



**TOWN OF MORAGA
REGULAR MEETING**

**January 8, 2020
MINUTES**

7:00 P.M. Regular Meeting

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

1. CALL TO ORDER

The regular meeting was called to order at 7:00 p.m. by **Mayor Kymberleigh Korpus**.

ROLL CALL

Councilmembers present: Mayor Kymberleigh Korpus, Vice Mayor Mike McCluer, and Councilmembers Renata Sos, Steve Woehleke and Roger Wykle

Councilmembers absent: None

2. PLEDGE OF ALLEGIANCE

Campolindo High School Girls' and Boys' Varsity 2019 Cross Country Team led the Pledge of Allegiance.

3. SPECIAL ANNOUNCEMENTS

There were no special announcements.

4. PROCLAMATIONS AND PRESENTATIONS

- A.** Proclamation Honoring the Campolindo High School Girls' and Boys' Varsity 2019 Cross Country Team

The Town Council read into the record a proclamation honoring the Campolindo High School Girls' and Boys' Varsity 2019 Cross Country Team and declared January 8, 2020 as "Campolindo Varsity Cross Country Day."

Andy Lindquist, Campolindo High School Girls' and Boys' Varsity Cross Country Coach, thanked the Town Council for the recognition and expressed his appreciation to the athletes and their parents. The Town Council congratulated all of the athletes and their parents on their historic achievements.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

5. PUBLIC COMMENTS AND SUGGESTIONS

There were no comments from the public.

6. ADOPTION OF CONSENT AGENDA

A. Approval of Consent Items

Consent Agenda Item 6.4 was removed from the Consent Agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Sos/McCluer) to adopt Consent Agenda Items 6.1, 6.2, 6.3, and 6.5. Vote: 5-0.

- | | | |
|-----|--|----------|
| 6.1 | Receive <u>Accounts Payable</u> Claims for: 12/6/19 (\$220,549.67); 12/20/19 (\$337,064.06) | Approved |
| 6.2 | Approve <u>Minutes</u> for the Town Council Special and Regular Meetings on October 23, 2019 | Approved |
| 6.3 | <u>Town Council Meeting Calendar for 2020</u>
Approve by Motion the 2020 Town Council Meeting Calendar and Direct Staff to Schedule a Special Meeting if Needed | Approved |
| 6.4 | <u>Proposition 68 Per Capita Grant Funds</u>
<i>Consider Resolution 1-2020 Authorizing the Town Manager to Submit an Application to the State of California, Department of Parks and Recreation for Proposition 68 Per Capita Grant Program Funds and Authorizing the Town Manager to Execute a Grant Agreement and Other Grant Related Documents</i> | Removed |
| 6.5 | <u>Solid Waste and Recycling Rates for 2020</u>
Receive an Update on the Proposed Solid Waste and Recycling Rates for 2020 (Rate Year 6) and Forward a Recommendation for an 8.75% Rate Increase to the RecycleSmart Joint Powers Authority | Approved |

B. Consideration of Consent Items Removed for Discussion

1. Proposition 68 Per Capita Grant Funds
Consider Resolution 1-2020 Authorizing the Town Manager to Submit an Application to the State of California, Department of Parks and Recreation for Proposition 68 Per Capita Grant Program Funds and Authorizing the Town Manager to Execute a Grant Agreement and Other Grant Related Documents

Parks and Recreation Director Breyana Brandt presented the staff report and recommended the Town Council adopt the Resolution. She clarified for **Councilmember Woehleke** that the Proposition 68 Per Capita Grant could be used for remediation of park facilities, and in this case the funds had been designated for the Commons Park. The Park and Recreation Commission had toured all Town parks and had interacted with the public who had also attended to assess existing conditions. Rather than selecting mini-projects, a single significant project that would

consume all of the funds had been recommended by the Commission. The most significant need for Rancho Laguna Park, as an example, was the need to replace the turf and restroom, the project cost of which exceeded the available grant funds.

The Town had engaged with one of its On-Call Landscape Architectural firms to develop plans for a project at the Commons Park and the consultant had offered preliminary cost estimates to meet the proposed scope. The project selected was the picnic area renovation at the Commons Park. The renovation would include Americans with Disabilities Act (ADA) upgrades to the picnic areas to meet current standards.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Woehleke/McCluer) to adopt Resolution 1-2020 Authorizing the Town Manager to Submit an Application to the State of California, Department of Parks and Recreation for Proposition 68 Per Capita Grant Program Funds and Authorizing the Town Manager to Execute a Grant Agreement and Other Grant Related Documents. Vote: 5-0.

7. ADOPTION OF MEETING AGENDA

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

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

8. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Korpus – Reported she had attended a RecycleSmart meeting and holiday party; had been interviewed by KCBS Radio regarding the New Rheem Theatre opening; a reception for the Moraga Police Department's 40th Anniversary; New Rheem Theatre sneak peek; Moraga Liaison Meeting and briefed the Council on the discussions and updates that had been provided with a community meeting scheduled for January 28, 2020 at Joaquin Moraga (JM) Intermediate School at 7:00 p.m. for the Moraga-Orinda Fire District (MOFD) to provide information on fire code updates. She had also attended a Chamber of Commerce meeting and briefed the Council on the discussions and updates provided on new businesses and community events.

Vice Mayor McCluer – Reported he had attended the reception for the Moraga Police Department's 40th Anniversary; Moraga Police Association (MPOA) Toys for Tots event; sneak peek of the New Rheem Theatre and met the new owner; and had spoken with the Executive Director of the Moraga Chamber of Commerce to receive input on the Town Council's upcoming goals for 2020.

Councilmember Sos – Reported she had attended the reception for the Moraga Police Department's 40th Anniversary. She commended Chief of Police Jon King

for working on Christmas Day which allowed some of his fellow officers to enjoy the holiday with their families.

Councilmember Woehleke – Reported he had attended the MPOA Toys for Tots event and the reception for Moraga Police Department’s 40th Anniversary.

