

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**February 11, 2015
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 Roger Wykle**.

ROLL CALL

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

Councilmembers absent: None

II. PLEDGE OF ALLEGIANCE

Councilmember Trotter led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

There were no Special Announcements.

IV. PROCLAMATIONS AND PRESENTATIONS

- A.** Presentation on the State of the Moraga Library by Rodger Lum, Library Commissioner for Moraga

Rodger Lum, Moraga Library Commissioner, reported the Moraga Library was in good shape and had new landscaping installed at the front of the building, a result of the generous donation from a member of the community. He provided an update on the Library's annual activities; efforts of the Contra Costa County Library Commission to restore State funding to the County Library System; and the development of a County Strategic Plan 2014 to 2017. He also reported that he had been elected Chair of the Contra Costa County Library Commission for 2015. He emphasized the Commission's goals to continue to advocate for and support an increase in State funding to the Library System; and promote, expand, educate, and support library services and programs for the entire community. He added that the County Library had received a grant to purchase four three-dimensional printers; efforts to support and assist the Friends of the Library groups would continue; and every Library Commissioner was being trained in library technologies, latest laws, regulations, and governing public bodies.

Responding to Council, Mr. Lum explained that the County Library System was very aggressive in soliciting grant opportunities for activities and programs.

The Town Council congratulated Mr. Lum on his selection as Chair of the Contra Costa County Library Commission and thanked him for all his hard work on behalf of the Town of Moraga.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

V. PUBLIC COMMENTS

Jeff Kendall, Moraga, Custom Exteriors, explained that his business installed energy efficient systems. He expressed a desire to speak to the Town Council about the HERO Program and was informed by the Mayor that the item would be discussed as Item E under Ordinances, Resolutions and Requests for Action on the current meeting agenda.

Alex Crook, Moraga, a sophomore at Saint Mary's College (SMC), reported on student efforts in working with the Parks and Recreation Director to create ideas to revitalize the Hacienda. Based on his personal experience with SMC and other college towns, he suggested the Town could become more of a college town through cultural events, festivals, nightlife, a bar, a music store, art gallery, and other possible businesses that could provide jobs for SMC students and embrace the SMC spirit.

Councilmember Trotter and Vice Mayor Metcalf encouraged Mr. Crook to contact the Moraga Chamber of Commerce to share his ideas and to contact Moraga residents Edy Schwartz and Ellen Beans and explained that contact information was available from Town staff.

As the Town Council Liaison to SMC, **Councilmember Onoda** welcomed Mr. Crook to contact her via Town staff.

VI. ADOPTION OF THE CONSENT AGENDA

A. Approval of Consent Items

Consent Items 4 and 7 were removed from the Consent Agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Arth/Trotter) to adopt Consent Agenda Items 1, 2, 3, 5, 6, 8 and 9. Vote: 5-0.

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|----|---|----------|
| 1) | Accounts Payable Claims for: 1/23/15 (\$86,745.28);
1/28/15 (\$50.00); 2/2/15 (\$3,539.02) | Approved |
| 2) | Approve Minutes for the Town Council Special and Regular Meetings on January 14, 2015 | Approved |
| 3) | Review and Accept Town Council and Community Goals and Objectives for 2015 | Approved |

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| 4) | <i>Consider Resolution 14-2015 Authorizing the Town Manager To Execute a Professional Services Agreement with Eisen Letunic in an Amount of \$89,870 plus a 10% Contingency, for a Total Amount Not to Exceed \$98,857, for Preparation of the Moraga Bicycle and Pedestrian Master Plan (MBPP) Update and Wayfinding Plan</i> | <i>Removed</i> |
| 5) | Consider Resolution 10-2015 Setting a Public Hearing Date of March 11, 2015 to Consider Formation of the Moraga Geologic Hazard Abatement District (GHAD) and Directing that Notice be Mailed to all Owners of Real Property Included within the Proposed District | Approved |
| 6) | Consider Resolution 11-2015 Authorizing the Town Manager to Award a Professional Services Contract to Records Systems Associates, Inc. (Danville) in an Amount Not to Exceed \$25,829 for the Design and Implementation of a Records Improvement Program for the Planning Department | Approved |
| 7) | <i>Consider Resolution 15-2015 Authorizing the Town Manager to Award a Construction Contract to R. Robinson's Painting (American Canyon) in the Amount of \$18,200 for the Painting of the 329 Rheem Boulevard Repainting Project (CIP 14-303) and to Execute Contract Change Orders up to 15% of the Contract Amount</i> | <i>Removed</i> |
| 8) | Consider Resolution 12-2015 Authorizing the Town Manager to Award a Construction Contract to Berkeley Cement Inc. (Berkeley) in the Amount of \$27,850 for the Construction of Concrete Sidewalk Along 331 Rheem Boulevard (CIP 08-101) and to Execute Contract Change Orders up to 15% of the Contract Amount | Approved |
| 9) | Consider Resolution 13-2015 Continuing the Existing Rate per Equivalent Runoff Unit (ERU) for FY 2015/16 of \$35 per ERU as the Annual Assessment for Drainage Maintenance and the National Pollutant Discharge Elimination System (NPDES) Program | Approved |

B. Consideration of Consent Items Removed for Discussion

1. Consider Resolution 14-2015 Authorizing the Town Manager To Execute a Professional Services Agreement with Eisen | Letunic in an Amount of \$89,870 plus a 10% Contingency, for a Total Amount Not to Exceed \$98,857, for Preparation of the Moraga Bicycle and Pedestrian Master Plan (MBPP) Update and Wayfinding Plan

Councilmember Trotter expressed concern the item would build proposals for the Livable Moraga Road Project into Eisen | Letunic's scope of work. Per previous Town Council discussions, some aspects of the Livable Moraga Road Project remained uncertain. He sought assurance the Bicycle Pedestrian Plan Update would be able to address the uncertainty of the facilities for pedestrians and bikes along Moraga Road.

