

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**October 22, 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 **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

Vice Mayor Wykle led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

There were no special announcements.

IV. PROCLAMATIONS AND PRESENTATIONS

A. Proclamation Honoring the Saint Mary's College Rugby Team

Cooper Maloney, Captain, Saint Mary's College (SMC) Gaels Men's Rugby Team, commended the efforts of the team, was pleased the team had been able to finish the season on top, and expressed his appreciation for the opportunity to represent SMC and the Town of Moraga.

Rebecca Harper, Assistant Athletic Director for SMC Campus Recreation, thanked the Town Council for the recognition, commended the team on its success, and emphasized that the team had a lot to look forward to.

Mayor Chew read into the record a proclamation honoring the SMC Gaels Men's Rugby Team, identified the members and coaches, and recognized the contributions to the success of the 2014 SMC Gaels Men's Rugby Team.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

The Town Council congratulated the SMC Gaels Men's Rugby Team for its successful 2014 season.

B. Proclamation Declaring November as California Safe Digging Month

Tom Guarino, East Bay Public Affairs Manager, PG&E, reported that PG&E was conducting a campaign for the 811 "Call Before You Dig" Program; his territory was Alameda and Contra Costa counties and the Town of Moraga had been the first to adopt a proclamation in support of the project. He reported that there had been numerous situations in both counties when PG&E had not been contacted prior to digging and incidents had occurred; and in the past year, the Town of Moraga had a dozen incidents that he characterized as minor.

Mayor Chew read the proclamation into the record declaring November as California Safe Digging Month and encouraged all excavators, homeowners, and professional contractors to call 811 in advance of all digging projects. He presented the proclamation to Mr. Guarino.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

V. PUBLIC COMMENTS AND SUGGESTIONS

Elijah Watson, the former Nonprofit Program Manager for the Reuse Program, Moraga, explained that she had worked for the East Bay Depot to collect and sort items for reuse to be distributed to nonprofit agencies and charitable organizations. She reported the East Bay Depot was non-compliant with the contract and nothing was being delivered at the current time. She explained her attempts to address the situation. She asked that the Town Council contact Pacific Rim Warehouse and speak with the staff to learn about this situation. She acknowledged the Mayor's recommendation that she continue to work with the CCCSWA.

Mayor Chew noted the Council could not discuss the item as it had not been agendaized. He encouraged Ms. Watson to speak with the Town Manager to address her concerns.

Councilmember Trotter, speaking as a member of the CCCSWA Board, asked Ms. Watson to contact him via e-mail through the Town's website.

Richard Watson, Moraga, reported that he too had volunteered his time and personal vehicle to support Ms. Watson's efforts and was familiar with some of the families who benefited from those efforts. He expressed concern with the lack of support Ms. Watson had received from the Depot and noted a good program could fail due to a lack of support.

Michelle Marek, Moraga, stated she had also done volunteer work with Ms. Watson and had seen those she benefited. She too spoke to the lack of support for the delivery program of reuse items and emphasized the importance of Ms. Watson's work in the community.

Edy Schwartz, Moraga, clarified in response to inquiries she had received about the status of the Rheem Theatre that the theatre managers would remain; she understood the building was for sale although that was separate from the theatre management. She reported that the California Independent Film Festival (CAIFF) had been scheduled for September 10-13, 2015, and that the operators planned a Live Jazz Series on the third Saturday of each month starting November 15, 2014. She also reported that during the month of October, Chevron and Safeway were partnering on an effort to support public school classroom projects in Alameda

and Contra Costa counties through donorschoose.org. She noted this effort was a good example of retail working together.

VI. ADOPTION OF THE CONSENT AGENDA

A. Approval of Consent Items

No Consent Items were removed from the Consent Agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

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

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| 1) | Accounts Payable Claims for: 10/2/14 (\$177,699.04) | Approved |
| 2) | Approve Minutes for the Town Council Regular Meeting on September 10, 2014 | Approved |
| 3) | Consider Approving by Motion to Waive Required Encroachment Permit fee of \$792 for Temporary Street Storage of Dumpsters Adjacent to Joaquin Moraga Intermediate School and at the Road End of the Intersection of Moraga Way/ Moraga Road for Pruning of Pear Orchards due to Fire Blight Disease | Approved |

B. Consideration of Consent Items Removed for Discussion

No items were removed from the Consent Agenda for discussion.

VII. ADOPTION OF MEETING AGENDA

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

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

A. Mayor's and Councilmembers' Reports

Mayor Chew – Reported that he had attended and offered opening remarks at the Town's 40th Anniversary Dinner at the Soda Center at SMC on October 18; and had visited Carr Ranch to discuss the proposed annexation of a portion of the property on October 20.

Vice Mayor Wykle – Reported that he had attended the 40th Anniversary Dinner at the SMC Soda Center on October 18.