Councilmember Wykle – Reported he had attended a meeting of RecycleSmart and briefed the Council on the discussions; reception for Moraga Police Department’s 40th Anniversary; sneak peek of the New Rheem Theatre; and Chamber of Commerce meeting as the Council Liaison and briefed the Council on the discussions and upcoming events.

- B.** Town Manager Update – Town Manager Cynthia Battenberg reported the Town would continue to receive unfunded needs surveys from the community; street sweeping in the community had been scheduled between January 9 and 30, 2020 in partnership with the City of Orinda with additional information available on the Town website; and completion of the tree removal for the Canyon Road Bridge Project had been scheduled for January 13, 2020, which could cause up to 15 minute delays.

The Town Council Goal Setting Session had been scheduled for January 22, 2020, and the Town was in the process of recruitment for Town Commissions/Committees. In addition, The Bluffs neighborhood had been working closely with the Chief of Police on an evacuation exercise scheduled for Saturday, January 11, 2020.

9. DISCUSSION ITEMS

There were no discussion items.

10. PUBLIC HEARINGS

A. Chase Bank Annexation to Street Lighting Assessment District

Consider Resolution 2-2020 Determining the Lack of Majority Protest and Ordering Annexation of Territory Designated as Annexation 2019-2, “Chase Bank” into Assessment District 1979-1, Town of Moraga Street Lighting

Randy Leptien, LCC Engineering & Surveying, Inc., detailed the procedural requirements of Proposition 218 regarding new assessment levies on new property which were subject to a ballot proceeding and public hearing. The Chase Bank parcel located on Moraga Way and School Street had been required to install two new street lights, and pursuant to the project, they were required to be annexed into the Town’s public assessment district and pay maintenance for those lights in the future. The Town Council was asked to open the public hearing, allow any interested person to speak, close the public hearing, and then ask the Town Clerk to open the ballot, and assuming it was in favor, adopt the proposed Resolution in the form presented.

PUBLIC HEARING OPENED

There were no comments from the public.

PUBLIC HEARING CLOSED

Town Clerk Marty McInturf opened the one ballot and reported a yes vote.

ACTION: It was M/S (Woehleke/Sos) to adopt Resolution 2-2020 Determining the Lack of Majority Protest and Ordering Annexation of Territory Designated as Annexation 2019-2, "Chase Bank" into Assessment District 1979-1, Town of Moraga Street Lighting. Vote: 5-0.

B. California Building Code for 2019

Consider Waiving the Second Reading and Adopting Ordinance 285 Repealing and Replacing Moraga Municipal Code (MMC) Chapter 15.04 "Building Codes" of Title 15 and Adopting by Reference Certain Sections of Contra Costa County Ordinance No. 2019-31, which Adopts the 2019 California Building Code, the 2019 California Residential Code, the 2019 California Green Building Standards Code, the 2019 California Electrical Code, the 2019 California Plumbing Code, the 2019 California Mechanical Code, and the 2019 California Existing Building Code (California Code of Regulation, Title 24 Parts of 2, 2.5, 11, 3, 5, 4, and 10) and Making Certain Amendments Thereto; and Finding Adoption of the Ordinance Exempt from the California Environmental Quality Act.

Planning Director Derek Farmer presented the staff report and recommended the Town Council waive the second reading and adopt the proposed Ordinance in the form presented as Attachment A and incorporate the redline changes as shown in Attachment D in the staff report.

Assistant Town Attorney Denise Bazzano reported the redline revisions included in Attachment D had been provided to the Town Council prior to the introduction of the Ordinance.

PUBLIC HEARING OPENED

There were no comments from the public.

PUBLIC HEARING CLOSED

Councilmember Woehleke suggested the resolution be modified to reflect the Town Council would only adopt the building permit requirements as approved by Contra Costa County. He referenced the language contained on Page 9 of the Ordinance, Section II. Necessity of More Restrictive Standards, and questioned whether the findings outlined in this section could be made. He noted that the datum the State of California had used for the changes to the Building Code had not been referenced, and nothing differentiated the Town of Moraga's conditions relative to the State. If the Ordinance was approved as written, the findings would be made, which he questioned as logically correct or reasonable. He felt that input from the County would be needed. He could not support the item and asked for input from the Town Council.

Responding to the Mayor, Ms. Bazzano stated she did not know of any legal requirement of the Joint Powers Authority (JPA) Agreement that the specific findings be made, which she would have to review further. She asked whether Councilmember Woehleke had any specific revisions to the recitals in the Draft Ordinance.

Councilmember Woehleke noted that the Town had agreed in 1975 it would adopt the changes as implemented by the County, which he thought was all that should be stated in the Draft Ordinance. No findings of fact should be required.

Ms. Bazzano explained that by adopting by reference the County's Ordinance which had amendments to the Building Code required findings based on topographical, climatic, and geological conditions to support any amendments. While all of the findings may not have to be used, staff would have to study which were applicable or not, necessary or not, based on the amendments the Town had selected. The new Building Codes became effective January 1,

2020, and at this time the County was required to only enforce the new Building Codes. No amendments the County had adopted could be enforced in the Town of Moraga. If changes to the Draft Ordinance were made it would result in a first reading, requiring two more weeks for adoption with the second reading.

Councilmember Wykle supported the findings as outlined in the Draft Ordinance. He suggested the data for the conditions and findings were there and he could find the conditions and findings had been met.

Councilmember Sos inquired if the Town needed to specifically state that the Town Council finds or if they could use the County's adoption of the Ordinance by reference.

In response to Councilmember Sos, Ms. Bazzano stated the first paragraph of Page 9, Section II. Necessity of More Restrictive Standards, could be amended to address the concerns raised by Councilmember Woehleke, and noted that by adopting by reference, the Town Council was essentially finding what the County had found. The language, as written, including text reading "the Town Council of Moraga finds" had been included to clarify not only by reference but that the Town of Moraga was making the findings. While that text could be removed from this section, the result would be the same that the Town Council of Moraga was finding what the Contra Costa County Board of Supervisors had found.