Planning Director Ellen Clark advised that the proposed schedule identified three months of background information gathering and an understanding of the conditions to inform the development of the MBPP. It was staff's and the consultant's intent to incorporate the Town Council's ultimate recommendations for the Livable Moraga Road Project. Given the schedule, she was hopeful there would be a resolution for the Livable Moraga Road Project in that time.

Vice Mayor Metcalf had not been present when the Town Council had discussed the Livable Moraga Road Project but suggested the Council should proceed with the item given the process for transportation projects through the Metropolitan Transportation Commission (MTC), which required shovel-ready projects that could qualify for grant monies. He questioned the total amount shown as \$98,857 and commented that there had been no information showing that the consultants would provide regular status reports to the Town Council.

Assistant Planner Coleman Frick explained that the consultants for the project had been evaluated based on experience; Eisen | Letunic had a great deal of experience with towns the size of Moraga with similar needs for bicycle and pedestrian safety; and the scope and budget was in line with other plans within the larger East Bay communities. In terms of the costs, \$50,000 would be covered by a Transportation Development Act (TDA) Grant and the Town would work with Bike East Bay to save some money as part of the outreach process. In addition, the Town had received a grant from U.C. Berkeley for bicycle assessment which should also provide some cost savings.

Ms. Clark added that the scope of work included the preparation of the MBPP and the Comprehensive Wayfinding Plan. She spoke to the benefits of a wayfinding plan, such as during recent street closures when trees were down, and providing assistance to SMC students and parents visiting Moraga. A wayfinding plan would also identify major landmarks and buildings of significance, was a worthwhile plan to help people find their way around Town, and could also serve as a branding opportunity for the Town. She recommended that updates be presented to the Town Council after the Needs Assessment as shown under Task 3, and the Draft Plan under Task 4.

Councilmember Trotter recommended a modification to Attachment B under Task 3, Needs Analysis to add Task 3.5, Citizens Advisory Committee (CAC) meeting #2, and to Task 4, Draft Plan, to add 4.2 CAC meeting #3: and amend the first sentences of each of those sections to require a joint meeting of the CAC and the Town Council.

In further response to the Council, Mr. Frick clarified that the U.C. Berkeley grant would cover approximately \$6,000 of some of the preliminary analysis and existing conditions portion of the consultant's work, which had been clarified in the scope of work as shown on Page 2. He reiterated that the total amount of the contract was for the MBPP and the wayfinding plan, resulting in efficiencies between the two efforts.

Town Manager Jill Keimach also clarified that both projects had been funded through the Capital Improvement Program (CIP) (Measure J) as adopted by the Town Council. None of the funds for the project would come from Measure K funds.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Councilmember Trotter offered a motion to adopt Resolution 14-2015 Authorizing the Town Manager To Execute a Professional Services Agreement with Eisen | Letunic in an Amount of

\$89,870 plus a 10% Contingency, for a Total Amount Not to Exceed \$98,857, for Preparation of the Moraga Bicycle and Pedestrian Master Plan (MBPP) Update and Wayfinding Plan, subject to Eisen | Letunic agreeing to modify the scope of work so that Task 4.2, CAC meeting #3 would also provide for a joint meeting between the CAC and the Town Council at no additional cost to the Town, and with the additional direction that staff be clear in its communications with Eisen | Letunic with respect to the current uncertain status of the pedestrian and bicycle plan for the Livable Moraga Road Project.

On the motion, Ms. Keimach recommended that the joint meeting of the CAC and the Town Council also include SMC and the Chamber of Commerce given that wayfinding signage had been a top priority for both organizations.

Councilmember Trotter clarified that his motion was to schedule a joint public meeting between the CAC and the Town Council. SMC and the Chamber of Commerce could be invited to attend that meeting.

ACTION: It was M/S (Trotter/Metcalf) to adopt Resolution 14-2015 Authorizing the Town Manager To Execute a Professional Services Agreement with Eisen | Letunic in an Amount of \$89,870 plus a 10% Contingency, for a Total Amount Not to Exceed \$98,857, for Preparation of the Moraga Bicycle and Pedestrian Master Plan (MBPP) Update and Wayfinding Plan, subject to Eisen | Letunic agreeing to modify the scope of work so that Task 4.2, CAC meeting #3 will also provide for a joint meeting between the CAC and the Town Council at no additional cost to the Town, and with the additional direction that staff be clear in its communications with Eisen | Letunic with respect to the current uncertain status of the Pedestrian and Bicycle Plan for the Livable Moraga Road Project. Vote: 5-0.

Ms. Clark expressed her confidence that with the cost savings there would be room in the budget for the consultants to accommodate the Council's direction.

2. Consider Resolution 15-2015 Authorizing the Town Manager to Award a Construction Contract to R. Robinson's Painting (American Canyon) in the Amount of \$18,200 for the Painting of the 329 Rheem Boulevard Repainting Project (CIP 14-303) and to Execute Contract Change Orders up to 15% of the Contract Amount

Vice Mayor Metcalf clarified with the Public Works Director/Town Engineer that the scope of work for the repainting project included the entire exterior of the building located at 329 Rheem Boulevard, with a 25-year warranty for the paint as conveyed by the contractor. He was not confident the paint would have a long life span based on the cost estimate; would like to see a product that would last a very long time; and questioned whether staff had evidence the paint that had been proposed for use would last as advertised.

Public Works Director/Town Engineer Edric Kwan understood the contractor was familiar with the paint product, had provided detailed information to staff on the product, and that the project cost was within the budget identified in the CIP.

PUBLIC COMMENTS OPENED

Ellen Beans, Moraga, commented that she may have used the same product on her own residence. Based on her experience, the preparation had not been adequate, the company had been difficult to work with, and she had been disappointed with the outcome.

PUBLIC COMMENTS CLOSED

Mr. Kwan affirmed that the paint contractor had also painted the interior of 329 Rheem Boulevard and the paint had been performing as expected for the past two to three years.

ACTION: It was M/S (Wykle/Arth) to adopt Resolution 15-2015 Authorizing the Town Manager to Award a Construction Contract to R. Robinson's Painting (American Canyon) in the Amount of \$18,200 for the Painting of the 329 Rheem Boulevard Repainting Project (CIP 14-303) and to Execute Contract Change Orders up to 15% of the Contract Amount. Vote: 4-1. Noes: Metcalf.