Councilmember Arth – Reported that he had attended the 40th Anniversary Dinner at the SMC Soda Center on October 18; met with Jerry Loving on October 20 to discuss his vision for the development of property at Park Avenue adjacent to the Rheem Theatre; and met with representatives from Carr Ranch regarding the proposed annexation of a portion of the property on October 20.

Councilmember Metcalf – Reported that he had attended the 40th Anniversary Dinner at the SMC Soda Center on October 18; a Moraga Citizen Corps Council (MCCC) meeting with a discussion on the Great California Shake Out on October 16 and emphasized the need to elevate the priority of the event; and sadly reported that Bill McCammon, the Executive Director of the East Bay Regional Communications System Authority (EBRCSA), had recently passed away, noting he would attend the memorial services. The EBRCSA Board planned to meet soon to discuss Mr. McCammon's replacement.

Councilmember Trotter – Reported that he had attended a CCCSWA Finance Committee meeting on October 13; and had attended and had spoken at the 40th Anniversary Dinner at the SMC Soda Center on October 18.

- B. **Town Manager Update** – Town Manager Jill Keimach reported that the Emergency Operations Center (EOC) Training had been held on October 16. She also reported that the Town had experienced a Ransomware virus in its computer system; staff had identified the virus and the Information Technology (IT) Consultant had been recovering files through back-ups.

Ms. Keimach also reported that the Moraga Police Department was now fully staffed, with the addition of new officer Edwin Navas with a welcome ceremony planned for Officer Navas. Additionally, since the actual date of the Town's incorporation was November 12, rather than the regularly scheduled Town Council meeting, staff planned to hold a Town celebration at the Soda Center at SMC with invitations to be provided through the About Town subscription list. The next Town Council meeting would be scheduled for Tuesday, November 18. Responding to Council, she clarified that the Town's computer system did have anti-virus software although the Ransomware virus was a new one with no anti-virus program in place to address it.

IX. DISCUSSION ITEMS

- A. **Status Update of Several PG&E Projects in Moraga and response to Citizen's Concern Regarding Electromagnetic Fields (EMFs) around Transmission Lines**

Vice Mayor Wykle reported that his company had a Master Services Agreement with PG&E and he recused himself from the discussion. He stepped down from the dais at that time.

Assistant Town Attorney Karen Murphy stated that although no action was being taken on the item as the presentation was a status report only, there could be discussion of direction to Town staff. As a result, it would be appropriate for the Vice Mayor to step down from the dais.

Ms. Keimach advised that the item was in response to a citizen concern with the PG&E projects in Moraga as related to Electromagnetic Field (EMF) impacts around transmission lines. PG&E had been asked to make a presentation to the Town Council on the status of its projects and to address the EMF concerns.

Tom Guarino, East Bay Public Affairs Manager, PG&E, acknowledged that PG&E had received comments and concerns from the public about some of its projects. He described in detail PG&E's \$40 million project to re-conduct its 230KB Line which started in the City of Antioch and ended in the Town of Moraga. A total of 27 miles of transmission towers would be modified; some of the lines were sagging and out of compliance and would be raised approximately 15 feet; PG&E was in the process of working with Town staff to obtain the necessary permits; and the work in Moraga would not occur until the third or fourth quarter of 2015.

Mr. Guarino acknowledged that PG&E's Pipeline Pathway Program had generated a great deal of controversy. The Project involved the removal of vegetation and structures over high pressure gas transmission lines. PG&E had reached an agreement with the Public Managers Association (PMA) of Contra Costa County and was in the process of re-evaluating the data. He stated that PG&E had recently allocated a \$2 million grant for fire safety and the Diablo Fire Safety Council had been provided a \$250,000 grant. He invited the Town to work with PG&E on the potential grant opportunities and stated that PG&E would continue to work with the Town on community and neighborhood events.

Michael Herz, EMF Program Manager, PG&E, identified the definition of EMFs and the background of whether EMFs caused any harm to humans, and while there was a great deal of ongoing research, there had been no conclusions regarding potential harmful events nor any limits or setbacks in the United States, California or in local counties. PG&E had policies in place to address customer concerns with EMFs and had educated its customers on that issue; including an insert in customer billing statements; availability of an EMF research package; and the ability of magnetic field measurements to be conducted at a customer's residence. PG&E also supported independent EMF research; was allowed to take steps to reduce EMFs when it built or upgraded its lines through the design process; and when projects were close to schools or residences, PG&E raised the lines by installing taller structures. He stated that PG&E's EMF policy was available online through PG&E's website. He added in some cases the height of the towers would be raised and the EMF level would be reduced since the wires would be farther from ground level.

PUBLIC COMMENTS OPENED

William Dick, Moraga, reported that he had raised concerns with EMF impacts and had brought the matter to the Council's attention based on an article in the Contra Costa Times from October 2013, which article had been provided to the Town. He understood that PG&E's project would double the average EMF with maximum impacts during the summer. He asked whether the ratepayers would pay for the referenced \$40 million PG&E project, and provided a number of articles related to the effects of EMF exposure to children, which effects were unclear. He commented that customers had complained about the use of Smart Meters, suggesting that PG&E had not done enough research on the potential health effects to humans as a result of its projects. He pointed out the importance of bringing the PG&E project to the Council's attention.