Councilmember Woehleke reiterated his concerns and noted that the State of California wind, rain, earthquakes and climate change data that the Contra Costa County Board of Supervisors used to make the changes to the Building Code were not referenced there. The information being used in the Ordinance was more restrictive and he did not believe there was justification for it.

Councilmember Wykle opposed the Town having its own Building Code enforcement division since the Town must rely on the County. He supported the second reading of the Ordinance and noted the Town was out of compliance and must move forward.

Mayor Korpis understood that to make a particular finding, the Town must have something to rely on to make that finding. To make the findings, the Town could rely on the work of Contra Costa County and the conclusions the County had come to in weighing the evidence based on the work that had already been done and the finding that work had been found to be reliable, well thought out and reasonable. Also, the Town Council had its own personal experience and knowledge about living in Moraga, how quickly fire spread and how susceptible residents could be to the dangers. She noted the Town wanted the County to be acting and enforcing and rather than cause unnecessary delays, she supported the second reading and adoption of the Draft Ordinance, as presented.

Councilmember Woehleke reiterated his concerns with the adoption of the Ordinance as shown, as a credibility issue as to how the Town was representing what it was doing.

ACTION: It was M/S (Wykle/Sos) to waive the Second Reading and Adopting Ordinance 285 Repealing and Replacing Moraga Municipal Code (MMC) Chapter 15.04 "Building Codes" of Title 15 and Adopting by Reference Certain Sections of Contra Costa County Ordinance No. 2019-31, which Adopts the 2019 California Building Code, the 2019 California Residential Code, the 2019 California Green Building Standards Code, the 2019 California Electrical Code, the 2019 California Plumbing Code, the 2019 California Mechanical Code, and the 2019 California Existing Building Code (California Code of Regulation, Title 24 Parts of 2, 2.5, 11, 3, 5, 4, and 10) and Making Certain Amendments Thereto; and Finding Adoption of the Ordinance Exempt from the California Environmental Quality Act. Roll Call Vote: 4-1. Noes: Woehleke.

C. Bidding, Informal Bidding and Formal Bidding Procedures

Conduct a Public Hearing, Waive the First Reading and Introduce by Title Only an Ordinance Amending Sections 3.04.70 "Bidding;" 3.04.080 "Informal Bidding;" and 3.04.090 "Bidding," "Formal Bidding" and Formal Bidding Procedures" of Title 3, "Revenue and Finance" of the Moraga Municipal Code to Increase the Thresholds for the Purchase of Supplies, Equipment and Non-Professional/Non-Special Services (*CEQA Status – Exempt from CEQA Pursuant to CEQA Guidelines Section 15061(b)(3)*).

Administrative Services Director Norm Veloso presented the staff report and recommended the Town Council waive the first reading and introduce the Ordinance as shown in the form provided. Responding to the Council, he clarified that three or four jurisdictions did not have such bidding procedures in place. Of the jurisdictions staff had reviewed, many codes and thresholds had gone as far back as 2011 or prior to 2010.

Ms. Battenberg advised that 12 of the 18 municipalities had \$50,000 plus thresholds for formal bidding although the number should be what the Town Council was comfortable with. She also detailed the competitive bidding process thresholds.

Interim Public Works Director/Town Engineer Shawn Knapp also explained that in the realm of engineering there were a number of items that were bid out, noting the California Code had limits which continued to increase over time and which were much higher for informal and formal bidding processes. Moraga tended to be at or below the low end for the informal purchases of vendors. The Town complied with the California Uniform Cost Accounting Act as administered by the State Controller's Office, which allowed the Town, if it had the budget, to follow those prescriptive increased amounts that had been adopted by a vast majority of State agencies and municipalities.

Mr. Veloso further detailed the California Uniform Cost Accounting Act which had a threshold of anything under \$60,000 and which would not require bidding but informal bidding for anything under \$200,000. Anything over \$200,000 had required formal bidding as of January 1, 2019, which could increase based on current information from the State Controller's Office.

Mr. Knapp commented that 20 percent of the cost of a small project went into processing the paperwork and advertisement of a smaller purchase, which was time consuming and it would be helpful for staff to have the limits raised. He advised that currently \$25,000 was being asked as the minimum level for an informal bidding process and raising it to another level such as \$35,000 or \$45,000 for items already budgeted could be considered.

As to whether it made sense to have a higher threshold for the Public Works Department and a lower threshold for the other Town Departments, Ms. Battenberg explained that the majority of the purchases were maintenance-related items and there were different thresholds. She suggested the threshold be raised to \$40,000. She stated that in order for the Town to enter into a contract to purchase something, the dollar threshold had been identified in the accounts payable data, with progress payments made on that contract, and she acknowledged there were times when projects had been split with different contractors so that staff did not have to go through the laborious bidding process.

PUBLIC HEARING OPENED

There were no comments from the public.

PUBLIC HEARING CLOSED

Councilmember Woehleke supported a \$25,000 limit for the formal bidding process.

Vice Mayor McCluer opposed a more time-consuming formal bidding process and could support increasing the limit to \$40,000.

Councilmember Wykle also supported increasing the limit to \$40,000 for the formal bidding process and suggested in the future staff should collect data from accounts payable and the contract value to monitor how they were doing.

Councilmember Sos also supported increasing the limit to \$40,000 for the formal bidding process given there were significant checks in place.

Mayor Korpus supported \$10,000 for the informal and \$50,000 for the formal bidding process since that was what staff wanted. She disliked the payment of 20 percent of a contract for the bidding process.

