

**TOWN OF MORAGA
TOWN COUNCIL SPECIAL MEETING**

**March 16, 2016
MINUTES**

6:30 P.M. Special Meeting

Council Chambers and Community Meeting Room
335 Rheem Boulevard, Moraga, California 94556

1. CALL TO ORDER

The special meeting was called to order at 6:33 P.M. by **Mayor Michael Metcalf**.

ROLL CALL

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

Councilmembers absent: Councilmember Roger Wykle

2. PUBLIC COMMENTS AND SUGGESTIONS

There were no comments from the public.

3. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

A. El Niño Storm Related Damage

Consider Resolution 25-2016 Declaring an Emergency and Authorizing Procurement and Services Without Giving Notice for Bids Pursuant to Public Contract Code Section 22050 and Appropriating \$500,000 from Existing Funds into Capital Improvement Project #16-702

Consider Resolution 24-2016 Ratifying the Director of Emergency Services' Proclamation of the Existence of a Local Emergency

Interim Town Manager Robert Priebe advised that the Town Council had been provided with a redline version of the resolution under consideration. He and Public Works Director/Town Engineer Edric Kwan presented the staff report for consideration of a resolution to declare an emergency and authorizing the procurement and services without giving notice for bids pursuant to Public Contract Code Section 22050 and appropriating \$500,000 from existing funds into Capital Improvement Project (CIP) 16-702; and a resolution to ratify the Director of Emergency Services' Proclamation of the Existence of a Local Emergency.

Mr. Kwan advised that PG&E had met with the Town this date to discuss plans to provide a bypass gas line around the sinkhole, while establishing gas services to the 37 businesses which had been affected by the sinkhole. A traffic signal, which had fallen into the sinkhole, had been removed this morning, disassembled, and stored at a County location in the hope that it could be salvaged and used again since it was a special piece of equipment. To help with traffic flow, the existing signal at Rheem Boulevard and Moraga Road had been re-powered with a temporary generator so that the four-way stop could be removed. Access to and from Rheem Boulevard was being provided by alternate routes through adjacent shopping centers.

Interim Town Manager Priebe added that staff had also been responding to reports of water percolating through the pavement in various parts of the Town, a situation staff would continue to monitor, and which staff associated with the El Niño Storm damage, which might also be covered under the proclamation.

Responding to Council, Mr. Kwan advised that the Town had brought on Schaaf & Wheeler as part of the project team, the same firm that had prepared the Town's Storm Drain Master Plan.

In terms of the proclamation declaring the existence of a local emergency, it was clarified that the state would need to concur with the Town's Proclamation.

Mr. Kwan cited a situation in the City of Richmond which had involved a storm related sinkhole where a local emergency had been declared. In that case, State funding had been obtained and had provided approximately 75 percent of the required funding. As to whether there were County funds available to assist the Town in matching funds, he had contacted the County Flood Control Division via e-mail, to inquire whether there were any County programs that could provide assistance. He could not state whether the current sinkhole was related to another sinkhole that had occurred in 2006 given that the current sinkhole was full of debris, included a great deal of utilities, with many different speculations on its cause. At this time, he could not identify a cause of failure pending a careful review of the situation.

Mr. Kwan reiterated that staff would have to investigate the current situation before a cause of failure could be identified. He affirmed it was always the preference to bring the area back to its natural state, although funding, alternatives, and any potential environmental impacts would have to be considered including the constraints of the nearby shopping center.

Mr. Kwan added that if Federal Emergency Management Agency (FEMA) funds were involved, there would be strict regulations on its use to bring a site back to its natural state. Given the immediate nature of the situation, staff had not had an opportunity to speak with the new property owner of the Rheem Valley Shopping Center about the situation but would be sending notices to all affected property owners, including the owner of the Center. Notification had included press releases.

Interim Town Manager Priebe affirmed that e-mails had been sent out to the business community of the two affected shopping centers, with one response received from the Rheem Shopping Center Property Manager.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Arth) to adopt Resolution 24-2016 Ratifying the Director of Emergency Service's Proclamation of the Existence of a Local Emergency. Vote: 4-0-1. Absent: Wykle

Mayor Metcalf spoke to his experience with the 2006 sinkhole and suggested it would be irresponsible for either the press or the Town Council to speculate about the cause of failure. He understood the pipe that had failed was in the Town right-of-way (ROW), although the pipe under the shopping center was not the Town's pipe, which had been concluded ten years ago. He asked that no pressure be placed on staff to come up with a solution in a hurry, to ensure the job was repaired correctly.