Edy Schwartz expressed concerns due to the potential impacts of EMF exposure through the use of cell phones. She had researched the issue and found there were ways for a small town, at little cost, to measure EMFs from PG&E poles and determine the distance from the towers to people, which would allow people to gather their own information and have a better understanding of the issue.

PUBLIC COMMENTS CLOSED

Responding to Council, Mr. Herz explained that PG&E obtained easements for its lines based on different factors. Each line was different; most easements did not allow the construction of permanent structures or anything flammable underneath the lines; and in terms of distance from

the lines from other structures PG&E's policy varied; with PG&E obtaining an easement specifically necessary for the facilities to be installed; and with cost and safety factors taken into account. He acknowledged that structures could be built up to the actual easement.

Mr. Guarino agreed to follow up and provide accurate information to the Town in response to concerns with PG&E's policies regarding distance of the lines. Responding to concerns with the improvements needed to address growth, he stated they were speaking of growth in the next 20 to 30 years.

Ms. Keimach advised that staff had discussed scheduling a future presentation from PG&E when there was more information on the PG&E Pipeline Project to allow a discussion of the potential impacts to Moraga. She affirmed that the City Managers Association (CMA) had agreed to a model agreement, a Memorandum of Understanding (MOU) with PG&E, but had delayed bringing the MOU to the respective city/town councils pending the receipt of further information on the project. She suggested that PG&E's contact information could be posted in the About Town newsletter to allow residents the opportunity to contact PG&E directly.

Mr. Guarino reiterated that PG&E provided on-site EMF measurements to its customers and urged customers to use those services.

Vice Mayor Wykle returned to the dais at this time.

X. PUBLIC HEARINGS

There were no public hearings.

XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

A. ADA Pathway at Commons Park

Consider Resolution 80-2014 Establishing a Capital Improvement Project for an Americans with Disabilities Act (ADA) Accessible Pathway at the Commons Park and Authorizing the Town Manager to Enter into a Contract for a Not-to-Exceed Amount of \$18,000 for Schematic Plans Funded in Part by Budgeted Funds and Appropriating \$16,000 in New Funding from Fund 100 – Palos Colorados Developer Fees and Provide Direction to Staff

Parks and Recreation Director Jay Ingram presented the staff report for consideration of a resolution to establish a Capital Improvement Project (CIP) for an ADA accessible pathway at the Commons Park, and authorize the Town Manager to enter into a contract for a not-to-exceed amount of \$18,000 for schematic plans funded in part by budgeted funds and appropriating \$16,000 in new funding from Fund 100 – Palos Colorados Developer Fees. He recommended that the Town Council approve the proposed resolution of approval.

Responding to Council, Mr. Ingram clarified that the \$18,000 in funds would not include \$1,500 already expended by the Town for a topographic survey of the project. He reiterated that volunteer assistance for construction could be explored as an option through local service organizations, although no funding source from local service organizations had been identified.

PUBLIC COMMENTS OPENED

Graig Crossley, Moraga, thanked the Parks and Recreation Director for his efforts, suggested the cost of the original project could be anywhere from \$1,000 to \$2,500 maximum, noting the project could be built by volunteer labor. He expressed concern with the cost estimate outlined in the staff report and emphasized that the project he had proposed

should not cost that much. He suggested the Town had regulated itself into fiscal irresponsibility and while he could support Option 2 with a decomposed granite pathway, he could not support the staff recommendation to spend up to \$18,000, and he clarified the original sketch as compared to Option 2. He acknowledged the pathway would be easier in terms of mobility if concrete or asphalt material was used, although he suggested that decomposed granite would be appropriate and be more cost effective. He supported the option with the pathway on the left side of the trees since it would leave the main portion of the grass whole with less visual impact on the hill.

Bob Reynolds, Moraga, spoke to his involvement with the Parks and Recreation Department over the years, particularly on three to four different construction projects at Commons Park, which had been privately funded. While he shared the concerns with the required permitting process, he encouraged an option to allow mobility impaired people the opportunity of enjoying the activities at Commons Park.

Larry Beans, Moraga, expressed his willingness to serve as a volunteer to construct the path, and to discuss the possibility of a group that builds trails to also become involved in the hopes of reducing the project costs.

PUBLIC COMMENTS CLOSED

Responding to Council, Mr. Ingram advised that the Park and Recreation Commission had not raised concerns with the project cost. He reiterated the staff recommendation, explained that the \$18,000 was for schematic plans and did not include the cost for construction drawings, and noted that at this level his conversations with the landscape architect had been minimal in terms of California Environmental Quality Act (CEQA) requirements.

Ms. Murphy advised that staff would have to research whether minor improvements to the park would raise to the level of requiring a Mitigated Negative Declaration (MND).

