



## TOWN OF MORAGA REGULAR MEETING

February 12, 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

David Stromberg, Moraga, led the Pledge of Allegiance.

#### 3. SPECIAL ANNOUNCEMENTS

**Mayor Korpus** reported the Town Council had met in a Special Closed Session for conference with legal counsel regarding anticipated litigation. The Town Council had received a report from the Town Manager and the Town Attorney and provided direction to the Town Attorney.

#### 4. PROCLAMATIONS AND PRESENTATIONS

- A. Presentation of Donation to the Moraga Parks and Recreation Department by the Rotary Club of Moraga

John Erickson, Moraga Rotary Club, provided the background of Moraga Rotary Club's service organization and highlighted the many community projects the organization had supported. In recognition of the Rotary Club's 50th Anniversary in 2017, the Rotary Club proposed an All Access Playground in Moraga Commons, which project had been supported by the Parks and Recreation Department and the Town of Moraga. He detailed the numerous community and service organizations that had supported the project with over \$345,000 raised for the purchase of playground equipment and other improvements, and described the many challenges the project had faced. The project had been completed and the playground had been dedicated to the Town in January 2018.

Mr. Erickson commented that while the project had been completed there remained some issues that had to be addressed including Americans with Disabilities Act (ADA) compliance. He reported the Chair of the Rotary Club had promised that any remaining funds from the project after its completion would be returned to the Town for Parks and Recreation Department use only. At this time he presented a check in the amount of \$28,373.03 to the Mayor for that use.

Parks and Recreation Department Director Breyana Brandt thanked the Rotary Club for its service and commitment to making Moraga such a fantastic place to live. She also reported that a separate donation account had been created by the Administrative Services Department to ensure that donated funds were tracked separately from funds in the General Fund and that there were many funding options the Town Council could consider at a future date.

The Town Council commended the work of the Rotary Club, its continued commitment to the Town, and the completion of the All Access Playground, a great asset to the community.

**PUBLIC COMMENTS OPENED**

There were no comments from the public.

**PUBLIC COMMENTS CLOSED**

Town Manager Cynthia Battenberg advised the Town Council may discuss how it wanted to utilize the donated funds during the discussion of the upcoming agenda item for the Mid-Year Budget Review.

**5. PUBLIC COMMENTS AND SUGGESTIONS**

Ian Crew, Moraga, reported the Federal Aviation Association (FAA), in conjunction with the Oakland Airport Community Noise Management Forum, was considering a change in the flight pattern of aircraft southbound into Oakland Airport, a change that he suggested would greatly impact the Town of Moraga. He had been working with the Mayors of Lafayette and Orinda to obtain more details but there had been challenges to registering a protest. He asked the Town Council to work with national representatives to speak to the FAA on the Town's behalf, to register its protest with the FAA, and to educate the public on this matter.

William Dick, Moraga, referenced past code enforcement issues at property located at 90 Greenfield Drive adjacent to his property and his understanding the property had been sold on January 8, 2020. He noted there had been no change to the condition of the property and he asked the Town Council to reconsider a prior action not to proceed with code enforcement against the property.

**6. ADOPTION OF CONSENT AGENDA**

**A. Approval of Consent Items**

Consent Agenda Items 6.2 and 6.3 were removed from the Consent Agenda.

**PUBLIC COMMENTS OPENED**

There were no comments from the public.

**PUBLIC COMMENTS CLOSED**

**ACTION: It was M/S (Wykle/Sos) to adopt Consent Agenda Item 6.1. Vote: 5-0.**

6.1	<u>Accounts Payable</u> Claims for: 1/17/20 (\$152,329.66); 01/31/20 (\$336,777.80)	Approved
6.2	<u>Approve Minutes</u> for the Town Council Special Meeting on October 30, 2019	Removed

B. Consideration of Consent Items Removed for Discussion

1. Approve Minutes for the Town Council Special Meeting on October 30, 2019

**Mayor Korpus** requested the following revisions to the Town Council Special Meeting on October 30, 2019:

- Page 16, paragraph five revised to read:

***Vice Mayor Korpus** asked Mr. Amiri if the land on which the sinkhole was located was owned by Stars Holding Company, LLC, and whether the company had conducted any investigation to determine how deep into the property towards the building the sinkhole had opened up under the solid ground.*

- Page 17, the fourth sentence of paragraph two revised to read:

*He [Mr. Amiri] suggested not even one person had jumped over the fence to take photographs at the fence.*

- Page 17, third paragraph revised to read:

***Vice Mayor Korpus** understood based on the testimony that Mr. Amiri could not identify anything specific he did to ensure the back of the fence situated closest to the building had been pulled far enough back to ensure people were not walking on unstable ground. Mr. Amiri stated the fence was 20 feet from the sinkhole and barricaded to be safe.*

- Page 22 the second sentence of the last paragraph revised to read:

*She [Vice Mayor Korpus] had given the Appellants' representative Mr. Amiri multiple opportunities on multiple occasions during the hearing to provide facts or evidence to support his claim or assumption that the area had been appropriately fenced off to render it safe, and to the extent she found that Mr. Amiri had relied perhaps on a statement from a Town employee who said the fence appeared sufficient at the time, while the evidence clearly also showed that afterwards and after that initial reliance, the Town had followed up with a letter that instructed Mr. Amiri to determine the full extent of the unstable ground and that had not been done.*

- Page 23, the second sentence of the second full paragraph revised to read:

*The temporary shoring had been washed away, the broken stormwater pipe was not in the process of being repaired, and no evidence had been presented to substantiate the current claimed willingness to cooperate in the future.*

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

**ACTION: It was M/S (Sos/McCluer) to approve the Minutes for the Town Council Special Meeting on October 30, 2019, subject to the revisions read into the record by Mayor Korpus. Vote: 5-0.**

2. Approve Minutes for the Town Council Regular Meeting on December 11, 2019

**Councilmember Woehleke** provided redline edits to the last paragraph of Page 7 of the Town Council Regular meeting minutes on December 11, 2019, which were further modified by the Mayor to read:

*Councilmember Woehleke expressed concern that, as stated in the staff report, local jurisdictions were authorized to modify the revised State Building Code to be more conservative if local conditions justified such. Making this determination required assessing the impact of differential local conditions relative to the State baseline design criteria used for the revised State Building Code. In his opinion, this was not provided by the staff report nor the proposed Ordinance. Thus, he could not make the findings as proposed. This also impacted his ability to be confident that increased costs from modifying the Code to be more conservative were justified.*

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

**ACTION: It was M/S (Woehleke/Korpus) to approve the Minutes for the Town Council Regular Meeting on December 11, 2019, subject to the redline revisions provided in writing by Councilmember Woehleke, and as further modified by the Mayor. 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 Board meeting; League of California Cities Dinner; Audit and Finance Committee (AFC) meeting; and the Mayors' Conference in the City of Pittsburg presenting information to the Council from the Bay Area Air Quality Management District (BAAQMD) and briefing the Council on all discussions. She had also attended the Special Town Council Closed Session prior to the regular meeting on February 12.