The following revisions were made to Attachment A, Ordinance Amending Sections 3.04.70 “Bidding;” 3.04.080 “Informal Bidding;” and “Formal Bidding Procedures” of Title 3 “Revenue and Finance” of the Moraga Municipal Code to increase the thresholds for the purchase of supplies, equipment and non-professional/non-special services:

- Page 2, Section 2, Amendment, 3.04.080 – Informal Bidding, B:
If the estimated value of the purchase is fifty thousand dollars (\$50,000) or less, but ten thousand dollars (\$10,000) or more, the Town Manager or designee shall make the purchase under the following procedure: and:
- Page 3, Section 3.04.090 – Formal Bidding Procedures:
Except as provided in Sections 3.04.060, 3.04.070, 3.04.080 and Chapter 3.06, the purchase of supplies, equipment or non-professional services of an estimated value greater than fifty thousand dollars (\$50,000) shall be by written contract with the lowest responsible and responsive bidder after following this procedure:

ACTION: It was M/S (McCluer/Woehleke) to waive the First Reading and Introduce by Title Only an Ordinance Amending Sections 3.04.70 “Bidding;” 3.04.080 “Informal Bidding;” and 3.04.090 “Bidding,” “Formal Bidding” and “Formal Bidding Procedures” of Title 3, “Revenue and Finance” of the Moraga Municipal Code to Increase the Thresholds for the Purchase of Supplies, Equipment and Non-Professional/Non-Special Services (CEQA Status – Exempt from CEQA Pursuant to CEQA Guidelines Section 15061(b)(3), to be amended as follows:

Page 2, Section 2, Amendment, 3.04.080 – Informal Bidding, B, revised to read:

If the estimated value of the purchase is fifty thousand dollars (\$50,000) or less, but ten thousand dollars (\$10,000) or more, the Town Manager or designee shall make the purchase under the following procedure: and:

Page 3, Section 3.04.090 – Formal Bidding Procedures, revised to read:

Except as provided in Sections 3.04.060, 3.04.070, 3.04.080 and Chapter 3.06, the purchase of supplies, equipment or non-professional services of an estimated value greater than

fifty thousand dollars (\$50,000) shall be by written contract with the lowest responsible and responsive bidder after following this procedure

Roll Call Vote: 5-0.

11. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

Mayor Korpus declared a recess at 8:13 p.m. The Town Council reconvened at 8:20 p.m. with all Councilmembers present.

A. Update on Unfunded Needs

Receive Update and Discuss Next Steps to Address Unfunded Needs and Provide Direction to Staff

Ms. Battenberg provided a PowerPoint presentation on the update on unfunded needs and next steps and offered highlights of the Unfunded Needs Assessment Results; community outreach efforts; expense savings and analysis; operational improvements; analysis of existing revenue related to Measure K, Fund 100 – One Time Developer Fees, Palos Colorados; Fund 140 – Property Tax Special Lighting District; a potential revenue measure to fund infrastructure needs; and a number of staff recommendations as outlined in the staff report. She asked the Town Council to provide direction on the information presented.

Responding to the Council, Ms. Battenberg confirmed that competitive bidding was still on the list of things to do although she asked that staff be allowed time to evaluate how the On-Call Consultants were being used to allow staff to prepare policies and procedures and have a better understanding of which work could be done internally. She also clarified the Measure K funds and noted that Outdoor Supply Hardware was a good tax generator. More updated information on the Measure K funds could be provided to the Town Council at a later date.

Ms. Battenberg further clarified there were no restrictions on the use of Fund 100 – One Time Developer Fees - Palos Colorados Funds, although it was clear that open space and recreation had been a priority funding for the Fund. She also clarified there was no separate fund for traffic mitigation, which was being addressed through impact fees and she described that process.

Mr. Knapp provided further clarification on the use of Measure K funds and noted that work had occurred on roughly 50 percent of the Town's roads, with an average Pavement Condition Index (PCI) of 75. He confirmed that Moraga Road was in excellent condition while approximately five percent of the Town's roads were in very poor condition. The StreetSaver Program would be used to analyze different scenarios and budget levels to improve those streets.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Councilmember Wykle emphasized that residents had been promised that Measure K funds would be used only for roads and while the Town had other needs he would be more apt to use those funds for other needs if there were not five percent of the Town's roads in very poor condition. He cautioned moving Measure K funds away from road repair.

Councilmember Sos commended the Town Manager's vision in assessing the unfunded needs in an objective, fair, and rigorous manner. She supported the staff recommendations on next steps; recognized the public's and Police Chief's comments to explore the possibility of grants for

an additional police officer dedicated to the schools; supported shelving the Public Works Department Operational Efficiency Study since it would not be productive or yield results beyond what was currently being done; understood the general expectation the Measure K funds would be prioritized for roads; was hopeful the roads which remained problematic would be addressed in short order, and that the Town Council may look at the possibility of using Measure K funds for storm drain work related to roads; and favored staying the course on the use of Palos Colorados Funds and not assume that \$3.5 million would appear from the Palos Colorados developer within the next fiscal year.

Councilmember Sos supported exploring the repurposing of Fund 140, as staff had recommended, and unless there was a reason to keep the monies in that fund, she supported exploring the use of those funds for capital asset replacement and reducing the fiscal year adopted budget by \$100,000 in mid-year, which she found to be a hopeful but realistic assessment of the Town's ability to address the immediate needs of the upcoming fiscal year.

Councilmember Woehleke commended staff, particularly the Town Manager, for leading the effort. As to asset renewal and storm drains, he questioned what posed the largest opportunity or risk and if compelling there should be a way to prioritize funds. He commended staff's approach for pursuing and conducting inspections of the Town's storm drains. He also commended Suzanne Jones with Preserve Lamorinda Open Space (PLOS) for providing her input via correspondence related to the use of Palos Colorados Funds.

Vice Mayor McCluer also expressed his appreciation to staff on the information provided. Most residents he had spoken with were not opposed to using excess Measure K funds for one or two capital asset replacement items as long as the funds were still used for Town roads. While he understood that more pavement expenses may be necessary to address the Town's roads that had not been maintained, he suggested that would be a future agenda item to revisit.

