COMMENTS CLOSED

Councilmember Metcalf was pleased with the fence as configured. He recognized the project was to provide functional requirements although the building had been used by the MOFD, was unattractive, and located within the scenic corridor. The project architect had been able to design an attractive solution leading towards his support for Option C. He supported something that would be attractive and serve the needs of the Town and allow the community to be proud, while also recognizing that construction costs had increased significantly since the market had become more competitive. He also supported the use of \$35,000 in Comcast PEG Funds for the high speed connections between 331 and 329 Rheem Boulevard. He supported Option C, as modified, to truncate the rear roof of the building with a not-to-exceed amount.

Vice Mayor Wykle clarified with the Town Manager the initial project budget as outlined in the staff report and the funds that had been spent to date on the project. He reviewed each of the options with staff as compared to the initial project budget, inquired of the total budget, and asked what Town projects would not be realized if the Town Council supported Option C.

Councilmember Arth supported Option C although he was hesitant given the use of public money. Having listened to the public testimony, he wanted to do the right thing for something that would be visible for years to come. He supported the expenditure of funds for Option C.

Mayor Chew also wanted to do a good job and leave a legacy for the community. He recognized it would cost money, and wanted to do it right. He was inclined to support Option C with a not-to-exceed amount to be identified by the Town Manager.

On the discussion, Ms. Keimach advised that the not-to-exceed amount for the exterior improvements was \$35,000 from the Comcast PEG Funds, with the clay tile on three sides of the building for \$232,000, identified as a modified Option C.

Councilmember Trotter did not support the resolution which he suggested was the antithesis of good value engineering. He supported Option A as the right approach for the Town Council and the Town, and suggested that ultimately the rear of the building would not be visible, particularly as landscaping matured. He characterized Option C as a wasteful expenditure of public monies.

Councilmember Metcalf spoke to his experience with value engineering, which oftentimes resulted in sacrifices and which affected an architect's aesthetic contributions. He again referenced the 5A Rent-A-Space building as a good example of a design he did not want to see repeated. He recognized that the public may not approve of the expenditure of funds, although in his opinion it was the right thing to do for the community.

Vice Mayor Wykle agreed with Councilmember Metcalf's comments in theory, although having read the assessment for the Hacienda he suggested the Town had more important projects to fund. He pointed out that Option C would be placing an aesthetic roof back in the area of the Corporation Yard. He supported Councilmember Trotter's recommendation at this time.

Councilmember Metcalf offered a motion to adopt a Resolution authorizing the Town Manager to increase the Council Chamber/Community Room Renovations Project (CIP 08-302) Budget to fund high speed data connections between 331 and 329 Rheem Boulevard properties for \$35,000 from Comcast PEG Funds and to fund installation of clay tile on three sides to the rear of the structure for \$232,000.

On the motion, **Councilmember Trotter** asked that the resolution be split to allow separate action on the expenditure of the Comcast PEG Funds.

Ms. Murphy advised that the motion could be split at the discretion of the Council.

ACTION: It was M/S (Metcalf/Wykle) to adopt Resolution 78-2014, Authorizing the Town Manager to Increase the Council Chambers/Community Room Renovations Project (CIP 08-302) Budget to Fund High Speed Data Connections Between 331 and 329 Rheem Boulevard Properties for \$35,000 From Comcast PEG Funds. Vote: 5-0.

Councilmember Metcalf offered a motion to authorize the Town Manager to increase the Council Chamber/Community Room Renovations Project (CIP 08-302) Budget to fund

installation of clay tile roof on the main and lower roofs to the front and both sides of the structure for \$232,000.

Ms. Keimach recommended that the motion be modified to read: *Authorize the Town Manager to increase the Council Chamber/Community Room Renovations Project (CIP 08-302) Budget to fund installation of clay tile roof around three sides of the building not to exceed \$232,000.*

On the motion, **Councilmember Metcalf** recommended that half of the \$232,000 come from the Asset Replacement Fund and the other half from General Fund Surplus.

Ms. Keimach advised that while \$114,000 could come from the Asset Replacement Fund and the remainder from the General Fund Surplus, that would zero out the Asset Replacement Fund. She advised that the AFC had been working on recommendations for the Asset Replacement Fund. Another option would be the use of the Infrastructure Preservation Fund (IPF), which had a fund balance of \$72,000.

Councilmember Arth seconded the motion, as modified by the Town Manager.

Ms. Hom clarified the estimate of the Operating Surplus for the Fiscal Year which had just closed, to be added to the current reserve, and once added the Town would have \$2.8 million in its General Purpose Fund, and a reserve percentage of 43 percent.