**Vice Mayor McCluer** – Reported he had met with the Superintendent of the Acalanes Union High School District (AUHSD) and briefed the Council on the discussions and incidents which had occurred in the AUHSD; Lamorinda

Program Management Committee (LPMC) and Lamorinda Fee and Finance Authority (LFFA) meetings; Mayors' Conference in the City of Pittsburg; and the Association of Bay Area Governments (ABAG) Special Assembly Meeting and briefed the Council on all discussions.

**Councilmember Sos** – Reported she had been out of town.

**Councilmember Woehleke** – Reported he had also attended the ABAG Special Assembly Meeting, briefed the Council on the discussions, and provided written summary notes.

**Councilmember Wykle** – Reported he had attended a RecycleSmart Board meeting; AFC meeting; and Moraga Chamber of Commerce meeting and briefed the Council on all discussions.

**Councilmember Wykle** added the Business and Nonprofit Organization of the Year Dinner had been scheduled for February 24, 2020 at 6:00 p.m. at La Finestra. He had also attended a Town Council Closed Session prior to the regular meeting on February 12.

- B.** Town Manager Update – Town Manager Battenberg asked the Planning Director to provide an update on the property located at 90 Greenfield Drive.

Planning Director Derek Farmer reported the property at 90 Greenfield Drive had been taken over by the lender, with whom he had spoken at length, and had met with a local representative of the firm. The lender would be conducting a needs assessment to repair the property with its intent to repair and sell the property, which required reactivation of a building permit from Contra Costa County. Town staff had informed the lender the Town's abatement notices remained in full force and effect but once the building permit had been issued and activated the abatement notice would cease. Town staff would work with the lender to get the project underway. The lender had not yet requested the reactivation of the building permit, although staff planned to contact the lender to obtain a status report at the end of this week. Staff had emphasized the need to improve the exterior of the residence as a first step.

**Mayor Korpus** opened public comment for this item. There were no comments from the public and the public comment was closed.

## **9. DISCUSSION ITEMS**

There were no discussion items.

## **10. PUBLIC HEARINGS**

- A.** **Consolidation of the Design Review Board and Planning Commission and Changes to Titles 2 and 8 of the Moraga Municipal Code**

Consider Waiving the First Reading and Introducing by Title Only an Ordinance Amending Various Sections of Title 2 – Administration and Personnel, and Title 8 – Planning and Zoning, of the Moraga Municipal Code to Effectuate the Consolidation of the Design Review Board and Planning Commission, and Making Various Changes to: (A) the Planning Commission Officer Appointment Procedures Set Forth in Chapter 2.12; (B) the Appeal Rights of the Planning Commission Set Forth in Chapter 8.12; (C) the Development Standards Set

Forth in Chapter 8.44; and (D) the Design Review Procedures for Additions or Alterations to Single-Family Residential Properties Set Forth in Chapter 8.72 (CEQA Status: Exempt)

**Mayor Korpus** asked for any ex-parte communications from the Town Council as related to the agenda item.

**Councilmember Woehleke** reported he had a discussion with Planning Commissioner Brenda Luster to learn more about an appeal she had made in order to gather facts.

**Vice Mayor McCluer** reported he had a conversation with Planning Commission Chair David Stromberg related to an appeal as well as other matters in order to gather facts.

**Councilmember Sos** reported she too had a conversation with Planning Commission Chair Stromberg and Planning Commissioner Luster related to the background about the January 21, 2020 Planning Commission meeting when they had discussed the agenda item.

**Mayor Korpus** reported she had a brief exchange with Planning Commission Chair Stromberg prior to the Town Council meeting. She confirmed that no Councilmember who reported ex-parte communications had learned anything that would make it difficult to render a fair opinion on this matter.

Senior Planner Steve Kowalski presented a PowerPoint presentation for the agenda item and recommended the Town Council find the proposed amendments to be exempt from the California Environmental Quality Act (CEQA), waive the first reading and introduce by title only an Ordinance amending Titles 2 and 8 of the Moraga Municipal Code (MMC) as shown in Attachment A of the February 12, 2020 staff report including redline edits distributed by staff during the meeting.

Ms. Battenberg clarified the redline edits had stricken Section 7 and a portion of Sections 8 and 11, since the language in a previous section indicated the Planning Commission would be serving as the Design Review Board (DRB) as officiant.

Responding to the Council, Mr. Kowalski explained that during its January 21, 2020 meeting, the Planning Commission had considered the zoning code amendments as outlined in the staff report, and there had been little discussion of the items with the exception of the recommendation to *change the appeal rights of the Planning Commission to no longer allow one of its members to appeal a Planning Commission decision*. The Planning Commission had voted 6-1 on all of the recommended amendments through one motion, which had approved all of the recommended amendments with the exception for the aforementioned appeal clause.

The no vote was from a Planning Commissioner who was of the opinion the staff recommendation to amend the appeal clause was appropriate. The redline edits presented to the Town Council at this time had not been considered by the Planning Commission during its January 21 meeting but the redline edits did not affect the substance of the Planning Commission's discussions and had been based on direction from legal counsel.

Assistant Town Attorney Denise Bazzano confirmed the redline edits presented at this time would have no legal consequences and were only sections that would be removed from the Ordinance under discussion but would remain in the MMC unchanged.

Ms. Battenberg commented that the current language in the MMC was not clear and could be interpreted to say a Planning Commissioner could not appeal a decision of the Planning Commission; however in 2001, a Planning Commissioner had been allowed to appeal a

decision of the Planning Commission. With that past practice setting precedent, it was more difficult for legal counsel to make that interpretation. The staff recommendation to *change the appeal rights of the Planning Commission to no longer allow one of its members to appeal a Planning Commission decision* would clarify the language. If a Planning Commissioner was unable to find a Councilmember to champion an appeal it may not go very far with the Town Council as a whole. The recommendation was to find someone on the Council who believed the appeal had merit and who could sponsor that appeal.