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 Wykle – Reported that he had attended a Central Contra Costa Solid Waste Authority (CCCSWA) Board meeting on January 29; East Bay Division of the League of California Cities panel discussion on education initiatives on January 29; Mayors' Conference in the City of El Cerrito on February 5; Lamorinda Mayors' Breakfast with the Town Manager on February 6, noted that the Tri-City meeting had been scheduled for February 19; and the State of the Town/Volunteer Appreciation Night at Moraga Country Club on February 10.

Vice Mayor Metcalf – Reported that he had attended a recent meeting of the Lamorinda Fee and Finance Authority (LFFA), and that the nexus study was being updated in coordination with the Town's impact fee structure.

Councilmember Arth – Reported that he had met with a local Boy Scout who was working on his Citizen Merit Badge on January 29, and would meet with the entire troop on March 3; had attended the Moraga Chamber of Commerce Goal Planning session on February 6; and the State of the Town/Volunteer Appreciation Night on February 10.

Councilmember Onoda – Reported that she had attended the State of the Town/Volunteer Appreciation Night on February 10.

Councilmember Trotter – Reported that he had attended the CCCSWA Board meeting on January 29; the State of the Town/Volunteer Appreciation Night on February 10; and noted the adoption of new garbage rates would become effective on March 1, 2015.

- B. Town Manager Update** – Ms. Keimach reported that the Tri-City meeting was scheduled for the Orinda Library on February 19, and would include a discussion of cameras in neighborhoods in Lafayette; Orinda adding cameras to its community; emergency egress pathways from all three cities; and a general development update. She also reported that PG&E had notified residents by

mail of a high tension power line project which had started in Antioch/Oakley and was moving through to Orinda. The project would not involve the removal of trees. Said notification would be the extent of the public outreach proposed by PG&E although additional information could be posted in the About Town newsletter.

IX. DISCUSSION ITEMS

There were no discussion items.

X. PUBLIC HEARINGS

There were no public hearings.

XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

A. Moraga Library Restroom Improvement Project

Receive Status Report and Design Concepts from Dougherty and Dougherty Architects Regarding the Moraga Library Restroom Improvement Project (CIP 15-301) and Provide Direction to Fund and Complete the Construction Phase

Parks and Recreation Director Jay Ingram presented the staff report and provided a status report on the design concepts from Dougherty and Dougherty Architects regarding the Moraga Library Restroom Improvement Project (CIP 15-301). He asked that the Town Council provide direction to fund and complete the construction phase.

Gray Dougherty, Dougherty and Dougherty Architects, explained that his firm had worked with a number of cities/towns and school districts, particularly for restroom renovations. A kick-off meeting had been held with the core project committee and stakeholders with a discussion of the project goals to make the restrooms Americans with Disabilities Act (ADA) compliant; improve an aging 1970s public amenity; update the aesthetics in a budget conscious way; meet new code requirements; disturb the existing building as little as possible; and design easy to maintain restrooms.

Mr. Dougherty identified the location, condition, and existing deficiencies of the Library public restrooms, and explained that a number of different options had been considered with Town staff and Friends of the Moraga Library (FOML), with the goal of doing the work within the existing footprint. After speaking with the County Building Department, he advised that it would not be feasible to reduce the number of plumbing fixtures. He reviewed the construction estimate for the project.

Responding to the Council, Mr. Dougherty affirmed that a hazardous materials survey had been prepared for the project and that some trace asbestos had been found within the project area, although the entire building would not require mitigation. As to the movement of the restroom hallway wall, the wall was not load bearing, the project would not involve any seismic roof strengthening and the structural engineer had investigated the attic space. In response to a recommendation to consider placing the sinks in the hallway adjacent to the drinking fountains, he stated that option would require further study and the consensus was to move forward with the proposed design.

Mr. Ingram affirmed that the project committee had already reached consensus on the proposed design. He reported that the Town had missed the current cycle for Community Development Block Grant (CDBG) opportunities although there may be an opportunity at the end of the

current cycle, either June or July 2015, if all of the grant funds had not been portioned out. The next CDBG cycle would begin in October 2015.

Administrative Services Director Stephanie Hom also reported that the Town Council decided to set aside approximately \$10,000 per year specifically for ADA compliance for streets and sidewalks, with gas tax monies and Measure J funds used to support that fund. She understood the ADA Fund had approximately \$25,000 to \$30,000 remaining. She suggested those funds could not be used for this project since the fund was funded through gas tax monies and Measure J transportation fund money, and restricted for use for street and sidewalk projects.

Mr. Ingram suggested that if the Town Council decided to fund the project through Palos Colorados funds or Town General fund monies and the Town was successful in obtaining CDBG funds, the money could potentially be used to reimburse the Palos Colorados Fund or General Fund.

Mr. Dougherty commented that the construction estimate had been prepared in December 2014 and called for construction in October 2015 for a six-week duration. He affirmed that if the project was delayed, construction costs could increase.

PUBLIC COMMENTS OPENED

Dale Walwark, Moraga, acknowledged that the Library restrooms must be ADA compliant. As such, he suggested the funds should come from the Asset Replacement Fund.

Gail McPartland, Deputy County Librarian, Contra Costa County Library, thanked the Town Council for consideration of the project as an improvement to the Town of Moraga and to the Library specifically. She also expressed her appreciation to Town staff and the stakeholders for their work on the project, and suggested the renovation of the restrooms would increase the use of the Library, provide comfort for every age group, and enhance Library service.

Jane Lowe, Moraga, a volunteer at the Moraga Library and a member of the FOML, commended the efforts to consider the project while also considering the cost, noted the recent installation of landscaping in the front of the Library had been funded by two generous Moraga citizens and had not been a Town expense; the FOML had funded half the cost of replacing the carpet in the Community Room; and the FOML had also paid \$31,000 each year to staff Sunday hours. Since the FOML did not have adequate funds to provide any sizable funding for the subject project, she expressed concern the existing restrooms were not ADA compliant and the legal expense to the Town could be more than the cost of renovating the restrooms.