Ms. Keimach also advised that if the project was developed entirely with volunteers and was not permitted, there could be some design questions if someone were to be injured on the pathway in the future. She described the Municipal Polling Authority (MPA) where all cities in the County pooled funds for a liability and insurance broker who advised cities on how to reduce liabilities. One method to reduce liability was through design immunity whereby if something was done that was not normal, or a standard design, the Town Council would have to give authority to approve such a project to provide the Town with design immunity. The County would also have to ensure the project met engineering standards to ensure the safety of all users.

Ms. Murphy clarified that the Town was not legally required to install the pathway. If the pathway was installed it must comply with all applicable standards.

Vice Mayor Wykle commented that if the project was done correctly, it would likely cost far more than \$18,000, and could be ultimately closer to \$100,000.

Councilmember Arth liked Option 2 and clarified with staff that the \$18,000 in funds would have to be spent to design the schematics for the pathway even if it was installed by volunteers.

Councilmember Trotter stated that as someone who periodically defends ADA cases, he was aware there could be a liability if the pathway was not designed appropriately to ADA standards, which could cost more money.

Councilmember Metcalf also expressed concern whether a full Environmental Impact Report (EIR) would be required for this project along with the potential liability to the Town if the

pathway was not ADA compliant. He wanted to see the design and environmental analysis done properly to ensure that the project was defensible, was confident the project could be realized through volunteer work, and if well designed it was likely there would be a significant volunteer effort. He asked whether there were any grant opportunities that could be utilized to fund the project.

Mayor Chew agreed that funding through grant opportunities made sense.

Mr. Ingram reiterated that as detailed in the staff report, \$18,000 was for Phase One, the final schematic plans.

Councilmember Trotter clarified with Mr. Crossley the intent for the project to be built prior to the next concert series. He suggested that decomposed granite would be difficult to maintain and asked staff to prepare a plan that would use asphalt or concrete.

Councilmember Metcalf suggested that professionals, not staff, should determine how the path would be built, since the professionals could provide alternatives that would allow the Town Council to make an informed decision.

Mr. Ingram reported that the landscape architects he had worked with would likely recommend the use of asphalt or concrete as opposed to decomposed granite for the reasons detailed in the staff report. If the Town Council approved the agenda item, as presented, the schematic plans could take one to two months or longer to prepare given the upcoming holiday period. Given other recreation projects and other Parks and Recreation Department events in the Town, meeting the goal of a completed pathway by May 1, 2015 could prove to be difficult.

Councilmember Trotter made a motion to adopt the resolution, as submitted. He seconded the motion but asked that the reference to "final schematic" plans eliminate the word "final."

On the discussion, Ms. Murphy recommended that the operative provision shown on Page 2, and in the title of the resolution, be revised to reflect that the Town Council was approving a request for funds not to exceed \$18,000 for schematic plans for Option 2, as recommended by the Park and Recreation Commission.

ACTION: It was M/S (Trotter/Metcalf) to adopt Resolution 80-2014, Establishing a Capital Improvement Project for an Americans with Disabilities Act (ADA) Accessible Pathway at the Commons Park and Authorizing the Town Manager to Enter into a Contract with a Not-to-Exceed Amount of \$18,000 for Schematic Plans for Option 2 Funded in Part by Budgeted Funds and Appropriating \$16,000 in New Funding from Fund 100 – Palos Colorados Developer Fees and Provide Direction to Staff, as amended. Vote: 5-0.

B. Draft Climate Action Plan

Review the Town of Moraga Draft Climate Action Plan and Consider Resolution ___-2014 Authorizing Staff to Submit the Draft Climate Action Plan to the Bay Area Air Quality Management District for Review and Comment

Associate Planner Ella Samonsky presented the staff report for the review of the Town of Moraga Climate Action Plan (CAP) and consideration of a resolution authorizing staff to submit the draft CAP to the Bay Area Air Quality Management District (BAAQMD) for review and comment. She provided an extensive overview of the draft CAP and reported that the Planning Commission had reviewed the draft CAP on August 18 and September 18, 2014. The Commission had reached consensus to forward the draft CAP to the Town Council with the recommendation not to forward it to the BAAQMD or adopt it without a better assessment of the benefits of the CEQA streaming process, completion of a cost benefit analysis of the strategies,

prioritization of the strategies based on relative efficacies or efficiencies, cost, feasibility, chance of success, discussion of implementation and enforcement of the measures, and a discussion of whether there should be additional community outreach.

Ms. Samonsky advised that the draft CAP had not undergone CEQA review and could not be adopted at this time. The Town Council had been provided with five alternative actions for consideration as detailed in the staff report. She recommended that the Town Council review and accept the draft CAP and direct staff to review the CAP annually and provide a recommendation to the Town Council on which of its strategies to implement as part of the annual work plan and budget review. By accepting and not adopting the draft CAP, the Town would have the flexibility to adopt and implement strategies individually, which over time would meet the desired greenhouse gas emissions (GHGs) reduction target. That approach would allow the Town to prioritize strategies and plan implementation based on available staff and resources, completing necessary CEQA review only on the strategies it chose to accept.