Councilmember Metcalf was not concerned whether the monies were coming from either the Asset Replacement, General Fund Reserve, or Palos Colorado funds since it was all reserve monies.

Ms. Keimach recommended that the monies come from the General Fund Reserves given that Asset Replacement Funds were to be used for maintenance and replacement of existing facilities, and since she had a concern zeroing out that fund.

Councilmember Metcalf modified his initial motion, as further modified by the Town Manager to identify the funds as those from the General Fund Reserve. As the second to the motion, **Councilmember Arth** accepted the amendment to the motion, as further modified.

ACTION: It was M/S (Metcalf/Arth) to adopt Resolution 79-2014, Authorizing the Town Manager to Increase the Council Chamber/Community Room Renovations Project (CIP 08-302) Budget to Fund Installation of Clay Tile Roof Around Three Sides of the Building Not to Exceed \$232,000 with funds to come from the General Fund Reserve. Vote: 3-2. Noes; Trotter, Wykle.

D. Review Process to Request Future Agenda Items and Provide Direction to Staff

Ms. Keimach reported that the item was a continuation of a discussion the Town Council had regarding the process for agendizing future agenda items on July 16, 2014, in response to questions raised over the last year as to how future agenda items were to be placed on a future agenda. Staff had researched how other cities addressed the placement of future agenda items on future agendas and the detail of that research had been outlined in the October 8, 2014 staff report. She asked that the Town Council discuss the process and provide direction to staff.

In response to the Council, Ms. Murphy explained that the staff report had outlined a potential procedure to allow the Council to reach consensus. She commented that there had been Town Council meetings where a discussion was appropriate to be brought back as a future agenda item and not be discussed during the subject meeting, particularly when it was not agendized.

Councilmember Trotter referenced occasions when public comment had been received and the item had been discussed at that time. He wanted the ability to take up items during public comment at the meeting when the comment had arisen, and have a discussion whether to agendaize those items as a future agenda item without waiting two weeks to consider them.

Ms. Keimach advised that the proposed language in the staff report allowed that process.

As an alternative, Ms. Murphy suggested that if an item was raised during a meeting of the Town Council and if there was no objection to that item, it could be placed on a future agenda. If there was any Councilmember who wanted to talk about the item, it could be listed under Future Agenda Items as an actual Discussion Item, and language could be drafted to that effect in the Council Rules and Procedures, if so directed by the Council.

Mayor Chew preferred to place potential items on a future agenda to allow appropriate discussion based on a vote of the Council given that if there was any disagreement from a Councilmember, under the current practice, the Council could not discuss the item during the meeting if the item had not been agendaized. Otherwise, the Council would have to agendaize the item on a future agenda, to allow a discussion of whether to agendaize the item.

Councilmember Trotter suggested that the Mayor's suggestion would represent a waste of time. If one Councilmember felt strongly about something that member should have the ability to place an item on an agenda for discussion even if there was no consensus as long as the privilege was not abused.

Mayor Chew agreed if a Councilmember desired to request a future agenda item that should not prevent a Councilmember from placing an item on a future agenda for discussion whether it would be brought back as a full blown discussion or not.

Ms. Murphy suggested there were two issues involved; whether one Councilmember may put forth an item as a discussion item with a staff report, or whether a Councilmember may request a future agenda item. Either option was possible and it was up to the Town Council to make that decision.

Mayor Chew did not have a problem with the scenario identified by the Assistant Town Attorney. He expressed concern discussing an item that could be raised during public comment that could not be discussed since the item had not been agendaized.

Councilmember Metcalf suggested a Councilmember had the right to raise an issue and request it as a future agenda item, and if that was not supported by the majority of the Council, that was the risk being taken by the Councilmember who raised the item.

Councilmember Trotter stated he believed a majority vote was not necessary, described the request for a future agenda item as a legislative privilege, and stated in the event a Councilmember felt strongly in raising a particular agenda item that Councilmember should be able to make that request, and place the item on an agenda even if there was no support from the remainder of the Council. He noted that approach had been followed in the past and pointed out during his tenure on the Council that there had not been one future agenda item he had requested that had not reached some consensus for discussion. He emphasized the importance of having the ability for that approach.

Councilmember Metcalf agreed with Councilmember Trotter.

Mayor Chew agreed that a Councilmember should have the right to place an item on the agenda for future discussion to determine whether to bring the item back as a complete agenda item.

Ms. Keimach understood that Councilmember Trotter's approach was different in that he recommended a complete item for discussion, while the Mayor recommended that the item be brought back for a Council discussion to determine whether to have a complete discussion on the item. She commented that she had received requests from the Council on one agenda item or another in the past and had sometimes declined given the limited staff resources and since some requests could not always be accommodated. As an example, the Mayor had made a prior request to consider a bullet proof dais at 331 Rheem Boulevard, and while she could have prepared a cost estimate and placed the item on the agenda, that took resources, and in that case there was no Council consensus to consider the item as a future agenda item.