PUBLIC COMMENTS CLOSED

Councilmember Trotter asked whether there could be some level of support from FOML for the project.

Rodger Lum, President, FOML, commented that the Moraga Library was one of the most important community assets in the Town, and it would be a shame for the facility to close for any length of time due to non-compliance. Given the community resource, he would be willing to work with Town officials and other charitable local organizations on a fundraising plan for the balance of financing needed. He expressed the willingness to bring the matter to the FOML Board and to meet with any other organization to make the project a reality.

Councilmember Trotter stated the fact the Town was moving to address ADA non-compliance was the Town's best legal defense against any true ADA exposure and he supported the project. He recommended that the Town Council use a portion of the General Fund surplus,

use some Asset Replacement Fund, and between those funds and the potential for reimbursement through CDBG, the Town could secure advanced funds and be reimbursed to complete the project.

Vice Mayor Metcalf emphasized that ADA compliance was something that should have been done long ago but would be done as part of the project. He recognized the professional architectural work and the public outreach that had been done and recommended moving forward before costs escalated. He agreed that Palos Colorados funds should be used for this project, disagreed with the use of General Fund monies, and pointed out the Town had borrowed from the Asset Replacement Fund for some time and needed to replenish that fund, which he suggested be replenished with General Fund surplus funds. If the Town succeeded in obtaining a CDBG grant to reimburse funds, that should also be pursued.

Councilmember Arth agreed with most of the comments from the Vice Mayor, suggested that Palos Colorados funds should be used for deferred maintenance, and suggested the current wear and tear should be taken out of the General Fund surplus.

Mayor Wykle agreed with many of the comments, clarified with the Public Works Director/Town Engineer that there were many needs for the use of asset replacement funds in the Town, and that the subject project was one of the Town's top five priorities. He also clarified with Mr. Dougherty the square footage of the two restrooms, the details of the construction estimate, and that some items could be value engineered.

Mr. Dougherty reiterated that the construction estimate was an estimate and it was possible the costs could be lower.

Councilmember Onoda commented that although the design was lovely, it did not say Moraga. She would like to see the design say something special and represent Moraga.

Councilmember Arth suggested that some old Town photographs could be displayed in the restrooms.

Councilmember Trotter recommended the use of pending General Fund surplus funds for the project and characterized the project as an asset replacement investment since the project would benefit the Town for many years.

In response to the Mayor, Ms. Keimach explained that the timing of the CDBG cycle worked well; the Town still had to prepare the bid documents and obtain permits which took time. The construction had been planned for October, the same time period staff would be speaking with the County, and in June or July the Town would be aware of the potential for available CDBG funds. She recommended moving forward as planned and still work to pursue CDBG funds.

Vice Mayor Metcalf disagreed with any delay of the project to pursue a grant, emphasized the need to move forward given ADA compliance issues, suggested it would be appropriate to use Palos Colorados funds and not General Fund surplus funds, and suggested a contest could be considered for students to paint a mural.

Mayor Wykle expressed concern with the use of Asset Replacement funds which were to be used for ongoing maintenance. Given the one-time ADA project and the public use, he supported the use of Palos Colorados funds.

Councilmember Trotter disagreed that the use of a portion of General Fund surplus would not be appropriate. He suggested allocating some of the funds to reach a happy medium.

Councilmember Arth supported the use of Palos Colorados funds.

Vice Mayor Metcalf offered a motion to authorize the Town Manager to proceed with appropriate contracts to execute the work plan for the completion of engineering and construction of the Moraga Library Restroom Improvement Project using the one-time Palos Colorados funds, as required.

Councilmember Arth seconded the motion.

Ms. Keimach asked that the motion include the language: *And pursuing Community Development Block Grants.*

On the motion, **Councilmember Trotter** offered a further amendment, as follows:

Authorize the Town Manager to proceed with appropriate contracts to execute the work plan for the completion of engineering and construction of the Moraga Library Restroom Improvement Project (CIP 15-301) using the one-time Palos Colorados funds, as required; and pursuing Community Development Block Grants, which if obtained would be used to reimburse the Palos Colorados fund.

The amendments to the motion were accepted by the maker and second to the motion.

Ms. Hom explained that Palos Colorados funds were typically not transferred until the end of the year and the actual expenses would not occur until the next fiscal year. In order for the project to move forward with bids, the budget must be adopted. Once the bid process occurred in the summer, those expenses would not occur physically until the next fiscal year and the approved budget would carry over into the next fiscal year.

Ms. Hom explained that the motion would have to be clarified in that the total estimated project amount was \$299,450, less \$20,000 already appropriated. She understood the amount to be appropriated into the CIP budget would therefore be \$279,450 from Fund 100, (Palos Colorados) to Fund 700 for CIP 15-301, and subject to potential reimbursement from CDBG funds and any private donations.

The maker and second to the motion accepted the additional language modification to the motion.

ACTION: It was M/S (Metcalf/Arth) to authorize the Town Manager to Proceed with Appropriate Contracts to Execute the Work Plan for the Completion of Engineering and Construction of the Moraga Library Restroom Improvement Project using the One-Time Palos Colorados funds, as required; pursuing Community Development Block Grants, which if obtained would be used to reimburse the Palos Colorados Fund; and the amount to be appropriated into the CIP budget would be \$279,450 from Fund 100, (Palos Colorados) to Fund 700 for CIP 15-301; subject to potential reimbursement from Community Development Block Grant funds, and any private donations. Vote 5-0.

B. Hacienda de las Flores Hours of Operation

Consider Resolution 16-2015 Approving the Park and Recreation Commission Recommendation to Extend the Friday, Saturday, and Sunday Evening Use Hours at the Hacienda de las Flores

Recreation and Facilities Coordinator Kimberly Nelson presented the staff report for consideration of a resolution to approve the Park and Recreation Commission recommendation

to extend the Friday, Saturday, and Sunday evening use hours of operation at the Hacienda de las Flores until 10:00 p.m. She asked that the Town Council adopt the resolution as shown.