Mr. Kwan reiterated the staff recommendation to appropriate \$500,000 from Existing Funds into CIP 16-702, the initial amount to allow the work to commence with the temporary repair until the true cost estimates could be ascertained. The appropriation of monies would use all of the Measure J funds balance for this fiscal year, and involve the transfer of \$100,000 from an existing High Visibility Crosswalk Project on Rheem Boulevard which would be put off until a future time. He noted it was a project that would not have occurred right away given that it was contingent upon potential development. That project could be kept as an inactive project.

Administrative Services Director Amy Cunningham detailed the funds as outlined in the staff report. Given that the Town was in the middle of the development of the budget process, it allowed an opportunity to evaluate where the \$500,000 in funds were being taken from and consider the future CIP schedule to possibly even things out over time and still accomplish the desired results. If there was a way to fund the project and know the exact extent in dollars moving forward, adjustments could be made to avoid using all of the Measure J or Gas Tax monies which was a dwindling funding source from the State. While the Town could not just borrow money from other funds for this project, it could be strategic in how it used other funding sources to build the balance back up over the next few years.

Ms. Cunningham explained when moving forward they would evaluate each expense and ensure that it would fit into one of the categories allowing the use of such funds. If it was later found that it did not fit into one of the descriptions, staff would have to come back and request consideration of another funding source. She affirmed it made sense to use the Measure J and Gas Tax monies given a sinkhole that was located on a public street and in the Town ROW. She also clarified that the Palos Colorados fund was a General Purpose Fund, as was the General Fund, and although the Town had administratively segregated that funding, it was technically still the same pot of money.

Mayor Metcalf suggested that staff contact the Contra Costa Transportation Authority (CCTA) to provide clarification and inform them of the Town's intended use of Measure J funds.

Ms. Cunningham reiterated that the \$500,000 was just to get things started to avoid delays, and updates would be provided regularly at Council meetings.

Interim Town Manager Priebe referenced a staff report from March 2006 related to the prior sinkhole, prepared by the former Town Engineer, and which clarified that event had been declared a State of Emergency, and a Federal Emergency by then President Bush, which entitled the Town to reimbursement minus a 6.25 percent match. Staff at that time had requested \$1.4 million in reimbursement.

Vice Mayor Trotter recalled that included the repairs of the sinkhole and the head walls at Laguna Creek.

Interim Town Manager Priebe reported in response to the Mayor that he had been impressed and pleased with the efficient and professional responses from Town staff and outside agencies to the emergency. He also commended the public. Since the initiation of the entire process, staff had, and continued to have, a great response to the situation. As to the performance of the Emergency Operations Center (EOC), he advised the emergency had resulted in a partial activation of the EOC and the process had worked well. The emergency radio group had been set up in the EOC, and the Town Clerk had reported in and worked with the Public Information Officer (PIO). A debriefing with all parties involved would be scheduled soon. He acknowledged that while the response to the incident had worked well, it would be refined to ensure it worked even better in the future.

Vice Mayor Trotter supported the redline version of Resolution 25-2016 as provided by staff and the Assistant Town Attorney, although he recommended further modification to the resolution, as follows:

Revise the fourth WHEREAS clause to read:

WHEREAS, Section 15269 of the California Environmental Quality Act Guidelines establishes a statutory and regulatory exemption for emergency repairs to public service facilities necessary to maintain service, and other specific actions necessary to prevent or mitigate an emergency; and

ACTION: It was M/S (Trotter/Arth) to adopt Resolution 25-2016 Declaring an Emergency in the Redline Form Provided by Staff, and Authorizing Procurement and Services Without Giving Notice for Bids Pursuant to Public Contract Code Section 22050 and Appropriating \$500,000 from Existing Funds into Capital Improvement Project 16-702, as modified. Vote: 4-0-1. Absent: Wykle

Mr. Kwan presented photographs of the sinkhole scene as of March 15, which did not show the cutback of slopes, although once complete, the sinkhole perimeter would go to the centerline of Rheem Boulevard as well as take out landscaping and an existing sign reading *Autohaus*. He expressed the willingness to show Councilmembers the site at a safe time.

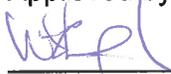
4. ADJOURNMENT

ACTION: It was M/S (Onoda/Arth) to adjourn the meeting at 7:17 P.M. Vote: 4-0-1. Absent: Wykle

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Michael Metcalf, Mayor