Ms. Bazzano agreed the current language in the code was ambiguous as to whether or not the Town Council at the time the Ordinance had been adopted, intended to allow a Planning Commissioner to appeal a decision of that body. She read into the record that section of the Ordinance and noted the reasons why staff was recommending a clarification of this section.

Mr. Kowalski spoke to his experience in other jurisdictions which had not allowed a Planning Commissioner to appeal a Planning Commission decision. As noted in the staff report, staff had reviewed nearby jurisdictions including the cities of Lafayette, Orinda, Walnut Creek, and the Town of Danville which did not allow a Planning Commissioner to appeal a decision of the Planning Commission. Orinda's Municipal Code had similar language as the Town of Moraga, and Town staff had contacted the Orinda City Attorney who agreed that Moraga's language was ambiguous and who confirmed Orinda had not been faced with such a scenario.

Ms. Battenberg and Ms. Bazzano stated they also had no experience with a Planning Commissioner being able to appeal a decision of the Planning Commission, and Ms. Bazzano suggested it was uncommon due to the fact the body was charged with making a decision, its members were allowed to consider the decision, and then vote on the decision. Appealing that decision provided a member of that decision-making body a second chance at the decision itself, contrary to what most jurisdictions wanted in their Planning Commission. She clarified that an individual contact with a Councilmember to discuss an issue was not a violation of the Brown Act.

**Mayor Korpus** spoke to her experience as a former Planning Commissioner who had appealed a decision of the Planning Commission prior to her election to the Town Council. In that case, had the appeal gone through she would have been on the decision-making body. Ultimately she had withdrawn her appeal based on information she had learned subsequent to the filing of the appeal. She asked the Town Council to consider that information when deliberating the agenda item.

Mr. Kowalski clarified the recommendation to *Change the design review procedures for single-family residential properties to exempt certain minor improvements from the design review process*. He used skylights, as an example that would not violate the privacy of a neighbor or impact a neighborhood.

Mr. Farmer commented on recent state legislative action promoting energy efficiency including the use of solar panels and skylights. The zoning text amendment was keeping in good faith with those desirous to make energy improvements, had been recommended by staff not to require discretionary review, and the Planning Commission had agreed with the staff recommendation.

Mr. Kowalski further clarified the approach to revise the MMC and retain references to the DRB in the event a future Town Council desired to reinstate the DRB rather than create that body entirely from scratch. Staff also recommended the elimination of the qualification requirements for the DRB and he spoke to the past challenges of retaining a quorum of qualified DRB members. While the Planning Commission did not have the same competency requirements as

DRB members, the Planning Commission took its role seriously and had done a good job reviewing applications.

Ms. Battenberg noted the Town Council interviewed for the Planning Commission and it was up to the Town Council to consider the breadth of experience necessary.

Mr. Farmer reiterated the last time a Planning Commissioner had appealed a decision of the Planning Commission in the last ten years (other than the most recent appeal in 2019), had been the appeal referenced by the Mayor in 2016 related to Starbucks, which appeal had ultimately been withdrawn.

Ms. Battenberg reiterated why staff was recommending the zoning text amendment to *Change the appeal rights of the Planning Commission to no longer allow one of its members to appeal a Planning Commission decision*, as outlined in the staff report and based upon the current language in the MMC, which was ambiguous.

Ms. Bazzano stated, when asked, that she was unaware of any legal risk for the Town if the zoning text amendment related to the appeal, as proposed, was supported by the Town Council.

Ms. Battenberg clarified the costs of an appeal varied depending on the appeal.

**Mayor Korpus** declared a recess at 8:43 p.m. The Town Council reconvened at 8:48 p.m. with all Councilmembers present.

**Councilmember Woehleke** reported he had a recent telephone conversation with Kathe Nelson, the Executive Director of the Moraga Chamber of Commerce, after receipt of correspondence she had submitted to the Town in order to better understand the Chamber's perspective. He stated his communication with Ms. Nelson would not affect his ability to make a fair decision on this matter.

#### PUBLIC HEARING OPENED

David Stromberg, Chair, Moraga Planning Commission, provided the background of the Planning Commission discussions during its January 21, 2020 meeting on the zoning text amendments. The focus of the Planning Commission had been on the recommendation to *Change the appeal rights of the Planning Commission to no longer allow one of its members to appeal a Planning Commission decision*. Multiple Planning Commissioners questioned why the amendment was being proposed since it had been a rare occurrence for a Planning Commissioner to appeal a Planning Commission decision. Regarding the most recent appeal in 2019, the Town Council had ultimately concurred in part with the appeal and had modified the decision of the Planning Commission. The Planning Commission believed this was much ado about nothing given the Commission's limited use of the appeal option.

Mr. Stromberg commented in anticipation of any pushback from the Planning Commission on this amendment, and prior to the January 21 Planning Commission meeting, he had asked the Planning Director to explain to the Planning Commission the cost of an appeal. He had hoped it would allow an appreciation of the economic component of an appeal of a Planning Commission decision, although it had raised an issue of fairness, and the fact that applicants appealing a Planning Commission decision were required to pay an appeal fee. The consensus of the Planning Commission had been if a Planning Commissioner appealed a Planning Commission decision, he/she should not be required to pay the cost of the appeal. If the appeal was made by a member of the community, it would be appropriate to assign the appeal fee to that individual.

Mr. Stromberg reported that during the January 21 Planning Commission meeting, he had offered as a compromise the option for a Planning Commissioner to approach a Town Councilmember who may be most sympathetic to the perspective of the Planning Commissioner desirous to appeal a Planning Commission decision. The Planning Commission had declined to accept that compromise and pushed back on the staff recommendation with a 6-1 vote to reject the amendment leaving in place the right of a Planning Commissioner to appeal a decision of the Planning Commission.

Mr. Stromberg stated that the sense of the Planning Commission was that since such an appeal had been a rare occurrence, it should not generate the kind of concern it was receiving since it was not something that happened with any degree of regularity.