Responding to Council, Mr. Ingram clarified that during the October 13, 2014 Hacienda Foundation Board meeting, Town staff had recommended the extension of use hours on Friday, Saturday, and Sunday to 10:30 p.m., to be more competitive.

Ms. Nelson detailed the numerous reasons why some potential parties decided not to book the Hacienda for events which had resulted in a loss of revenue. She acknowledged that Sundays had become more popular to schedule events in the past year. She also clarified that the rental fees for Fridays and Sundays were less than Saturdays, a peak date for events.

PUBLIC COMMENTS OPENED

Graig Crossley, Moraga, supported the staff recommendation to extend the use hours, ending all activities at 10:00 p.m.

Seth Freeman, Moraga, found the input from Parks and Recreation staff to be relevant to agenda Item D, Hacienda de la Flores Conceptual Design Plan. He suggested the extension of use hours had been driven by what was desired for the Hacienda, and to prevent ongoing loss in revenues. In his opinion, it made sense to extend the use hours to 10:30 p.m., allowing the facility to be competitive. He recommended a more aggressive approach with the Council to extend the use hours to midnight or 1:00 a.m.

Derek Hawkins, Moraga, disagreed with a more aggressive approach given that the Hacienda was located in a residential area. He suggested 9:00 p.m. was a reasonable time to end activities. If there was a way to ensure the volume of noise would be more reasonable, he might be more amenable to an extension of the use hours. He opposed any extension of use hours on Sundays regardless given the potential impacts to nearby residents and their families.

PUBLIC COMMENTS CLOSED

Responding to Council, Mr. Ingram reported that during his tenure with the Town he was aware of minimal noise complaints from the Hacienda; a facility attendant monitored the site, walked the perimeter, and had on a number of occasions asked parties to turn down music.

Ms. Nelson reiterated that the attendant at the Hacienda did not monitor the site with a decibel meter but had direction to ensure that music was not audible 200 feet from the building. She clarified that vendors were allowed on site until 11:00 p.m. to clean and load out, which was recommended to continue. The attendant would be on site until that time as well.

Vice Mayor Metcalf suggested that extending the use hours to 10:30 p.m. made sense, although he was comfortable with the recommendation from the Park and Recreation Commission and the Hacienda Foundation to extend the use hours to 10:00 p.m.

Ms. Nelson reiterated the existing issues which prevented the Hacienda from being competitive on the weekends, particularly on Sundays. The most popular time period for rentals was the 2:00 to 10:00 p.m. time period. Based on her research, many facilities used different hours of operation on Sundays. Given the lead time in scheduling events, she could not provide a firm number of the actual events scheduled for June since that information would not be available until the information became available in April.

Vice Mayor Metcalf commented that the attendant policy at the Hacienda worked, and he could support an extension of hours to 10:30 p.m. Friday, Saturday, and Sunday.

Councilmember Onoda pointed out that Moraga was a small family-oriented community and an extension of hours (on Sundays in particular) conflicted with the values of the Town. She urged the use of a decibel meter and would not support an extension of the use hours at all. If the use hours must be extended, she would not support an extension of use hours on Sundays for any reason given the proximity to residences.

Councilmember Trotter supported an increase in use hours to 10:00 p.m.; wanted to see the neighborhood impacts before increasing the use hours to 10:30 p.m. given the proximity to a residential neighborhood; and suggested the 10:00 p.m. time period would be a fair compromise given the support from the Hacienda Foundation and the Park and Recreation Commission.

Mayor Wykle concurred with Councilmember Trotter and clarified with Ms. Nelson the extension in use hours to 10:00 p.m. would be welcomed by existing and future clients.

ACTION: It was M/S (Trotter/Wykle) to adopt Resolution 16-2015 Approving the Park and Recreation Commission Recommendation to Extend the Friday, Saturday, and Sunday Evening Use Hours at the Hacienda de las Flores to 10:00 p.m. Vote: 4-1. Noes: Onoda.

C. Historic Preservation Ordinance

Consider Waiving the Second Reading and Adopting Ordinance No. 251 Adding Chapter 8.176, Historic Preservation, to Title 8, Planning and Zoning, of the Town of Moraga Municipal Code (CEQA Status: Exempt from the California Environmental Quality Act (CEQA) Pursuant to Sections 15061(b)(3) and 15308 of the CEQA Guidelines)

Planning Director Ellen Clark presented the staff report for consideration of the second reading and adoption of Ordinance No. 251 adding Chapter 8.176, Historic Preservation, to Title 8, Planning and Zoning, of the Town of Moraga Municipal Code (MMC). The first reading had been conducted on January 14, 2015, at which time the consensus of the majority of the Town Council had been not to include an owner consent requirement, include orchards as a natural feature that could be protected by historic land marking, and directed changes in the Draft Ordinance accordingly. She asked that the Town Council adopt the resolution as shown.

Vice Mayor Metcalf commented that he had not been present during the January 14, 2015 Town Council meeting. He expressed concern with the inclusion of the language for orchards as a natural feature and asked legal counsel to advise how an orchard would be defined.

Ms. Murphy advised that orchards would be fruit-bearing trees such as the existing pear orchards in Town.

Vice Mayor Metcalf also expressed concern with the absence of a clause requiring property owner consent, and noted that the inclusion of orchards as a natural feature could prohibit development on anything that had a group of fruit-bearing trees, which he found to be a form of inverse condemnation with no compensation to the property owner. He characterized the ordinance as dangerous in the way it had been constructed. He understood the intent of the ordinance, but pointed out the Town still had to follow California Environmental Quality Act (CEQA) and General Plan requirements.

Ms. Murphy described the process that would have to be followed for a property to be designated historic under the ordinance, and certain criteria would have to be met pursuant to the ordinance. It was possible someone could make a claim of inverse condemnation during the designation process. Any discretionary action taken by the Town would require the

examination of environmental and potential historic impacts, and any additional requirements the Town Council might desire would be a policy question for the Council.