Vice Mayor McCluer also spoke to the use of Palos Colorados funds, and based on prior meeting minutes, the current Town Council had stated it could use some of those funds for unfunded needs and remain with the original intent of recreation. Based on the studies that had been prepared for unfunded needs, after legal fees, and given the funds available in the Palos Colorados Fund, he recommended \$750,000 from the Fund be earmarked not restricted for the use of unfunded needs and an equal amount of \$750,000 be earmarked not restricted for recreational needs. If funds were needed for an emergency, the monies were available for loans. With the expense analysis, no new money had been anticipated from Palos Colorados.

Vice Mayor McCluer emphasized that all unfunded needs had not been identified, suggesting the unfunded needs may be able to be fully funded internally and in the future without new taxes. He agreed the Town should not pursue new taxes this year via a 2020 ballot measure, and agreed the Town Council should take the next 12 to 24 months and work towards expense savings, use existing revenues and continued analyses and understanding of the unfunded needs, and direct new discretionary funds to unfunded needs as they become available.

Mayor Korpus advised there was Town Council consensus to:

- Explore the possibility of obtaining grant funds for a School Resource Officer or an additional Police Officer and report back to the Council at a future date.
- Shelve the Public Works Operational Efficiency Study, (and the possible study of other departments), and allow the permanent Public Works Director and his/her staff to identify and implement cost savings measures; and continue implementing operational improvements in all departments.

- After clarifying questions with staff regarding undergrounding, the legal process on how the funds could be reallocated, and how they could be used once reallocated for General Purpose revenue, there was Town Council consensus to explore the repurposing of Fund 140 – Property Tax Special District Lighting Funds (general purpose revenue) to free up approximately \$100,000 annually and spend down the fund balance over a two-year period (FY 2020/21 and FY 2021/22) to fund a portion of the approximately \$465,000 annual Capital Asset Replacement program need, with staff to keep in mind whether or not there was an underground project that was a life safety issue that should take priority. Staff was also directed to repurpose the funds and determine where they could best be used, with staff to return with additional information and documentation to create the funds for a General Purpose Fund, as part of the budget process.
- Reduce the FY 2019/20 Adopted Budget by \$100,000 (the amount included for a proposed revenue measure) during the mid-year budget adjustment process and postpone consideration of a future revenue measure until the FY 2021/22 budget preparation process.

As to the recommendation to reconsider the allocation of Measure K general purpose tax revenue for the next two years (FY 2020/21 and FY 2021/22) to fund the \$540,000 public storm drain infrastructure need in addition to the Town's Pavement Management Program, there was strong concern by two Councilmembers and the Mayor of the idea of using the funds given there were still Town roads in very poor condition, but there was receptiveness to the idea where a good argument could be made. There were two Councilmembers in support of the reallocation of Measure K funds to the extent there was an excess of funds.

In response to the Mayor, Ms. Battenberg reiterated that more information would be known once staff had the opportunity to do more work with the StreetSaver Program and as more budget information became available.

Mr. Knapp added that the StreetSaver Program was intended to maximize the benefit from the amount of money that had been invested with the amount of money that had grown given additional resources. Measure K funds from the public standpoint were the roads and the storm drains underneath them and over time the roads in worst condition would be addressed, to be combined with other roads for greater benefit and to increase the PCI.

Mayor Korpus recognized the Town had invested far more into its roads than contemplated when Measure K had been adopted. Based on the information from staff the overall investment could be maintained without changing the amount of money dedicated to roads. She supported the idea of exploring the staff recommendation.

Councilmember Woehleke stated that based on his walking of the Town's neighborhoods, and feedback from homeowners, many neighborhoods still needed road repairs. He suggested that diversion of the funds would likely result in pushback from residents.

Councilmember Wykle was willing to support the staff recommendation based on the comments but would like to see the analysis of what would happen if the funds from Measure K were diverted. He disagreed that Measure K was overfunded and there was an excess of funds. He pointed out that Measure K was not intended to fully fund all of the Town's roads and there was an understanding the PCI would go down. He noted there remained a section of Moraga Road that was in poor (if not failed) condition and while there could be a grant opportunity to address it, he was willing to consider the staff recommendation based on an analysis and what the funds would be used for with a determination to be made on any higher priority.

Vice Mayor McCluer clarified with Mr. Knapp that the former Public Works Director/Town Engineer had previously recommended the Town Council stay the course and use the StreetSaver Program to determine the most cost-effective way from a programming and computer standpoint as to what streets to pick. He recognized an existing study that could be studied further and suggested that some projections for Measure K revenues could be pursued. He recommended that the item be brought back to the Town Council after more study.

Mayor Korpis acknowledged the Town Council's consensus that staff reconsider the allocation of Measure K, general purpose tax revenue for the next two years (FY 2020/21 and FY 2021/22) to fund the \$540,000 public storm drain infrastructure need in addition to the Town's Pavement Management Program, with staff to explore the recommendation further, and with strong sentiment on the part of the Town Council to focus on what could be done to improve the condition of the "Very Poor Condition" roads, and when the Town Council revisited the budget, staff to return with more information.

As to the recommendation to continue the practice of limiting use of Fund 100 - One Time Developer Fees (Palos Colorados funds) to one-time expenditures and loans for emergencies, **Councilmember Wykle** supported the recommendation based on prior practice. He understood the Vice Mayor had offered an alternative recommendation but suggested the timing was not right to consider such a recommendation given the Town's cash flow needs including the Canyon Road Bridge Replacement Project.

Mayor Korpis saw no need, or benefit, and could foresee disadvantages in trying to make decisions about symbolic or temporary allocation of the funds at this time.

By consensus, the Town Council agreed to stay the course for now with respect to the recommendation to continue the practice of limiting use of Fund 100 - One Time Developer Fees (Palos Colorados funds) to one-time expenditures and loans for emergencies. As to when and/or if the Town received the anticipated \$3.5 million payment triggered by the issuance of a grading permit for the Palos Colorados development project, consider funding a Supplemental Pension Trust to manage future increases in CalPERS unfunded pension liability payments and/or some of the Town's Capital Asset Replacement needs from Fund 100, **Mayor Korpis** understood the Town Council's consensus was to discuss those possibilities when and if the funds became available.