Brenda Luster, a member of the Moraga Planning Commission, supported the right of a Planning Commissioner to appeal a decision of the Planning Commission as an effective and transparent public process. Growth was inevitable, property owners had the right to develop, and the state was enacting legislation and pushing for more development. The Town would still retain the responsibility of ensuring that development was sound and in accordance with its laws, with much of the responsibility put in the hands of the Planning Commission. Each Planning Commissioner had been interviewed individually and appointed by the Town Council, with the position having a level of trust from the Town Council that each individual would do his/her best to uphold the Town's planning documents and help steward development in a way that was consistent with those documents. Absent an appeal process, she believed Planning Commissioners would be forced to make requests to either Councilmembers or private citizens, which could create an environment where dishonest or fraudulent conduct could foster, and possibly result in Brown Act violations.

Ms. Luster understood if a Planning Commissioner filed an appeal to the Town Council, the Town Council had the right to review the appeal/project or dismiss the project all together, which process was straightforward and fair under the law to all parties involved. She added the Town's legal team had twice established precedent regarding this issue and had given Planning Commissioners the right to appeal. A Planning Commissioner's right to appeal had only been used twice in the Town's history, and the right could not fall under the category of burdensome to the general application process. Streamlining of the process and potential legal pushbacks were not defensible reasons to ignore the General Plan, the MMC, or the public when reviewing a project or making policy. She added that government was meant to be effective, and in order to achieve the Town's goals, there must be sound policy and process. Policy was made to solve a problem and based on combined input from advisors, Town employees, elected officials, and the needs of the community using knowledge, information and evidence. She suggested there was currently no problem to solve regarding appeal rights.

Ms. Luster found the current right to appeal ensured the arguments of a Planning Commissioner were kept public and all intentions kept aboveboard, and this transparency and a series of checks and balances were important to the integrity of the public process. The DRB, Planning Commission, and the Town Council all worked together with a common respect and collectively understood there may be differences in opinion, reasoning, and decision, and that reliance on a common clear set of policies and processes including debate, appeal and the final decision of the Town Council was meant to reach a timely and civilized resolution. She stated the current process did that.

Ms. Luster highlighted her experience as someone who had filed an appeal as a member of the Planning Commission. She commented that she took her job very seriously, and in the case of her appeal she had waited to see whether someone else would appeal the project. She had also visited door to door with citizens who surrounded the project site prior to her decision to file the appeal, and had confirmed with the Planning Department she would be allowed to file an

appeal as a Planning Commissioner. She found the appeal process to be a lonely endeavor, but had pushed forward based on information in the MMC and the General Plan and her opinion of what was right for the Town, all in an effort to ensure that the project would be good for the Town, particularly due to public outcry.

Ms. Luster also reported she had been supported by a fellow Planning Commissioner who had voted in support of the project but who had encouraged her to make such an appeal in the future because it was the right thing to do and because it was part of the process.

Mr. Stromberg also responded to questions from the Council and clarified the Planning Commission had not discussed the policies utilized in neighboring jurisdictions. The topic had not come up nor had that information been provided to the Planning Commission at the time it had deliberated on this agenda item.

#### PUBLIC HEARING CLOSED

**Councilmember Sos** recognized the Planning Commission's thorough review of the zoning text amendments at its last meeting and reported she had viewed the recording and the deliberations of the Planning Commission. She found Planning Commissioners' comments to be informative, thought provoking, and guided by the principles fundamental for the Planning Commission to fulfill its duties including the General Plan, related Ordinances and guidelines, providing the Town Council with well-reasoned recommendations and a checks and balances against development that was consistent with the General Plan and its principles.

**Councilmember Sos** noted that the Planning Commission had been reluctant to do anything that would compromise its ability to effectively serve and fulfill its duties to the Town. She found the timing of the discussion to be difficult given Commissioner Luster's appeal in the summer of 2019 regarding the Los Encinos development, which appeal had been meritorious and which had led to improvements in the overall development plan for the Town and its residents. She suggested that nothing being discussed at this time should be construed as a criticism to file that appeal or as a commentary on the merits of the appeal.

**Councilmember Sos** suggested the question was not whether to take away a Planning Commissioner's right to appeal to the Town Council a decision of the Planning Commission, but whether a right ever existed. The MMC currently read: *A Town Councilmember or a Town Planning Commissioner may appeal the decision of a component member of the Planning Agency.* The same code provision applied to both the Town Council and the Planning Commission. She suggested the code section was not the model of clarity, was ambiguous, and could be interpreted in two ways. This section of the code had been adopted years ago, there was little legislative history available at this time, and she suggested the most reasonable and practical interpretation of Section 8.12.240, was that it did not provide and had never provided a right of appeal either to individual Planning Commissioners or Councilmembers. This interpretation avoided incongruous results and could not mean that as a Councilmember she could appeal a decision of the Town Council to the next level up, which in this case was the California Superior Court.

**Councilmember Sos** stated based on that same logic it did not mean that an individual Planning Commissioner could appeal a Planning Commission decision to the next level up to the Town Council. No other jurisdiction had vested members of its deliberative bodies with the right to appeal a decision of the body to which that person belonged. She noted that appeal processes typically allowed either a higher body to appeal a decision of a lower body, or a project proponent or opponent to appeal a decision they were not pleased with, and not to allow a member of the body to appeal a decision of the body on which he/she sat. The practical consequences of allowing individual appeals by Councilmembers or Planning Commissioners

would be bad for the Town, and would introduce unnecessary uncertainty into the planning approval process. Applicants would not know whether they could rely on the decision of the Planning Commission even in circumstances where all interested parties had accepted the outcome, which uncertainty undermined the planning process and the integrity of the Planning Commission's decisions and recommendations.

**Councilmember Sos** understood during its January 21 meeting a number of Planning Commissioners had expressed concern with the Town's system of checks and balances and there had been sufficient opportunities to correct or modify decisions that may not be in the best interests of the Town. While she shared those concerns she found the current checks and balances to be strong without conferring a right of appeal on individual Planning Commissioners or Councilmembers. Planning Commissioners may file an appeal as a private citizen and/or a Planning Commissioner may convince a Councilmember to file an appeal to the Town Council, a transparent process in that the appeal would be part of the public record in the same fashion as an appeal that would be filed by an individual or interested party. If the appeal had merit and related to significance to the Town as a whole, she did not see there would be any problem finding a Councilmember to agree to file an appeal.