Ms. Clark affirmed that the General Plan had an implementation measure to adopt a Historic Preservation Ordinance. In addition to providing historic preservation, the ordinance allowed the opportunity to take advantage of tax incentives through the Mills Act, and provisions of the Building Code might be more lenient for historic buildings.

Vice Mayor Metcalf noted that the Moraga Center Specific Plan (MCSP) area included territory with orchards which might be impacted by the language in the ordinance and which could impede the MCSP.

Ms. Clark explained that the ordinance had been based on ordinances from other communities but had been tailored to Moraga. She reiterated that orchards had been added to the Definition section for Natural Features; identified the historic designation criteria that would trigger CEQA; and clarified the Town Council under the ordinance would have the authority to have a historic building be demolished if unsafe or hazardous, although the historic designation would indicate to the community and decision makers that the building was historically significant and the threshold to demolish or change a historic building would therefore be higher.

PUBLIC COMMENTS OPENED

Barbara Simpson, Moraga, had no objection to saving old buildings but emphasized that property rights were protected by the U.S. Constitution, and if the Town proceeded with the ordinance it could be faced with a lawsuit. She understood the main goal of the ordinance was protection of the New Rheem Theatre, which had not been financially successful over the years and was presently for sale. She liked the concept of preserving the theatre but suggested the Town should purchase the property and then could do as it wished. She added that she had planted trees on her property which could be considered an orchard and which could restrict the use of her property. She urged the Town Council to reconsider the ordinance.

Seth Freeman, Moraga, understood the federal government had a series of historic designations used by investors to gain tax credits for improving historical properties. He urged the Town Council to ensure the ordinance was coordinated with federal government regulations.

Dave Bruzzone, Moraga, expressed concern with the potential passage of the ordinance for many reasons and stated approval absent property owner consent was a big mistake and in opposition to the unanimous direction from the Planning Commission. The addition of orchards in the definitions was also a concern. If the Rheem Center and Moraga Ranch were designated as historic landmarks there would be huge impacts on the continued operation of the properties since the ordinance included restrictions on any improvements to the exterior of the properties. He urged the Town Council not to take such a heavy-handed approach.

Derek Hawkins, Moraga, also opposed the ordinance and the taking of property rights. He commented that his residence was one of the oldest in the Town, and if the ordinance was applied to his residence, he might be forced to consider litigation.

Claire Roth, Moraga, asked the Town Council to reconsider the omission of property owner consent from the ordinance.

Judy Dinkle, Chair, Hacienda Foundation, advised that the Hacienda Foundation had been working on its Conceptual and Strategic Plan with Town staff and interested groups. She asked the Town Council to consider a delay in the adoption of the ordinance given that the impact to the planning efforts for the Hacienda were unknown at this time.

PUBLIC COMMENTS CLOSED

Responding to the concerns with the taking of property rights, Ms. Murphy advised that the main challenge would come during the processing of an application. At this time no historic designation was being made.

Councilmember Trotter reiterated that nothing was being designated at this time. He supported the ordinance absent property owner consent for the reasons he had previously stated. He was willing to delete the recommendation to include orchards as a natural feature in the definitions section if the Vice Mayor was in agreement, and agreed that the inclusion of that language could impact the MCSP and the Council should have more dialogue on that issue.

Vice Mayor Metcalf noted he did not like the ordinance; described it as cumbersome and not needed, and objected to redundancy given protections through the General Plan and CEQA. He found that the ordinance would have all sorts of potential for damage and potential for the Town Council to unwittingly make a historic designation.

Councilmember Arth also objected to the provision permitting historic designation to be imposed without the property owner's consent and stated he would not support the ordinance. He stated that it was unfair to impose a restriction (the historic designation) on a property owner and to impose on that owner the financial requirement that the historic feature be maintained at his or her expense. He believed problems would ensue when an owner rejected the designation, took the matter to court, and the Town might find the legal costs of the proceedings were not worth the attainment of the historic designation even if it won the case. He urged his fellow Councilmembers to reconsider their vote on the proposed ordinance. He provided copies of his statement to staff and the Town Council for the record, detailing his reasons for opposing the approval of a Historic Preservation Ordinance.

Councilmember Onoda noted the MCSP referenced orchards and rows of fruit trees; the pear orchards in the community were pruned and maintained by volunteers who took pride in that heritage; and in her opinion, the Town Council as leaders should protect the Town's heritage and needed this tool to do so. She commented that the New Rheem Theatre marquee was an icon in the community. The ordinance would ensure that properties with a historic designation would respect and pass on to future generations the historic designation. She stood by that criteria and for that reason would support the ordinance.

Mayor Wykle acknowledged the reference to statements he had made as read into the record by Councilmember Arth. He stood by those comments noting that pursuant to the nomination clause in the ordinance, a property owner may apply for a historic designation and therefore the property owner would be involved. The ordinance did not require property owner consent. If property owner consent was included, the property owner would have veto power. He was otherwise concerned with the comments raised by the public about potential lawsuits and questioned whether the Town Council should discuss the process in a closed session.

Ms. Murphy advised that if the potential for lawsuits was a concern the item could be continued.

Mayor Wykle supported that course of action.

Councilmember Trotter suggested the potential for litigation question should rest on the response made by the Town Attorney in the event of a potential application for historic designation, and not significant exposure with respect to adopting a process ordinance. The ordinance was procedural and would not designate any structure or any piece of property. He suggested a closed session was not needed. He offered a motion to consider waiving the

second reading and adopting Ordinance No. 251 adding Chapter 8.176, Historic Preservation, to Title 8, Planning and Zoning, of the MMC.

ACTION: It was M/S (Trotter/Onoda) to waive the Second Reading and Adopt Ordinance 251 Adding Chapter 8.176, Historic Preservation, to Title 8, Planning and Zoning, of the Town of Moraga Municipal Code; pursuant to the form provided by staff, identified as Attachment B. Roll Call Vote: 3-2. Noes: Arth, Metcalf.