Vice Mayor McCluer also recommended the Town Council consider paying off the Town-held note on the Council Chambers building, which could save \$230,000 in interest expenses.

Ms. Bazzano confirmed the request could be part of the discussion of unfunded needs and could be discussed now item or be considered at the end of the meeting as a future agenda item.

Mayor Korpis recommended the request be considered at the end of the agenda under requests for future agenda items.

B. Accounting Technician Position

Consider Resolution 3-2020 Approving the Accounting Technician Job Description; Amending the Fiscal Year 2019/20 Salary Schedule for the Town of Moraga to Add the Accounting Technician Salary, Effective February 1, 2020; and Appropriating \$6,125 from the General Fund Reserves to Fund the Position in Fiscal Year 2019/20

Administrative Services Director Veloso provided a PowerPoint presentation on the item and asked the Town Council to adopt the proposed Resolution as contained in Attachment A.

Responding to the Council, Mr. Veloso explained that the Independent Auditor had recommended a full-time Senior Accountant, although staff recommended a part-time Accounting Technician. In assessing the need, including the Town's fiscal responsibility and the costs associated with the position, and in order to be fiscally conservative along with his oversight of the position and with the hiring of a recent Accountant who was also a Certified Public Accountant (CPA), the part-time position could assist the Town in moving forward with implementing best practices for the Administrative Services Department.

Mr. Veloso clarified the Finance Intern position was not technically long term and the position was typically filled by those with no accounting knowledge who were trained on the job and was not comparable to those individuals who already had the skills in place. A skilled Accounting Technician who already knew the work and had the skills required for the position would help the Town keep up with the daily routine of finance and accounting. Ideally, the position would be filled with someone who had experience in finance and accounting for at least a couple of years either privately or in the public sector.

Ms. Battenberg commented that the Finance Intern had started in July 2019, but a few months ago a part-time accounting person hired through a temporary agency had been brought in to augment some of that work, which could be filled by an Accounting Technician position.

Mr. Veloso again detailed the benefits included in the part-time Accounting Technician position as outlined in the staff report; and Ms. Battenberg clarified the position would not include medical benefits but would be part of the Public Employees' Retirement System (PERS) with prorated holiday, vacation and sick pay. The position would enable staff to bring someone in during the budget process, if someone was on vacation, or if there was a vacancy. If restricted to 960 hours a year, it would be difficult to use that person to create the stability desired in the Administrative Services Department.

Mr. Veloso reiterated that given the work and based on his review, the Town was behind nine to ten months in cash reconciliation which had become an issue during audits over the past two years. The work must be completed on a monthly basis due to the reliance on timely and accurate financial records to be provided to the Town Council to make informative decisions. Given there were many months when the cash reconciliation had been behind, there were times when accounts had not been accurately maintained until close to the time of the audits inconsistent with Best Practices. Two of the three positions in the Administrative Services Department were exempt, and although they worked overtime, it was not being monitored because it would not create additional costs to the Town since no overtime was being charged. He further detailed the functions of the Administrative Services Department including Human Resources, risk management and technology.

Ms. Battenberg identified the Town Departments that were cost recovery including the Planning and Public Works Departments, and detailed the salary, benefits, overhead charges and the like and how costs were recovered indirectly. The rates for recovery had been adjusted a year and a half ago based on costs per employee.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Mayor Korpus clarified with Mr. Veloso the functions of the Administrative Services Department and his personal background and experience. She also confirmed that Town staff had been analyzing the Town's funds and expenses in a more detailed and timely manner than in the past

pursuant to Best Practices. She found the need for the Accounting Technician position to be clear and she supported the item understanding the increased burden on Town staff, staff turnover, and change in qualifications.

Councilmember Sos understood the Independent Auditor had flagged the position and if the Town did nothing it would be in the audit report again and could escalate to something of more significance. She supported the request and found the proposal to be more circumspect and conservative than bringing on a Senior Accountant as the Independent Auditor had recommended. She was confident based on the professional judgment from the Administrative Services Director the position would fill the need and allow reporting in a fair and reasonable manner.

Councilmember Woehleke commented that with the Town struggling financially he was loathe to take on new commitments, although he recognized this was a moderate step. He encouraged staff to focus on local talent to fill the position and to pursue whatever possible to enhance cost recovery for the position. While he agreed with the need, he expressed concern given the potential for a future revenue measure and the discussion on unfunded needs. He acknowledged the recommendation from the Independent Auditor for a Senior Accountant and liked the interim step recommended by staff for a part-time Accounting Technician. Recognizing the need and the approach recommended, he could support the item.

ACTION: It was M/S (McCluer/Sos) to adopt Resolution 3-2020 Approving the Accounting Technician Job Description; Amending the Fiscal Year 2019/20 Salary Schedule for the Town of Moraga to Add the Accounting Technician Salary, Effective February 1, 2020; and Appropriating \$6,125 from the General Fund Reserves to Fund the Position in Fiscal Year 2019/20 Vote: 5-0.

C. On-Call Excavation Services Contract with Siteworks Construction

Consider Resolution 4-2020 Authorizing the Town Manager to Execute an Amended On-Call Excavation Services Contract with Siteworks Construction, Inc. (Lafayette) for an Additional \$383,000 and Authorizing the Appropriation of Up to \$465,500 from Fund 100 – One Time Developer Fees (Palos Colorados) in Order to Undertake Possible Nuisance Abatement Work Related to Property at 398 Rheem Boulevard (APN 255-150-018) (*Status: CEQA Exempt*).

Interim Public Works Director/Town Engineer Knapp and Associate Engineer Mark Summers provided a PowerPoint presentation on the item and recommended the Town Council adopt the proposed Resolution contained in Attachment B.

Responding to the Council, Mr. Knapp clarified the broken sewage pipe would be stabilized as part of the repair work although the sewer line would not be reconnected but placed at the right depth.