A Planning Commissioner may also speak to each of the individual Councilmembers in a manner that was consistent with the Brown Act, which approach **Councilmember Sos** found to be effective, realistic and would help advance appeals of significant matters worthy of further consideration. She supported the amendment to clarify Section 8.12.240 to make explicit what she believed had been implicit all along, that individual Councilmembers and Planning Commissioners did not have authority to appeal decisions of the body on which they served.

**Mayor Korpus** commented on how she had approached the issue, whether a Planning Commissioner had the right to appeal a Planning Commission decision and should that right be taken away. Based on her experience having made an appeal as a Planning Commissioner of a Planning Commission decision, she had appealed a project based on a safety issue. That appeal had involved restrooms at Starbucks and had the appeal gone through she would have been a new member of the Town Council. After she had filed the appeal, she had continued to investigate, ask questions, and gather more information. In the end she had decided she had been wrong, there was not a safety issue, and had she been required to get the backing of a Councilmember for the appeal, she may have realized that ahead of time and not filed an appeal in the first place, and that on the other hand, had she not done her research and withdrawn the appeal, the Town and Starbucks both could have been forced to spend extensive funds on what would ultimately have proven to be a non-meritorious appeal.

**Mayor Korpus** commended the merit of Commissioner Luster's 2019 appeal of the Los Encinos project. She had spoken with Ms. Luster after she had filed the appeal and Ms. Luster had contacted her and questioned whether she should maintain the appeal. Ms. Luster had provided her reasons for the appeal, and Mayor Korpus had provided Ms. Luster her opinion that it appeared the appeal was meritorious and the issues presented should be decided by the Town Council, and Mayor Korpus had encouraged Ms. Luster to move forward with the appeal so that the Town Council could have that discussion.

**Mayor Korpus** explained that had Ms. Luster not filed the appeal she would have appealed the project and it would have come to the Town Council anyway. Given the Town's limited financial and staff resources, she found that authorizing a Planning Commissioner to file an appeal was unwise. In terms of transparency, and given Ms. Luster's testimony, she pointed out that a Planning Commissioner may file an appeal just because they may not like a project. If a Planning Commissioner had to go to a Councilmember to have them file the appeal for them, she did not view such offline communication as adding to any risk of corruption or lack of transparency (since whatever the internal motivations for the appeal might be, the stated

grounds for the appeal still have to be identified in writing and all evidence on both sides must be heard). She recognized the value of enabling a Planning Commissioner who was dedicated to the proposition of conducting a meritorious appeal to facilitate such an appeal, but also suggested the act of making sure at least one Councilmember also supported the appeal was vitally important. She otherwise agreed with the need to clarify that a Planning Commissioner no longer had the right to appeal a decision of the Planning Commission and that the language should be clarified to ensure that a Councilmember did not lose the right to an appeal.

**Councilmember Woehleke** shared with the Council his experience with the appeal process in the early 2000s when he had been a member of the DRB. At that time he was not aware that the language was ambiguous and always believed an appeal had been an option. The appeal had involved a building in the scenic corridor on Moraga Road that would have been the largest home in the scenic corridor. At that time, the DRB had been deadlocked on a 3-3 vote on the project based on straw poll votes, and the applicant asked that something be done since the project would be going on to the Town Council anyway. He had abstained on the vote for the project, the DRB had ultimately approved the project on a 3-2 vote, and he had appealed the project although other citizens had also filed appeals. The Town Council had considered the appeal and ultimately reduced the size of the home.

**Councilmember Woehleke** emphasized the importance of proper planning which residents strongly supported in Moraga. He suggested the Planning Commission appeal option had been a tool that had been used infrequently in the past and he had no concerns with its use. He reported that Ms. Luster had approached him in 2019 regarding her appeal of the Los Encinos project, and he would likely have said no since the project had been in the process for 15 years and it needed to move forward, but he agreed that ultimately it had ended up to be a much better project in the end. He commended Ms. Luster for her efforts and her history of diversity of planning in other communities which he realized resulted in better decisions and views. He supported streamlining outside of the appeal process, but had concerns that whatever action was taken by the Town Council may nullify the vote of the Planning Commission. He understood some of this was risk management but suggested the history of the Planning Commissioner appeal process would not justify the potential risk.

**Councilmember Woehleke** also commended Moraga Chamber of Commerce Executive Director Nelson for her comments and concerns with the Planning Commission appeal process, which concerns he understood had been clarified. He again raised concerns of the message an elimination of the Planning Commission appeal process would send to the Planning Commission. He suggested the Planning Commission should be treated as professionals and he would like to see the Planning Commission appeal process be maintained but could be persuaded to go either way on this issue. He wanted the Planning Commission to be recognized as professional, respected and valued.

**Councilmember Wykle** found the most compelling data was that Moraga was surrounded by other jurisdictions that did not allow a Planning Commissioner to appeal a decision of the Planning Commission. If the practice were allowed to continue he asked legal counsel if the Town would be exposed to potential risk.

Ms. Bazzano suggested if the practice were allowed to continue an argument could be made that was what the Town Council intended to allow, a Planning Commissioner allowed to appeal a decision of the Planning Commission, and it would be difficult to deny an appeal after this hearing. She acknowledged there could be a slight risk, and an applicant may focus on the fact that if allowed it was so different from other jurisdictions, although an applicant may also argue the code was so unclear the applicant did not realize it was a possibility when filing an application.

**Councilmember Wykle** otherwise agreed the Planning Commission had done an outstanding job and he too was concerned with the message that could be sent if the process was discontinued.

**Vice Mayor McCluer** agreed with the Planning Commission's recommendations for the zoning text amendments, with the exception of the appeal amendment. He too had watched the January 21 Planning Commission meeting video. He understood the options to either allow the current process to continue, which carried an implied right to appeal recognizing there had been an infrequent number of appeals in the Town, or the amendment could be stricken or modified.

**Vice Mayor McCluer** suggested bright people had been appointed to the Planning Commission and if a Commissioner had a significant concern with a project and they were in the minority, the Town Council should hear about that. He trusted the Planning Commission to use its judgment and its appeal opportunity infrequently, although from a policy perspective he could see that could be problematic in the future. He appreciated the fact that based on staff's research other communities did not allow a Planning Commissioner to appeal a Planning Commission decision. He suggested that a Planning Commissioner had an indirect right to appeal by persuading a Councilmember to conduct the appeal and he supported the staff recommendation on this topic.