Councilmember Metcalf understood that it was the Town Manager's job to manage the Town Council. He recognized that the Town Manager would be aware of the staff effort needed to mount a potential agenda item and the Town Manager could have a dialogue with the Town Council to inform the Council whether or not an item was feasible.

Ms. Murphy advised that the Town Council may ask the Town Manager to agendaize an item for a future agenda, and if the item involves excessive staff time, the staff report could reflect either tabling or adjusting the item.

Mayor Chew again clarified his intent that a future agenda item be brought back to the Town Council as a discussion item and not require staff resources or the preparation of a staff report. At that time and during the discussion, the Town Manager may inform the Town Council whether or not the issue was viable and whether the Council should proceed further.

Councilmember Metcalf reiterated that the Town Manager was well positioned to assess whether something would be a major or minor effort. A brief staff report could be prepared for an item where the Town Council could decide during the discussion whether or not to proceed. He suggested that the Mayor's recommended approach would involve an extra unneeded step.

Vice Mayor Wykle supported Councilmember Trotter's recommendation and a hybrid approach with language that if a Councilmember failed to meet the deadline requesting a future agenda item, at least one week in advance of the meeting, that Councilmember may make the request under the Request for Future Agenda Item section of the agenda for inclusion at the next regularly scheduled Town Council meeting, as reflected in the staff report.

Councilmember Trotter recommended that language be drafted to implement the hybrid approach the Vice Mayor had referenced. He also expressed concern with the last sentence of the last paragraph on Page 2 of the staff report, which had not addressed the point of having a single Councilmember the ability to place on item on a future agenda without necessarily having to obtain a consensus of the Council. He suggested that approach should be allowed as long as the privilege was not abused.

Ms. Keimach expressed concern with such an approach where one Councilmember may use staff time and direct staff to place an item on the agenda, which was different from what the Vice Mayor had recommended to reach a consensus, which was the current process. If 20 percent of the Council had the right to add an agenda item that could be difficult for staff. While it may not be an issue for the current Council, it could pose a problem for future Councils.

Mayor Chew reiterated his recommendation to place an item on a future agenda since it allowed a discussion of whether the item should be placed on a future agenda, and before any resources were expended by staff. He disagreed with Councilmember Trotter's approach.

Councilmember Metcalf commented that he liked the language proposed on Pages 2 and 3 of the staff report, which allowed staff the opportunity to inform the Council and advise what would be required to accommodate a requested agenda item. If staff were to advise the item could not be addressed easily, he could not imagine why a Council would not reach a consensus that would not be supportive of staff.

PUBLIC COMMENTS OPENED

Mary Kate Ivanetich understood that the public may request future agenda items by contacting Town staff via telephone pursuant to the language under the Public Comments and Suggestions portion of the Town Council meeting agenda.

PUBLIC COMMENTS CLOSED

Councilmember Metcalf commented that when he had read the staff report, he had no concerns with the language contained on Pages 2 and 3. He asked Councilmember Trotter what his issues were with that language.

Councilmember Trotter referenced Attachment A, Resolution 35-2012 Establishing the Rules of Proceedings of Conduct of Council Meetings, Section II. Rules for Conduct of Meetings, 2.10, Council Requests for Future Agenda Items, and suggested that rule and procedure had worked well for years irrespective of the language in the staff report. He reiterated his opinion that a single Councilmember should have the ability to place an item on a future agenda without having to obtain a Council consensus. Absent that ability, he found it to be a flaw in what the staff report had proposed. Not speaking from a personal standpoint, he understood there would be times when a Councilmember would like to bring up an item and have a dialogue with the public, which would not be permitted under the language outlined in the staff report.

Councilmember Arth suggested if a Councilmember requested the placement of an item on a future agenda, it would not require staff research in that only a summary or brief discussion of the item would be acceptable and the Town Council may, during the discussion of the item, request additional information. As a result, he did not see that any changes to the current process were required.

Ms. Keimach recognized that the current Rules for Conduct of Meetings, specifically Section 2.10, had been used for some time. She commented that staff and the Town Council was reacting to strong language that had been spelled out and did not allow the flexibility to conduct the normal practice. Currently, Councilmembers may contact her or the Mayor, request an agenda item, and it was placed on the agenda even without the formal process. As an example, the presentation from Mr. Engelmann had been at the request of a Councilmember and had not required the consensus of the entire Council as to whether to agendaize the presentation. The current process worked 90 percent of the time. At this time, she agreed with Councilmembers Arth and Trotter and agreed it might be better not to have the process be so prescriptive where the Town Council was dealing with the details of the language as opposed to working together to make the process work. She reiterated that a Councilmember may contact her by e-mail or by telephone to request an agenda item allowing the Council the ability to discuss it.