Responding to Council, Ms. Samonsky explained that the BAAQMD set the threshold for significant impacts under CEQA for GHGs. If impacts were considered to be significant, further CEQA analysis or a full EIR may be required. Any project that complied or was consistent with a CAP certified by BAAQMD would be considered not to have an impact on GHGs. The CAP therefore could be used as a tier-able document for environmental review, which would streamline the process since the GHG analysis had essentially already been done.

PUBLIC COMMENTS OPENED

Christine Kuckuk, Planning Commission Chair, summarized the Commission's discussion of the draft CAP. She stated the staff report had been thorough and accurate, with approved minutes of the Planning Commission meetings when those discussions had occurred on August 18 and September 18, and there had been no Commission consensus to forward the draft CAP to the BAAQMD. The Commission had made the following recommendations: a better assessment of the benefits of the CEQA streaming process; completion of a cost benefit analysis of the strategies; prioritization of the strategies based on relative efficacies or efficiencies; cost; feasibility and chance of success; discussion of implementation and enforcement of the measures; and a discussion of whether there should be additional community outreach.

Ms. Kuckuk explained that the Planning Commission had not been familiar with the charter for the original CAP Task Force. She recognized there had been a number of extensive community meetings on the draft CAP, although there had been concerns raised by members of the public as to the lack of a consensus in the community, leading to the recommendation for additional community outreach.

Graig Crossley, former Chair of the CAP Task Force, commented that the CAP Task Force had submitted recommendations to the Town Council for consideration and had been sunsetted immediately thereafter. There had been no expectation that the Town Council would have accepted all of the recommended strategies from the CAP Task Force. He supported the Planning Commission's recommendation not to send the draft CAP on to the BAAQMD and suggested the value the Town would receive from the BAAQMD's involvement was not worth the small benefit that would be realized by streamlining the process for developers. He emphasized that the CAP was not a state requirement and was voluntary.

Larry Beans, Moraga, also a former member of the CAP Task Force, supported Mr. Crossley's comments.

Karen Pedrazza, Contra Costa County Climate Leaders, asked that the draft CAP be forwarded to the BAAQMD to allow the Town to receive recommendations on strategies that had already been researched and implemented in other cities, which would benefit Moraga. She asked that the CAP include a more robust consideration of transportation in terms of divestment, Property Assessment Clean Energy (PACE) financing, and a combination of land use policies with a system of fair transit options. The draft CAP should also include a resolution asking the California Public Employees Retirement System (CalPERS) to immediately cease any new investments in fossil fuel companies. In addition, the draft CAP should include a PACE resolution, which was under consideration by many other communities, with written materials and fact sheets available to interested persons

Lynda Deschambault, Executive Director, Contra Costa County Climate Leaders, Moraga, spoke to her over 36-year experience as an environmental scientist, having recently received the Contra Costa County Sustainable County Award. She referenced the extensive history of the Town's effort for a CAP over the last several years which had led to the creation of the CAP Task Force. She also identified the number of grants the Town had received in an effort to create a CAP. Over the last ten years, the other nine counties in the Bay Area had moved from CAPs into General Plan Updates, resiliency plans, and adaptation plans, and the Town of Moraga was fifteen years behind other communities.

Ms. Deschambault asked that the Town Council use its political discretion to move the draft CAP forward. She suggested the CAP would not cost \$40,000 in that Quantum Energy Services and Technologies, Inc. (QuEST) was willing to complete the CAP with any additions. She again asked that the draft CAP be forwarded to the BAAQMD for input and explained that the consultants and the Contra Costa County Climate Leaders could provide assistance. She asked that the draft CAP also include not only a General Plan Element but a voluntary assessment of houses at the time of sale. She pointed out the Town had already expended \$60,000 on the effort based on her estimates, not including staff time

Responding to Council, Ms. Deschambault advised that PG&E and QuEST provided Contra Costa County Climate Leaders with funding. She noted that there were 19 cities in the Bay Area which had a CAP, and she would be happy to work with the Town to refine the plan.

Ms. Keimach clarified that the funds identified for the preparation of a CAP had been expended.

Ms. Deschambault reiterated her opinion that the draft CAP would not cost another \$40,000 but could cost up to \$60,000 if sent back to the Planning Commission. She suggested if it was a matter of cost, she would not conduct the CEQA review. She urged the completion of the draft CAP which she felt was old and already outdated.

Ms. Keimach understood that the \$40,000 included CEQA review. She noted one of the options under consideration was to send the document to the BAAQMD for comment before the CEQA review. If there were CAP sections the BAAQMD wanted the Town to strengthen, they could be brought back to the Town Council for review. The staff recommendation was for the Town Council to accept the plan and use it without BAAQMD review and certification. She reiterated the available options, as detailed on Page 5 of the staff report.