D. Hacienda des las Flores Conceptual Design Plan

Consider Request for Proposals for Hacienda de las Flores Conceptual Design Plan and Provide Direction to Staff

Mr. Ingram presented the staff report for consideration of Request for Proposals (RFPs) for the Hacienda de las Flores Conceptual Design Plan, and asked that the Town Council provide direction to staff.

PUBLIC COMMENTS OPENED

Judy Dinkle, Chair, Hacienda Foundation, reported that the Hacienda Foundation wholeheartedly supported the RFP to engage vetted and qualified architectural firms to prepare a conceptual plan for the Hacienda property.

Graig Crossley, Moraga, was pleased to see the reference to a community center in the RFP.

Seth Freeman, Moraga, recommended the RFP be deferred given that the Hacienda must be considered as a business with input on what should be done with the property rather than have an architect telling the Town how to use the facility. He identified the operating expenses for the property; suggested it had been mismanaged with personnel costs consuming revenue; and suggested it would be less expensive for the Town not to rent out the facility for events. He urged consideration of Campolindo High School, Saint Mary's College (SMC), and business students to consider the best uses for the property; identify business revenue generating ideas; and after discussion by the Town Council, Planning Commission and the Hacienda Foundation, direct the architect to prepare potential conceptual designs. He also suggested RFPs be sought from major event management companies to determine the charge to manage the facility.

Ellen Beans, Moraga, thanked the Hacienda Foundation for its dedicated work; suggested the RFP was an excellent next step to incorporate many of the ideas that had been discussed; and after the RFP vision and possibilities were received and made available to the community, solicit community input on those possibilities.

Dale Walwark, Moraga, expressed skepticism with the plan to hire an architectural firm before determining what would work at the Hacienda, which would depend on outside funds and investments. He recommended the pursuit of options on potential uses for the property.

Ms. Dinkle advised that one intent of the RFP process was that the architectural firm would become an equity partner in the project. The team that had worked on developing the RFP had been careful to offer guidelines without being too restrictive on the community uses to be included in the conceptualizations.

PUBLIC COMMENTS CLOSED

Ms. Keimach explained that this was early in the process. The RFP would ask high-end architects to provide a concept for the community to evaluate and the Town Council to select; the process would be done for free and the Town Council would conduct the interviews with the

architects in an open public session. The first phase would be the conceptual design, with the Town to pay the architect for that first group. The second phase would involve the formation of a team and operators involved to test the selected concept, and to determine feasibility operationally and financially for the selected concept. She identified the primary authors of the RFP and noted that she and the Hacienda Foundation had provided input.

Councilmember Trotter commented that when the Council had last discussed the potential RFP, he had sought an interface to respect the fact that community aspects should be included in the RFP, which had been included in the guiding principles. He supported the RFP.

Vice Mayor Metcalf reported that he and Councilmember Trotter had been involved in the formation of the RFP having reviewed initial drafts and having lengthy discussions with Mr. Ingram, Joao Magalhaes, and the Hacienda Foundation, and had attended meetings of the Hacienda Foundation when the item had been discussed. He sought assurance the Hacienda would be a community center, which would have to be commercially viable, and noted the volume of public input on the issue which had gone back to 2007. He pointed out the second phase of the RFP would show how to carry the plan forward which would require some equity investment. He emphasized the RFP was intended to provide a plan with a concept that could be described and discussed. He wanted to see the RFP move forward as opposed to having the Hacienda continue to deteriorate and lose money.

Councilmember Onoda clarified with Mr. Ingram his idea of a community center, a facility which provided a variety of different programs and activities for people of all age groups.

Vice Mayor Metcalf reiterated the background of the Hacienda property and the intent of the RFP to solicit experienced architects who had an understanding of a community center and a business enterprise, which was why a visual was needed to better educate the public on the discussion.

ACTION: It was M/S (Trotter/Arth) to direct staff to proceed with the Request for Proposal process for the Hacienda de las Flores Conceptual Design Plan in the form drafted by staff, Mr. Joao Magalhaes, Vice Mayor Metcalf, and with input from the Hacienda Foundation. Vote: 5-0.

E. Climate Action Plan Strategies

Consider Resolution ___-2015 Authorizing Town Manager to Execute a Memorandum of Understanding (MOU) with Rising Sun Energy Center for Participation in the California Youth Energy Service Program in Partnership with the City of Lafayette, and Accept the Funding Subsidy; and Consider Opportunities for Additional Climate Action Plan Implementation Strategies Including Energy Services, Small Farm Animal Ordinance, Solar Permitting, and Shuttles in 2015 Calendar Year

Associate Planner Ella Samonsky presented the staff report to consider a MOU with Rising Sun Energy Center for participation in the California Youth Energy Service Program in partnership with the City of Lafayette; accept the funding subsidy; and consider opportunities for additional Climate Action Plan implementation strategies including authorizing PACE programs, Small Farm Animal Ordinance, and streamlining solar permitting in the 2015 calendar year; and asked the Town Council to provide direction to staff on the agenda item.

Responding to Council, Ms. Samonsky reported that East Bay Energy Watch (EBEW) had provided support to the City of Lafayette and the Town of Moraga in the amount of \$20,000, to be given directly to Rising Sun Energy Center which operated the California Youth Energy Service Program.

Ms. Keimach added that the Town of Moraga would offer the use of office space and the City of Lafayette would provide the use of office equipment for the duration of the project.

Vice Mayor Metcalf understood the County was in the process of preparing a Solar Streamlining Ordinance. Since the Town adopted many of the County ordinances, he questioned why the Town was using its efforts to develop an ordinance.

Ms. Samonsky clarified the intent that the Town work with the County. She noted that planning review also impacted solar permits, and there could be opportunities for the Town to improve its efficiency and solar permitting.

Ms. Keimach explained that the Town must follow State law for the creation of an ordinance. She described it as a simple process where the County's ordinance could be identified by reference.

Vice Mayor Metcalf referenced the Participation in Property Assessment Clean Energy Program (PACE) and asked if the program was so popular why no one else was doing it.