Mayor Chew understood based on the discussion that no changes would be made to the current procedure, with the exception of a single Councilmember desirous to discuss an item,

which could be bulleted for the next meeting with a more detailed discussion at a future meeting. He reiterated his recommendation for a future agenda item to be placed on a future agenda for Council discussion that did not require the preparation of a complete staff report.

Vice Mayor Wykle expressed concern the Council had come close to violating the Brown Act by discussing an item not on the agenda.

Ms. Murphy understood the intent was to follow the current process and if there was a need for a greater discussion it could be bulleted for a later discussion.

Vice Mayor Wykle suggested if the Council discussed a future agenda item and was close to violating the Brown Act, the Council should seek guidance from the Town Attorney and list the item as a future agenda item to allow discussion.

Councilmember Trotter offered a motion for the Town Council to make no changes to the current Town Council Rules and Procedures and that the Town Council continue to operate pursuant to Section 2.10.

Councilmember Arth seconded the motion.

Councilmember Metcalf was not convinced there was a problem in that by and large the Town Council had been able to appropriately discuss issues.

On the motion, and in response to the Vice Mayor, Ms. Murphy was not certain there had been potential Brown Act violations, although she had the sense Councilmembers wanted to jump into a conversation on issues in the past, but could not. She was confident the Town Council would be careful and be made aware of any potential Brown Act violations.

Vice Mayor Wykle supported the motion, as stated, with the Town Manager and the Town Attorney policing the Town Council as had been done in the past.

Further discussing the motion, Ms. Keimach understood the intent was to leave the language as is in Attachment A, Resolution 35-2012 Establishing the Rules of Proceedings of Conduct of Council Meetings, Section II. Rules for Conduct of Meetings, 2.10, Council Requests for Future Agenda Items, but noted the Town Council may call her or the Mayor and request any future agenda item to be placed under Council Requests for Future Agenda Items, to allow a discussion. The same process could be followed if an issue arose during a Council meeting, with staff to police the Town Council as had been done in the past.

Ms. Murphy described the motion as following the current process with a little more flexibility.

ACTION: It was M/S (Trotter/Arth) for the Town Council to make no changes to the current Town Council Rules and Procedures and that the Town Council continue to operate pursuant to Attachment A, Resolution 35-2012 Establishing the Rules of Proceedings of Conduct of Council Meetings, Section II. Rules for Conduct of Meetings, 2.10, Council Requests for Future Agenda Items. Vote: 5-0.

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Councilmember Metcalf referenced the request during public comment for Council support of a resolution to reform the commercial side of Proposition 13, and asked that the resolution be agendaized as a future agenda item to allow for Council discussion. He did not want to see the item show up on the Consent Agenda.

Mayor Chew recommended that the item be bulleted for the next agenda to allow a Council discussion as to whether any staff resources should be expended on the item. When asked by the Town Manager, he noted that he did not intend for staff to prepare a staff report, simply that the item be brought back to allow a discussion of whether or not to consider the resolution.

Ms. Murphy understood the intent was that the item be brought back under Discussion Items. There was no Council consensus for staff to prepare a complete staff report on the item to be brought back as a future agenda item.

Ms. Murphy stated at this point the item would not be brought back as a future agenda item.

Councilmember Arth reiterated a prior request for a future agenda item to include reconciliation of the Town's ordinances to the Wine Growing Industry, which item had yet to be agendized.

Ms. Keimach advised that staff had agreed to work on the item although staff had been swamped with work. She expressed the willingness to bring back a status report on the issue to allow the Town Council the opportunity to weigh in as opposed to waiting for an extensive staff report.

Ms. Clark stated the issue of zoning regulations for boutique wineries had been something that Mr. Noble, Planning Consultant, had been asked to work on.

Councilmember Arth clarified that while the Town had a definition for Home Based businesses in the current Town ordinance, wineries did not fall into that category, and must be addressed through either an amendment to the ordinance or some other process.

Ms. Murphy stated that the matter was an item that staff was working on, separate and apart from the Council Requests for Future Agenda Items process, and the item would be moving forward.

XIII. COMMUNICATIONS

There were no communications.

XIV. ADJOURNMENT

ACTION: It was M/S (Wykle/Trotter) to adjourn the meeting at 10:31 P.M. Vote: 5-0.

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Ken Chew, Mayor