Ms. Bazzano explained the differences between a lien and special assessment. A lien against the property would be recorded against the property and would remain until such time as the property was sold or some transfer occurred with the property. A special assessment would be similar to a tax, would be put on the Assessor's Roll, levied as a tax with other taxes to be paid on the property, but could take up to three years to finalize. This process was longer and involved other issues such as a code-required public hearing and there could be a situation where another recorded instrument took priority over everything already recorded against the property. That information would not be known until the lien was actually filed against the property. Also, if a mortgage holder, as an example, was in the process of foreclosing on the property, that could change everything and the Town may not be able to assert the lien based on the status of the property. A special assessment would allow the Town to foreclose on the property and force a

sale of the property to allow the Town to collect on the costs for repair, which also involved a long process. Government Code Section 38773.5 generally provided the process for special assessment liens with a provision that stated that the debt would then be collected in the same manner as other municipal taxes. If the property owner did not make the payments, the tax collector could sell the property after three years, although if the property was sold before the assessment was satisfied, the obligation did not run with the land and the Town would not have any security to pursue the special assessment.

Ms. Bazzano commented that it was unknown what the court would do if and when the Town sought an abatement inspection warrant. The court may grant the Town's request if the Town were to seek an inspection abatement warrant, deny the request, or modify the abatement items. Things may also change once the Town actually entered the property after an inspection abatement warrant was issued, which was why a proposed abatement plan had been identified.

Mr. Knapp acknowledged the property owner had not provided staff any indication he had completed any of the required actions and there had been no documented action shown to staff.

Ms. Bazzano reported since November 2019 she had had a couple of conversations with the attorney representing the property owner, Stars Holding LLC, and there had been discussions about possibilities to come up with funds relating to work that needed to be done. At this time, if the property owner came in and provided evidence of compliance that would need to be confirmed by the Town that the property owner would complete the remaining actions as required on the Notice and Order. As part of the inspection abatement warrant, staff as a courtesy, would reach out to the property owner to advise of the Town's intent to seek the warrant, and discuss whether or not they would voluntarily allow the Town to do that, but in terms of the Town's MMC, the Town had already issued the Notice and Order to Abate, with the appeal procedure, and the Town at this time pursuant to MMC Section 7.16.120, may just indicate to the property owner that the Town was intending to pursue abatement.

The Town would keep track of the costs of the abatement and once done notify the property owner of that cost. If the Town were to pursue the Inspection Abatement Warrant with the court, it would not take that long since it would be typically heard by a presiding judge of the County, with a few days to let the other party know of the appearance, which could be scheduled fairly quickly. The abatement plan had been discussed with Town staff on what would be required to winterize the pipe through the season and what needed and could be done now, which had led to the selected abatement items.

Ms. Bazzano also clarified the legal fees for the preparation of the Inspection Abatement Warrant which had not included the costs for pursuing the abatement costs, which would likely be challenged. Also, as an example, if a lien were placed on the property and a foreclosure was in process, the Town may be precluded from pursuing that lien. If foreclosure was not in process, but later took place, and if the property were sold, it may depend on who recorded first in terms of when funds were dispersed to pay for any liens on the property. She acknowledged if the property was not in foreclosure, recordation of a lien could trigger some action by the mortgage holder to place the property into foreclosure. She also noted that while there was a process to pursue recovery of the costs for the abatement of the property no outcome could be guaranteed.

Mr. Knapp again reviewed the details of the abatement plan, noting the Town must first obtain the legal right to enter the property, and once done, the first item would be videotaping and identifying the sinkhole and then stabilization of the area to allow for the work to commence. He further detailed the plan for the injection of polyurethane foam into the voids and around the pipe for stabilization with the intent to fill any voids underneath the pipe. He also clarified the pricing for Siteworks had been based on quantity estimates done by staff and included a built-in contingency.

Ms. Battenberg reiterated the action being asked of the Town Council. If the item was approved it would allow staff to take the actions shown. It would not require a separate hearing on the abatement.

Mr. Knapp again explained that once the work was allowed to commence and the Town was allowed to enter the property, a survey would be done on the property lines and staff would work in conjunction with majority owners of the Rheem Center. The fencing on Center Street would have to be adjusted to allow work in the subject area and the Town would work with its partners at the Rheem Center. He understood that the Rheem Center had not done any ground penetrating radar for the sinkhole, or the rest of their pipeline, but had grouted the bottom of their section of the deteriorated pipe.

Mr. Knapp stated at this time the focus would be on the property at 398 Rheem Boulevard. Town staff could identify what needed to be done for the Rheem Center property that was affected to address issues with Center Street. He reiterated the first task would be to identify the extent of the hole to stabilize it by excavating any unstable material. The interior of the pipe would be inspected and if additional shoring was needed that would be done, or if the wood struts bracing needed to be replaced, steel braces would be placed. As part of a future phase, rehabilitation of the pipe by the Rheem Center would be recommended, although at this time the focus would be on the property at 398 Rheem Boulevard and the public safety issue.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Councilmember Wykle thanked staff for staying on top of the issue and while he was disappointed the property owner had not taken corrective action he saw no alternative for the Town Council but to support the action requested by staff.

Councilmember Woehleke agreed, was unaware of any alternatives, and understood the public safety risk that needed to be addressed. He supported the item.

Councilmember Sos also understood the Town Council had no choice but to address the condition of the sinkhole. She found there was a public safety issue and she was disappointed the property owner had not addressed his section of the pipe but the abatement procedures allowed for the public safety issue to be addressed while keeping the pipe the property owner's responsibility. She also recognized the Town's ability to recover the costs was speculative and was confident it would be pursued with all vigor through every procedural technique available.

Vice Mayor McCluer also found the Town had no choice since the pipe must be protected, the sinkhole may only expand, and debris collected into the pipe if nothing was done. Due to the public safety issue, he supported the staff recommendation. He looked forward to the course of action Town staff would recommend in terms of lien versus special assessment.

Mayor Korpus agreed with the comments.