**Councilmember Wykle** understood a Planning Commissioner always had the right to speak to a Councilmember to bring an appeal. He suggested in order to get the best possible project, he saw no harm in keeping the current process in place. He would also encourage a Planning Commissioner to speak with a Councilmember to possibly support the appeal, all in an effort to ensure the best project possible.

**Councilmember Sos** also wanted as many processes as reasonable in place to ensure the best for the Town but if the current practice were continued the Town would be an outlier, and there was no one else in state, federal or municipal government that permitted a member of a public body to file an appeal of a decision he/she participated in as a member of that body. She suggested there was potential harm to the Town in not clarifying the appeal provision.

On the discussion, **Councilmember Wykle** found it an unlikely scenario if a Planning Commissioner was unable to gain support from any member of the Council on a potential appeal that a Commissioner would still move forward with the appeal, although he supported the right of a Planning Commissioner to appeal. As legal counsel had stated, there would be very slight legal exposure if the Town were to be an outlier.

Councilmembers reiterated their opinions on the matter of the appeal and while not unanimous there was a majority in support of the staff recommendation and zoning text amendment that would *Change the appeal rights of the Planning Commission to no longer allow one of its members to appeal a Planning Commission decision.*

The Town Council detailed the redline edits to Attachment A, Draft Ordinance and recommended the following:

- Page 2, second WHEREAS clause revised to read:

***WHEREAS, Planning Department staff has identified amendments to Title 8, Chapter 8.12 – Planning Agency, to streamline the application review process consistent with Town Council and Community Goal #11 by proposing amendments to the provisions addressing appeals by Town Councilmembers and Planning Commissioners; and***

- Page 4, Chapter 2.20 – DESIGN REVIEW BOARD, Section 2.20.010 – Design review board established, revised to read:

*A design review board of the town is established. The board shall consist of all of the members of the planning commission. The provisions of the Moraga Municipal Code pertaining to qualifications, terms of office, quorums, removals or vacancies, absences, compensation and the conducting of meetings, appointments/duties of officers, and adoption of rules for/by the board shall be the same as those prescribed for the planning commission in Chapter 2.12. Any reference throughout the Municipal Code, General Plan, Design Guidelines or any other legislative or policy document to the “design review board” shall be read to mean the planning commission acting in its capacity as the design review board.*

- Page 5, Chapter 2.20 – DESIGN REVIEW BOARD, Section 2.20.020 – Qualifications, revised to read:

*Membership of the Design Review Board should preferentially include as practicable representation of architecture, civil engineering, and landscaping architecture expertise by experience, training, education or occupation.*

- Page 7, Section 6, Section 8.12.240 – Appeal by town council or planning commissioner, revised to read:

*A. Decisions of the Town Council on planning matters are final and are not appealable under this section.*

*B. A planning commissioner may call up the decision of a component member of the planning agency, (as that term is defined in Moraga Municipal Code Section 8.08.010) except for a decision issued by the Planning Commission including a decision issued by the Planning Commission acting in its capacity as the design review board during the Planning Commissioner’s term of office.*

*C. A town councilmember may call up the decision of the component member of the planning agency (as that term is defined in Moraga Municipal Code Section 8.08.010).*

*D. An appeal that is initiated pursuant to this section is processed in the same manner as an appeal by any other person but need not be accompanied by the fee.*

*E. The Town Council Member or Planning Commissioner appealing a decision pursuant to this section is not disqualified by that action from participating in the appeal hearing and the deliberations nor from voting as a member of the reviewing body.*

All other sections and subsections within Chapter 8.12 not identified herein shall remain unchanged.

- Page 7, Section 6, Amendment, Section 8.12.190 – Designation of hearing body on appeal, revised to read:

*The planning commission shall hear an appeal from the decision of the planning staff, design review administrator, and zoning administrator. The town council shall hear an appeal from the decision of the planning commission or design review board. The decision of the town council on such matters is final.*

- Page 10, B, Exceptions, 13, revised to read:

*New or replacement flooring, framing, or structural members or materials on existing decks, balconies, patios, stairs, and entry porches and stairs so long as the work does not affect an expansion or elevation of the usable floor area of these features;*

**ACTION: It was M/S (Sos/Wykle) the Town Council Finds that the Proposed Amendments to be Exempt from the California Environmental Quality Act. Roll Call Vote: 5-0.**

**ACTION: It was M/S (Sos/McCluer) to Waive the First Reading and Introduce by Title Only an Ordinance Amending Various Sections of Title 2 – Administration and Personnel, and Title 8 – Planning and Zoning, of the Moraga Municipal Code to Effectuate the Consolidation of the Design Review Board and Planning Commission, and Making Various Changes to: (A) the Planning Commission Officer Appointment Procedures Set Forth in Chapter 2.12; (B) the Appeal Rights of the Planning Commission Set Forth in Chapter 8.12; (C) the Development Standards Set Forth in Chapter 8.44; and (D) the Design Review Procedures for Additions or Alterations to Single-Family Residential Properties Set Forth in Chapter 8.72, and Incorporating Amendments and Revisions Made by Staff in the Redline Edits to Attachment A as Considered by the Town Council and Incorporating All Amendments that had been Read into the Record by the Town Council on the Dais. The Motion Does Not Include the Removal of Section 7 As Redlined in the Staff Draft or Section 8.4.040 that Had Been Deleted by Staff, or Section 11 since the Intention of those Redlines Had been to Remove them from the Town Council Consideration Rather than Delete them from the Moraga Municipal Code. Roll Call Vote: 4-1. Noes: Wykle.**

Mayor Korpus declared a recess at 10:22 p.m. The Town Council meeting reconvened at 10:26 p.m. with all Councilmembers present.