Ms. Clark explained that in order for the document to be an enforceable policy document, it would have to go through the CEQA process. Acceptance of the document would make it an advisory document only. As part of the staff recommendation, staff would be required to look at some of the CAP strategies annually as part of the annual work program, and determine whether any of the strategies should be pursued in the upcoming fiscal year. The CAP would also be used in review of development projects and would allow the Town the ability to evaluate conformance and conclude that if a project did conform, it would have lesser GHG impacts.

PUBLIC COMMENTS CLOSED

Councilmember Arth recommended that the draft CAP be forwarded to the BAAQMD for review and comment, which would allow the Town to have a better document that could then be accepted, with staff directed to review it annually.

Vice Mayor Wykle commended the efforts of the CAP Task Force, and acknowledged the plan was not yet ready to move forward to the BAAQMD. He agreed with the recommendations from the Planning Commission, particularly the need for a cost benefit analysis.

Ms. Samonsky clarified that the \$40,000 figure had come from estimates from two consultant groups based on the work done to date. The figure was not exact given the difficulty in estimating the level of effort for costs and benefit analysis.

Mayor Chew recommended that the Town Council accept the draft CAP and direct staff to work with Contra Costa County Climate Leaders and QuEST on funding opportunities. He did not want to see the document placed on the shelf given the effort expended thus far.

Councilmember Metcalf highlighted what had been identified as the most important strategy on Page 13 of the draft CAP, LU&T.5, work with the Contra Costa Transportation Authority (CCTA) to implement a carpool/rideshare program, noting that the Town was already participating with the CCTA on such a program. He found that the Town was already doing or expected to do many of the strategies that had been listed and he did not see that the Town needed the BAAQMD to tell it what it should do when the Town was already doing it. He did not want to forward the draft CAP to the BAAQMD, was uncertain why the document was not acceptable to Contra Costa County Climate Leaders, and suggested the draft CAP could be used as a guideline. He did not want to spend more money on the effort, was uncertain where the funds would come from, and recommended that the draft CAP be accepted and not be forwarded to the BAAQMD.

Mayor Chew supported the CCTA's efforts and believed the work on the draft CAP could be done concurrently. He recommended that the Town Council accept the draft CAP, not forward it to the BAAQMD, direct staff to work with Contra Costa County Climate Leaders to identify any potential funding, and work on the recommendations from the Planning Commission.

Vice Mayor Wykle supported the staff recommendation as outlined on Page 9 of the staff report.

ACTION: It was M/S (Trotter/Wykle) to accept the Draft Climate Action Plan as an Advisory Document; direct staff to review the Climate Action Plan annually and provide a recommendation to the Town Council on which of the strategies to implement as part of the Annual Work Plan and Budget Review, and in that connection to consult with Contra Costa County Climate Leaders with respect to potential grant funding opportunities that may assist in implementing specific strategies; and direct staff not to submit the Draft Climate Action Plan to the Bay Area Air Quality Management District (BAAQMD).
Vote: 5-0.

- C. Land Lease with Moraga Country Club
Consider Resolution 81-2014 Establishing the Annual Fair Market Rent of \$63,250 Subject to Annual Consumer Price Index Adjustments for the 60.68 Acres of Land Leased to Moraga Country Club Homeowners Association from the Town of Moraga for the Extended Term of 25 Years Effective April 3, 2015

Administrative Services Director Stephanie Hom presented the staff report and a resolution to establish the annual fair market rent of \$63,250 subject to annual Consumer Price Index (CPI) adjustments for the 60.68 acres of land leased to Moraga Country Club Homeowners' Association (HOA) from the Town of Moraga for the extended term of 25 years effective April 3, 2015. She asked that the Town Council adopt the proposed resolution.

Responding to Council, Ms. Hom advised that the CPI for Urban Consumers, San Francisco-Oakland-San Jose Metropolitan Statistical Area would be used. Staff recommended that the third appraiser's numbers be chosen. She also provided clarification that the role of the Moraga Country Club Lease Ad Hoc Committee was to oversee the process explicitly laid out in the land lease.

PUBLIC COMMENTS OPENED

Andrew Scott, General Manager for the Moraga Country Club, stated that the Town did not have to establish the highest permissible rate, as proposed in the resolution, and could arrive at a lower rate if it saw fit. Moraga Country Club saw this as a procedural matter and not a negotiation. He noted there were 1,121 memberships in Moraga Country Club, and as the membership was represented by the Board, the Board anticipated an approval of this item within the range designated with the understanding that the Town Council had sole discretion in determining the rate in that range.

Ms. Hom explained that the appraiser for AGI Valuations (the Town's first appraisal) had provided an appraisal based on comparables and expertise as did the other two appraisers.