ACTION: It was M/S (Wykle/McCluer) to adopt Resolution 4-2020 Authorizing the Town Manager to Execute an Amended On-Call Excavation Services Contract with Siteworks Construction, Inc., (Lafayette) for an Additional \$383,000 and Authorizing the Appropriation of Up to \$465,500 from Fund 100 – One Time Developer Fees (Palos

Colorados) in Order to Undertake Possible Nuisance Abatement Work Related to Property at 398 Rheem Boulevard (APN 255-150-018). Vote: 5-0.

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

Mayor Korpus declared a recess at 10:53 p.m. The Town Council reconvened at 10:57 p.m. with all Councilmembers present.

D. Town Council Committee Appointments

Consider and Appoint Town Council Representatives to Committees and Boards for 2020

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Representatives to Committees and Boards for 2020 are as follows:

*(Based on nominations from the Mayor)

<u>Standing Committee</u>	<u>First Appointment</u>	<u>Second Appointment/Alternate</u>
AFC (Audit and Finance Committee)	Wykle	Korpus
<u>Ad Hoc Committees</u>		
MCSP (Moraga Center Specific Plan) Ad Hoc Committee	Wykle	Korpus
<u>Liaisons</u>		
ABAG (Association of Bay Area Governments)	Woehleke	McCluer (Alternate)
AUHSD (Acalanes Union High School District)	McCluer	Wykle (Alternate)
Citizen CORPS Council <i>(Inactive) *To be eliminated from the list of Council Appointments</i>		
Contra Costa Mayors' Conference	Korpus	Wykle (Alternate)
EBMUD Liaison	Woehleke	Sos (Alternate)
League of California Cities East Bay Division	Korpus	Sos (Alternate)
Moraga Chamber of Commerce	Wykle	Woehleke (Alternate)
Moraga Country Club	Woehleke	McCluer (Alternate)
MOFD (Fire District)	Woehleke	McCluer (Alternate)
Moraga School District (MSD)	McCluer	Sos (Alternate)
Moraga Youth Involvement Committee (MYIC)	McCluer	Wykle (Alternate)
Saint Mary's College (SMC)	Korpus	McCluer
<u>Voting Delegate/Boardmembers</u>		
CCCSWA	Wykle	Sos

Central Contra Costa Solid Waste Authority
(Renamed RecycleSmart)

League of California Cities (LCC) Delegate	Korpus	Sos (Alternate)
Lamorinda School Bus Transportation Agency (LSBTA)	Sos	Woehleke (Alternate)
SWAT/LPMC/LFFA (South West Area Transportation Planning Committee; Lamorinda Program Management Committee; Lamorinda Fee & Financing Authority) (RTPC Regional Transportation Planning Committee)	Sos	McCluer (Alternate)
Marin Clean Energy (MCE)	Sos	McCluer (Alternate)

Non-Council Liaisons

Art in Public Spaces Committee	Teresa Onoda	Sos
CCCTA – Central Contra Costa Transit Authority (i.e. County Connection)	Al Dessayer	
CCCTA – CAC County Connection Advisory Committee	Vacant	
CCMVCD (Contra Costa Mosquito & Vector Control District)	Rob Lucacher	None
Library Commissioner for Moraga	Vacant	Janette Maher (Alternate)
CCTA (Contra Costa Transportation Authority – Citizens’ Advisory Committee)	Larry Rosenberg	None
ACOA (Contra Costa County Advisory Council on Aging)	Vacant	None

Mayor Korpus understood that a resident who had served as a volunteer on the Audit and Finance Committee had recently resigned. She noted there was a vacancy on the Contra Costa County Advisory Council on Aging (ACOA) and she recommended contacting him to inquire whether he would be interested in serving on the ACOA.

Ms. Battenberg advised that the Council appointments would be brought back on the Consent Agenda for the next meeting of the Town Council.

12. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Vice Mayor McCluer requested a future agenda include a discussion whether the Town Council should pay off the note for the Council Chambers Building which would result in \$230,000 in savings of interest expenses, seconded by **Councilmember Woehleke**.

On the motion, **Councilmember Wykle** suggested the request be expanded to include a review of all Town debt which amendment was accepted by the **Vice Mayor** as the maker of the motion.

ACTION: It was M/S (McCluer/Woehleke) to agendize as a Future Agenda Item a Discussion of All Long-Term Debt for the Town and Explore Opportunities for Interest Savings. Vote: 5-0.

ACTION: It was M/S (Woehleke/Korpus) to extend the Town Council meeting to 11:20 P.M. Vote: 5-0.

Councilmember Woehleke reported the Association of Bay Area Governments (ABAG) would be holding a Special General Assembly on February 7, 2020, and he understood the Regional Housing Needs Allocation Numbers (RHNA) would be increased significantly and there would be an opportunity for feedback during the session. He asked that a line item be agendized as a future agenda item to allow direction from the Town Council on what input he may provide during the session.

Councilmember Wykle reported the item had been included on the Mayors' Conference agenda for January 9, 2020, and anyone may attend the business meeting.

ACTION: It was M/S (Woehleke/McCluer) to agendize as a Future Agenda Item a Line Item and Brief Discussion on Association of Bay Area Governments (ABAG) Special General Assembly scheduled for February 7, 2020, to be represented by Councilmember Woehleke to Obtain Input from the Town Council with no Staff Report. Vote: 5-0.

Councilmember Wykle requested a future agenda item include a discussion whether to consider a resolution or proclamation supporting the upcoming Moraga School District (MSD) parcel tax, and was informed by the Town Manager the item had been scheduled for Town Council consideration on the January 22, 2020 Town Council meeting agenda.

13. COMMUNICATIONS

There were no communications.

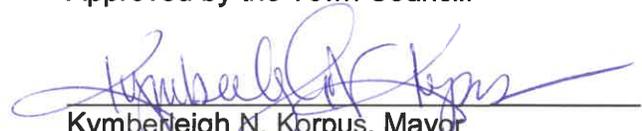
14. ADJOURNMENT

ACTION: It was M/S (Woehleke/McCluer) to adjourn the meeting at 11:18 P.M. Vote: 5-0.

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Kimberleigh N. Korpus, Mayor