## 11. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

### A. Fiscal Year 2019/20 Mid-Year Budget Review and Adjustments

Review and Accept Fiscal Year 2019/20 Mid-Year Revenue and Expenditure Report and Provide Direction Regarding the Hiring of a Maintenance Worker to Assist with Storm Drains, Parks, and Open Space Maintenance; and Consider Resolution 8-2020 Approving Mid-Year Amendments to the Fiscal Year 2019/20 Budget and Consider Resolution 7-2020 Amending the Fiscal Year 2019/20 Salary Schedule for the Town of Moraga for Recreation Leader I (PT), Maintenance Worker (PT), Facilities Attendant (PT), and Intern Classifications to Comply with the State of California Minimum Wage Increase Effective January 1, 2020 and for the Recreation Leader II (PT) Classification to Address Compression

Administrative Services Director Norm Veloso presented a PowerPoint presentation on the 2019/20 Mid-Year Budget Review and Adjustments. He asked the Town Council to review and accept the Fiscal Year 2019/20 Mid-Year Revenue and Expenditure Report and provide direction regarding the hiring of a Maintenance Worker to assist with storm drains, parks, and open space maintenance; adopt a resolution approving Mid-Year Amendments to the Fiscal Year 2019/20 Budget; and adopt a resolution amending the Fiscal Year 2019/20 Salary Schedule for the Town of Moraga for Recreation Leader I (PT), Maintenance Worker (PT), Facilities Attendant (PT) and Intern Classifications to comply with the State of California Minimum Wage increase effective January 1, 2020 and for the Recreation Leader II (PT) classification to address compression, as contained in Attachments A and B to the February 12, 2020 staff report.

Parks and Recreation Director Brandt described the Fiscal Year 2018/19 surplus, the recommendation to transfer funds to the Asset Replacement Program with five high and moderate priority assets identified for funding, as outlined in the staff report as follows: replacement of a 2002 Ford F-350 truck for the Public Works Department in the amount of \$49,000; 2001 Dodge Ram, 15-passenger van for the Parks and Recreation Department in the amount of \$32,000; replacement of the breaker panel at the Hacienda de las Flores in the amount of \$35,000; swing set replacement at Commons Park in the amount of \$28,000; and painting of the library interior in the amount of \$23,000. She added that staff continued to strategize for the next year and she identified the Fiscal Year 2020/21 projects under consideration.

Ms. Battenberg further detailed the Maintenance Worker position costs, benefits, and funding with the purpose of the position to complete the storm drain inspection and maintenance work that had been identified in the 2019 Addendum to the Storm Drain Master Plan, complete parks and open space maintenance work currently done by a part-time maintenance worker, and assist with additional fire abatement work.

Responding to the Council, Ms. Battenberg reiterated the Maintenance Worker position had been identified in the 2019 Addendum to the Storm Master Plan, pursuant to the Operations and Maintenance (O&M) section. The maintenance worker was the only staff position to be brought on. NCE had consulted with Town staff to determine what was being done, and based on a review of the Town's existing system, NCE had recommended that additional staff was needed. Staff was in the process of implementing the O&M program and the position would fill the identified need. She acknowledged an existing maintenance worker may be retiring in the next year or so and the new position could be considered at that time if the Town Council so decided but emphasized that the O&M program could not be implemented with current staff.

**Mayor Korpus** advised she would be opening public comment on each of the Mid-Year Budget Adjustment items.

#### PUBLIC COMMENTS OPENED (Maintenance Worker)

There were no comments from the public.

#### PUBLIC COMMENTS CLOSED

**Councilmember Wykle** understood that an efficiency study had been shelved until such time as a permanent Public Works Director had been hired, which Ms. Battenberg confirmed and reported the panel interview for the Public Works Director position had been completed on Monday, February 10 with additional interviews scheduled later in the week. The Maintenance Worker position would not be hired until the position of Public Works Director had been filled.

**Mayor Korpus** recognized the position had been anticipated as part of the implementation of the O&M Project and she had no objection to hiring a maintenance worker, as recommended.

**Councilmember Woehleke** clarified with Ms. Battenberg it would not be more advantageous to contract out the work.

Interim Public Works Director/Town Engineer Shawn Knapp stated the Town Council had previously adopted a budget with \$140,000 for enhanced storm drain improvements. A number of activities had been identified which the Public Works Department had listed for implementation including annual inspections, advertising of contracts for inspections of the storm drains and hydro vaccing. If the Maintenance Worker position was filled there would still

be a surplus from the account. The O&M Program would be implemented slowly with feedback to the Town Council. He otherwise spoke to the expense of using outside services, noted there would be a reduction in costs if Town staff was used, and stressed the fact the new staff position would also be available to respond to other issues.

**Councilmember Woehleke** understood the challenges of quantifying the need for the Maintenance Worker position and educating the public. He urged a better effort on educating the public on the quantitative need.

**Councilmember Wykle** supported the proactive approach to address storm drains; and **Vice Mayor McCluer** and **Councilmember Sos** also supported the Maintenance Worker position.

#### PUBLIC COMMENTS OPENED (Amending the Salary Schedule)

There were no comments from the public.

#### PUBLIC COMMENTS CLOSED

**Councilmember Woehleke** clarified again with Ms. Battenberg the changes in the salary schedule, changes in minimum wage, and the positions not covered by contract negotiations.

**ACTION: It was M/S (Sos/McCluer) to adopt Resolution 7-2020 Amending the Fiscal Year 2019/20 Salary Schedule for the Town of Moraga for Recreation Leader I (PT), Maintenance Worker (PT), Facilities Attendant (PT), and Intern Classifications to Comply with the State of California Minimum Wage Increase Effective January 1, 2020 and for the Recreation Leader II (PT) Classification to Address Compression Vote: 5-0.**

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

Speaking to the Fiscal Year 2018/19 surplus and the recommendation to transfer funds to the Asset Replacement Program with five high and moderate priority assets identified for funding, **Vice Mayor McCluer** clarified with staff the items could be debated as critical, were projects being included in asset replacement, and the funds could be addressed now or later; however, if the projects were delayed, costs would likely increase, and the earlier the monies were applied to address the concerns and issues the faster it would benefit the public.

Ms. Battenberg further commented that in some instances there were safety concerns, citing the replacement of the breaker panel at the Hacienda, 15-passenger van, and a reliable truck for the Public Works Department, and the fact the community had shown the importance of the library through volunteerism.

As to the list of other projects for Fiscal Year 2020/21 that had been identified including the replacement of the boiler for the Hacienda de las Flores, **Mayor Korpus** confirmed with Ms. Brandt the boiler should be replaced soon even if the Town secured a restaurant tenant for the Hacienda.

#### PUBLIC COMMENTS OPENED (Fiscal Year 2019/2020 Surplus)

There were no comments from the public.