Ms. Keimach added that based on the way the land lease had been structured, each appraiser would select and agree on a third appraiser. Neither the Town nor Moraga Country Club had been involved in the selection of the third appraiser. The third appraiser had also been subject to, and had complied with, a set of required qualifications. Both Cushman & Wakefield and Enright & Company, Inc., had to indicate any conflict of interest and neither raised any potential conflict issues.

Responding to Council, Mr. Scott stated that there were many members of the Moraga Country Club who were of the opinion that the lease would be a windfall for the Town in that the land had been purchased with Country Club money from the beginning. Many members who had been part of the original development of the community had raised concerns as to their understanding that at the end of the initial term, the Country Club would own the property free and clear; however, from a realistic perspective the current Board recognized the confines and legality of the process. He suggested it would be very favorably received if the Town exercised restraint in assigning a value that was anywhere within the range below the top number.

Councilmember Trotter advised that there was nothing in the documents to suggest that when the bank loan was paid off the Moraga Country Club would own the property free and clear. He characterized that suggestion as an urban legend.

Mr. Scott suggested it was a consequence of representations made by club members who were advocates of the acquisition of the property to other club members at the time the deal had been struck, absent the knowledge the deal had been written the way it had.

Dale Walwark, Moraga, commented that approximately ten years ago he had written a summary of the history of the matter. He expressed concern that some members of Moraga Country Club had been misinformed about the situation. At the time he had been a member of the Town Council, there had been discussions by the Moraga Country Club Board to purchase the land

from the Town although the cost of the land had been unrealistic. He suggested the management and Board of Moraga Country Club should keep its members better informed.

Mr. Scott reported that there were 521 homeowner resident members of Moraga Country Club who bore the responsibility of paying the note assumed for the reconstruction of the clubhouse and who would be ultimately responsible.

PUBLIC COMMENTS CLOSED

Councilmember Trotter explained that this type of arbitration/appraiser process was common in long-term leases and that the Town was following a process that had been well laid out. He said that he would have preferred a higher rent although the Town did not have that option. He suggested the rent of \$63,250 was entirely fair rent for the ten holes allowing Moraga Country Club to have an 18 hole golf course. He offered a motion to adopt the staff recommendation.

ACTION: It was M/S (Trotter/Metcalf) to adopt Resolution 81-2014, Establishing the Annual Fair Market Rent of \$63,250 Subject to Annual Consumer Price Index Adjustments for the 60.68 Acres of Land Leased to the Moraga Country Club Homeowners Association from the Town of Moraga for the Extended Term of 25 Years Effective April 3, 2015. Vote: 5-0.

D. Revenue and Expenditure Report

Review and Accept Fiscal Year 2013/14 Year-End Unaudited Revenue and Expenditure Report

Ms. Hom presented the staff report and detailed the Fiscal Year 2013/14 Year-End Revenue and Expenditure Report. She recommended that the Town Council review and accept the Fiscal Year 2013/14 Unaudited Revenue and Expenditure Report covering the period July 1, 2013 through June 30, 2014, and clarified that the numbers were still under review by the Town's auditor and subject to change.

Responding to Council, Ms. Hom identified the prior agenda item for the lease arrangement with the Moraga Country Club and explained that the rental figure the Town Council had just approved was not in the subject report which was from the reporting period July 1, 2013 through June 30, 2014, but would impact the current fiscal year. As part of the mid-year budget review, she would return to the Town Council in January/February 2015 and present the first six months of activity for this fiscal year with the adjustments to the budget at that time. She also identified that the traditional sales tax was charged to purchases within the jurisdiction and the transactions and use taxes were charged to purchases within the Town and used or delivered within the Town and which included the Amazon purchases. She expected that vehicle sales would flatten within the next few years.

Mr. Ingram acknowledged concerns with a reduction in revenues for the Hacienda de las Flores facility, and suggested a reduction in revenue had occurred as a result of a number of different factors including inadequate community center facilities and joint use agreements where the Town was required to pay commercial rates for programs on Moraga School District (MSD) property. He commented that historically the costs for the Hacienda had increased, with the rates comparable to the Brazilian Room, the Hacienda's closest competitor. There had also been a decrease in wedding rentals each year due to costs and the fact a lot of money had not been put into Hacienda improvements. In addition, the Hacienda had experienced the loss of rentals because of the requirement to stop music and events at 9:00 p.m. He noted that the Hacienda Foundation supported a stop time of 10:00 p.m., which was a question that would be brought to the Town Council in the near future.

Mr. Ingram explained that the requirement to stop the music and parties at 9:00 p.m. was not an ordinance requirement but a good neighbor policy. He reported that over the past three to four years, the Town had received one noise complaint. He would not recommend permitting music and partying to extend to 10:00 p.m. absent a community discussion.

Ms. Murphy understood that the issue of when to stop music and partying at the Hacienda would be a future agenda item at which time the Council could have a discussion.