Ms. Samonsky identified the communities in the Bay Area that had adopted the PACE program.

ACTION: It was M/S (Trotter/Metcalf) to extend the Town Council meeting to 11:15 P.M. Vote: 5-0.

Ms. Samonsky explained that affirmative Town Council action would allow PACE to operate within Moraga. She had attended a training session for PACE hosted by Contra Costa County Climate Leaders (CCCCL); had found that each program would be essentially self-contained with representatives to handle complaints; and every program had a pre-qualification process for contractors. A formal resolution had not been prepared for the item regarding PACE. Staff was seeking direction from the Town Council.

Ms. Murphy reiterated that staff was asking for direction with respect to the PACE program and the item would return.

Ms. Keimach understood that PACE would ask for assistance from the Town in publicizing the program; however, if the Town Council wanted to pursue the issue it would be brought back with a clarification of any potential liability to the Town.

PUBLIC COMMENTS OPENED

Graig Crossley, Chair, Climate Action Plan (CAP) Task Force, suggested the program under consideration fit with the materials that had been presented to the Town Council in November 2013. He questioned whether there would be accessibility issues as to the use of Town office space since he understood the office would be located upstairs in the Hacienda, to which Ms. Keimach advised that anyone with accessibility issues would be accommodated.

Mr. Crossley also questioned consideration of a Small Farm Animal Ordinance which had not been included in the list of recommended CAP strategies, and which he did not support.

Lynda Deschambault, Executive Director, CCCCL, suggested this was a great step forward. She thanked the Council for its acceptance of the CAP; found the project to be a win-win for the Town; noted that CCCCL had held a workshop on the PACE program; and recommended all associated programs stating that there would be no liability to the Town. She noted the City of Pleasant Hill had classified bunnies and chickens as domestic pets. She emphasized that any

programs which reduced Vehicle Miles Traveled (VMT) were supported. She added that the CCCCL website included materials for all of the identified programs with links to those cities that had implemented the programs.

Eve Perez, Director of Municipal Development for Renovate America HERO Program, a PACE program, explained all that was needed to allow operation in the Town of Moraga was for the Town Council to adopt a resolution, and there was no cost to the program or risk to the Town. Since the program was part of a Joint Powers Authority (JPA), the only obligation on the part of the Town was the adoption of a resolution to allow the expansion of the jurisdictional boundaries to include Moraga as a member of the JPA. Moraga would be a non-voting member with no requirements for participation.

Ms. Keimach stated the question before the Town Council was whether the Council wanted staff to bring the item back with a resolution.

PUBLIC COMMENTS CLOSED

Councilmember Trotter offered a motion to authorize the Town Manager to execute a MOU with Rising Sun Energy Center for participation in the California Youth Energy Service Program in partnership with the City of Lafayette and accept the East Bay Energy Watch subsidy.

Vice Mayor Metcalf seconded the motion; requested staff return with a draft resolution and staff report on the PACE program to see what was required given the lack of clarity as to the potential liability to the Town.

Councilmember Trotter pointed out the MOU was for a summer program with no out-of-pocket costs to the Town, with in-kind donation services. On that basis, he was comfortable with the motion he offered.

Councilmember Onoda understood it was a summer program which involved inexperienced young people being placed in adult situations going door-to-door which she found to be very risky, and was something she could not support.

Ms. Samonsky advised that she had spoken with the Project Manager for the California Youth Energy Service Program and understood the first point of contact for the Program would be with an Outreach Manager who would schedule the service. Efforts would be taken to screen out undesirables, appointments would be checked against published information on sex offenders, with verification that the person requesting the service was not a registered sex offender. She noted that the program had been in operation for the past 15 years. Safety training was also provided to the energy specialists and the Program Manager who operated the office.

ACTION: It was M/S (Wykle/Metcalf) to extend the Meeting to 11:30 P.M. Vote: 5-0.

Councilmember Onoda asked that it be mandatory that the Outreach Manager compare the name of the property owner to a list of registered sex offenders.

ACTION: It was M/S (Trotter/Metcalf) to adopt Resolution 17-2015, Authorizing the Town Manager to Execute a Memorandum of Understanding with Rising Sun Energy Center for Participation in the California Youth Energy Service Program in Partnership with the City of Lafayette and accept the East Bay Energy Watch subsidy. Vote: 5-0.

Councilmember Trotter supported a review of the City of Lafayette's model for a Small Farm Animal Ordinance, with the Town's CAP Strategy List encouraging and allowing individuals to

raise food at home; **Mayor Wykle** agreed and suggested the ordinance from the City of Pleasant Hill should also be reviewed; and **Councilmember Onoda** concurred.

By consensus, the Town Council directed staff to pursue a CAP implementation strategy for a Small Farm Animal Ordinance.

On the question of solar permitting, **Vice Mayor Metcalf** suggested the Town should follow the County model.

Ms. Keimach was uncertain of the status of the County model for solar permitting although there had been a great deal of discussion with all of the cities in the County regarding model ordinances for solar permitting and the County was involved in those discussions.

By consensus, the Town Council directed staff to pursue a CAP implementation strategy for solar permitting with direction to follow the County model. Clarification was made that no direction was necessary for a Lamorinda shuttle study given that the study was already in process.

On the question of the status of the PACE program, Ms. Samonsky explained that the Council would be required to sign a resolution for each and every program it wanted to authorize.

The Town Council emphasized that many questions remained unanswered with respect to the PACE program including potential implications as a result of the program; potential liability to the Town; and whether the Town would be required to join a JPA. Staff was directed to address all concerns expressed during the discussion with the item to be brought back.

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

There were no Council requests for future agenda items.

XIII. COMMUNICATIONS

There were no communications.

XIV. ADJOURNMENT

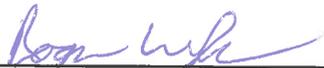
ACTION: It was M/S (Trotter/Arth) to adjourn the meeting at 11:22 P.M. Vote: 5-0.
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Respectfully submitted by:



Marty C. McInturf, Town Clerk

Approved by the Town Council:



Roger Wykle, Mayor