#### PUBLIC COMMENTS CLOSED

**Mayor Korpus** agreed with the entire list of asset replacement projects that had been identified with the exception of the swing set at Moraga Commons which had been missing for the past three years, and since the boiler must be replaced at the Hacienda. She recommended rather than use the funds that had been identified for the swing set, those funds should be used for the replacement of the boiler at the Hacienda. She also recommended the monies that had been donated by the Rotary Club should be applied to the \$28,000 roughly to be used as the matching funds for the All Access Playground picnic area.

Ms. Brandt explained that if the Town were to purchase a swing set for Moraga Commons with the Rotary Club donation it meant the Town Council would have to donate more from the park in-lieu funding source for the grant match, which fund had a balance of around \$76,000.

**Vice Mayor McCluer** suggested the funds identified for asset replacement be used for any of the three unfunded needs. He applauded the work taking surplus funds to be used for asset replacement and unfunded needs and recommended the policy be followed but expanded. He clarified with the Town Manager that an analysis of Measure K funds would be done prior to the budget process and recommendations could be made on the Capital Improvement Program (CIP). He also understood there were funds available in the property tax lighting fund that could be considered during the budget discussions. He recommended the surplus funds be discussed during the budget process holistically to determine the needs. He otherwise agreed there were some safety issues and at this time he recommended the replacement of the 2002 Ford F-350 truck for the Public Works Department, 2001 Dodge Ram 15-passenger van for the Parks and Recreation Department, and the replacement of the breaker panel at the Hacienda. He recommended the funds for the swing set replacement at Commons Park and painting of the library interior be deferred pending the budget process. As to the donation from the Rotary Club, he wanted to see the full picture of Parks and Recreation Department opportunities and needs discussed during the budget process.

**Councilmember Wykle** clarified with Mr. Knapp he was in agreement with the Town Manager regarding the safety issues related to the vehicles and breaker panel. As to the boiler, staff had been working to schedule the quantity of replacement that could be met, not trying to do all of the work at one time, and the next fiscal year recommended considering another group of projects based on the staff recommendations.

**Councilmember Wyle** recognized the boiler at the Hacienda was old, the breaker panel had been prioritized by staff as being a top priority, but at one point the boiler must be addressed. He otherwise clarified with Mr. Knapp there had been no reported leaks on the roofs of Town-owned buildings and staff was working to group many of the improvements to get better pricing.

**Councilmember Wykle** spoke to the history of the Asset Replacement Fund which had been intended to address emergency repairs. He supported the replacement of the breaker at the Hacienda and the 2002 Ford F-350 truck for the Public Works Department, 2001 Dodge Ram, and 15-passenger van for the Parks and Recreation Department with the caveat that grant funds also be explored by staff. As to the remaining items, he recommended they be deferred and considered during the budget review although he did have concerns those projects could get lost in all the Town's other needs.

**Councilmember Wykle** further clarified with Mr. Knapp the swing set replacement at Commons Park had been his idea, and although the Town parks did not have a lot of safety issues, the item was on the priority list and could be implemented quickly. He accepted the asset replacement project list as recommended by staff at this time.

Also speaking to the swing set, **Councilmember Woehleke** clarified with Ms. Brandt that Commons Park, a 40-acre park, had two distinct picnic areas and when people reserved areas

in the park they wanted their children within eyesight. One of the challenges was that the All Access Playground was not within eyesight of the group picnic area with no amenities for children aged two to five, which required the most supervision. The swing set had been designed for that age group. As such, he could support the recommendation for the swing set.

**Councilmember Sos** agreed the safety issues needed to be addressed immediately and she agreed with the replacement of those items. She also found that the Moraga Library was a community asset and agreed with the need for painting of the interior. While she agreed it would have been nice to look at the needs holistically, the needs had been present for a long time. She suggested that the Town should address what it could when it could. As to the swing set at Commons Park and the boiler at the Hacienda, she was inclined to recommend that the boiler be replaced at the Hacienda, with the swing set and picnic area and other enhancements to Commons Park, which were not as pressing, to be considered in a more holistic manner.

**Mayor Korpus** advised there was Town Council consensus to move forward with the replacement of the 2002 Ford F-350 truck for the Public Works Department, 2001 Dodge Ram, 15-passenger van for the Parks and Recreation Department, breaker panel at the Hacienda and the repainting of the interior of the Moraga Library. The remaining issue was the Commons Park swing set versus the replacement of the boiler at the Hacienda.

**ACTION: It was M/S (Woehleke/Korpus) to extend the Town Council meeting to 11:30 P.M. Vote: 5-0.**

On the discussion Town Council consensus, while not unanimous, was to move forward with the replacement of the boiler at the Hacienda rather than the swing set at Commons Park.

Ms. Battenberg clarified the intent of the Town Council to transfer \$167,000 to the Asset Replacement Fund, which staff would then budget to the identified projects.

As to the General Fund proposed expense adjustments, **Councilmember Woehleke** clarified with Ms. Brandt the Hacienda Holiday Faire had been included in the budget as an expense and revenue, although in dealing with the vendors and Administrative Services it had been the consensus that a liability account for pass through funding made more sense with the revenue reduced by \$46,000 (actual monies the vendors brought in and booth fees the Town kept).

Ms. Battenberg added that a similar reduction of \$44,000 had been reflected in expenditures in the Parks and Recreation budget. She also clarified the reasons for the overtime costs which had been reflected for the Moraga Police Department.

#### PUBLIC COMMENTS OPENED (General Fund Proposed Expense Adjustments)

There were no comments from the public.

#### PUBLIC COMMENTS CLOSED

**ACTION: It was M/S (McCluer/Korpus) to adopt Resolution 8-2020 Approving the Mid-Year Amendments to the Fiscal Year 2019/20 Budget, subject to the removal of the Commons Park Swing Set and Adding the Boiler at the Hacienda de las Flores. Vote: 5-0.**

## 12. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

In response to public comment, Ms. Battenberg reported that Mr. Crew had approached all of the Lamorinda Councils and she understood there had been a conversation on an appropriate

Lamorinda response to the concerns with FAA changes in flight patterns. Staff would bring more information to the Town Council when available.

**13. COMMUNICATIONS**

There were no communications.

**14. ADJOURNMENT**

**ACTION: It was M/S (Woehleke/McCluer) to adjourn the meeting at 11:22 P.M. Vote: 5-0.**

Respectfully submitted by:

  
Marty C. McInturf, Town Clerk

Approved by the Town Council:

  
Kimberleigh N. Korpus, Mayor