PUBLIC COMMENTS OPENED

Dale Walwark, Moraga, commented that for the past 20 years he had been trying to determine whether the Town was making or losing money by allowing weddings and receptions at the Hacienda. Given the decline in revenues, he questioned whether weddings and receptions should continue to be allowed at the Hacienda and recommended that the Park and Recreation Commission and staff evaluate that activity to determine whether it was a losing proposition for the Town.

Ms. Keimach reported that the Town Council meeting scheduled for November 18 would include two agenda items about the Hacienda; a vision for the Hacienda and a presentation and update from the Hacienda Foundation. Staff's intent was to focus on the Hacienda as a business to see whether it could be profitable.

Councilmember Arth suggested that while weddings might be losing money on paper they were profitable considering variable costs and making a contribution to defray the fixed costs even if those activities were not carrying the entire weight to cover the event.

Mr. Ingram explained that activities such as Oktoberfest and Cinco de Mayo did not generate income although all of the proceeds raised had been used for improvements at the Hacienda.

Councilmember Metcalf pointed out that the proceeds from the community events at the Hacienda barely broke even and had not been profitable for the community.

Mr. Ingram added that the space previously occupied by Town staff at the Hacienda had been used for other programs such as the restaurant and year-round enrichment programs.

Mayor Chew suggested the fact that the Hacienda could not compete with the MSD and other local school districts in terms of rental fees might be something the Joint Ad Hoc Facilities Subcommittee could discuss.

Ms. Keimach added that a report from the Joint Ad Hoc Facilities Subcommittee would be provided on a future agenda.

Mr. Walwark asked that the Town Council stop decreasing the Palos Colorados funds. He understood the Audit and Finance Committee (AFC) was working on a recommendation to isolate those funds and set them aside for maintenance to avoid the deferred maintenance trap. He urged the Town Council to look favorably on such a recommendation.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Trotter) to accept Fiscal Year 2013/14 Year-End Unaudited Revenue and Expenditure Report. Vote: 5-0.

E. Housing Element Redline

Review Redline of Previously-Reviewed Draft 2015-2023 Housing Element Goals, Policies, and Implementation Programs, and Direct Further Changes to the Draft as Needed

Associate Planner Brian Horn presented the staff report with the redline changes to the previously approved Draft 2015-2023 Housing Element Goals, Policies and Implementation Programs. He asked the Town Council to provide input and determine whether further changes to the draft were needed.

Mr. Horn added that staff would hold a conference call with the State Department of Housing and Community Development (HCD) in the next week to discuss the Draft Housing Element. He added that the Housing Element Consultant was in communication with the HCD and staff was unaware of any concerns from HCD at the current time.

Ms. Clark was confident staff would have heard from the Housing Element Consultant if there were any red flags staff should be aware as part of the HCD review. Responding to Council, she added that Section H5. Special Housing Needs, Policy H5.9, Extremely Low-Income Housing Needs, had been included in the Housing Element since the Extremely Low-Income category had specifically been called out in the statute which the Town must address.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

By consensus, the Town Council found that no further action was required on the Housing Element Redline.

F. Board and Commission Members Training

Consider Adoption of Resolution 82-2014 Requiring Town of Moraga Board and Commission Members to Undertake Biennial Training

Ms. Clark presented the staff report for the creation of a policy for all members of Town appointed Commissions and Boards, specifically Planning Commission, Park and Recreation Commission, and the Design Review Board (DRB) to participate in training every two years in an aspect of state law and other areas that provide education to their conduct as appointed Town officials. She asked that the Town Council authorize the Town Manager to appropriate up to \$5,000 from the Town Manager Fiscal Year 2014/15 Contingency Fund for the cost of the training.

Ms. Keimach advised that staff envisioned the training as in-house in addition to options such as sending new Commissioners and Boardmembers to annual League of California Cities *Planning Commission Academy* training.

Ms. Clark noted the \$5,000 would be sufficient to provide in-house training once during the two year period, and might allow additional funds to attend the League of California Cities Conference.

Ms. Keimach stated that the Planning Department had already allocated a line-budget item for conferences which had been used in the past for a few Planning Commissioners.

Ms. Clark added that there were other potential funds for local American Planning Association (APA) conferences that could also be beneficial to Commissioners and Boardmembers. She emphasized that the Department Heads would work with the Town Manager to determine the best use of the limited funds.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

The Town Council recognized the benefits of training to the Town's Commissions/Boards.

ACTION: It was M/S (Arth/Trotter) to adopt Resolution 82-2014 Requiring Town of Moraga Board and Commission Members to Undertake Biennial Training and Authorize the Town Manager to Appropriate Up to \$5,000 from the Town Manager Fiscal Year 2014/15 Contingency Fund for the Cost of Training. Vote: 5-0.

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

There were no Council requests for future agenda items.

XIII. COMMUNICATIONS

There were no communications.

XIV. ADJOURNMENT

ACTION: It was M/S (Wykle/Trotter) to adjourn the meeting at 10:55 P.M. Vote: 5-0.

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Ken Chew, Mayor