



**TOWN OF MORAGA
SPECIAL MEETING**

**March 23, 2020
MINUTES**

5:00 P.M. Special Meeting

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

COVID-19 NOTICE

THIS MEETING WAS CONDUCTED PURSUANT TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDERS N-25-20 AND N-29-20, WHICH SUSPENDED CERTAIN REQUIREMENTS OF THE BROWN ACT, AND PURSUANT TO THE MARCH 16, 2020 ORDER OF THE HEALTH OFFICER OF CONTRA COSTA COUNTY, WHICH PERMITTED THE TOWN TO CONDUCT ESSENTIAL BUSINESS AND IS PERMITTED UNDER THE ORDER AS AN ESSENTIAL GOVERNMENTAL FUNCTION

Consistent with Executive Orders Nos. N-25-20 and N-29-20 from Governor Gavin Newsom and the Contra Costa County Health Officer dated March 16, 2020 Shelter in Place Order, the March 23, 2020 meeting was not physically open to the public. Some Town Councilmembers and essential Town staff teleconferenced into the meeting via teleconference.

Councilmember Roger Wykle, Town Manager Cynthia Battenberg, Assistant Town Attorney Denise Bazzano, and Public Works Director/Town Engineer Shawn Knapp participated in this meeting via Teleconference Locations

1. CALL TO ORDER

The special meeting was called to order at 5:00 p.m. by **Mayor Kimberleigh Korpus**.

ROLL CALL

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

*Arrived at 5:10 p.m.

**Via Teleconference Location

Councilmembers absent: None

2. PLEDGE OF ALLEGIANCE

Chief of Police Jon King led the Pledge of Allegiance.

3. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Korpus – Reported she had participated via teleconference in White House briefings regarding COVID-19 and the response thereto; and had spoken with the Geologic Hazard and Abatement District (GHAD) Board Manager for the Rancho Laguna II development regarding scheduling and content for the next GHAD Board meeting tentatively scheduled for spring 2020. She had also attended the Moraga Liaison Meeting with most of the discussion on COVID-19, and the road work scheduled for Moraga Road, to be closed between the City of Lafayette and the Town of Moraga between March 30 and April 3, 2020. The new Town of Moraga website was scheduled to be launched in June 2020; currently the Community Faire and Car Show was scheduled for May 9, 2020, and the 2020 Census Survey was coming with residents encouraged to fill out the forms online.

Mayor Korpus - Reported she had participated in Contra Costa County Health Department briefings via telephone regarding the potential direction to ban all gatherings and recommend shelter-in-place orders, which had occurred on March 16, 2020 and other COVID-19 response efforts; participated via telephone in a Governor's Office call regarding \$150 million in funding to be set aside for activities to protect homeless Californians from COVID-19; and participated in numerous calls and briefings with Town Manager and Director of Emergency Services Cynthia Battenberg, and Chief of Police and Assistant Director of Emergency Services Jon King about Town issues related to COVID-19.

Vice Mayor McCluer – Thanked Senator Steve Glazer for his almost daily telephone calls and updates on COVID-19; League of California Cities for its updates and information from the Governor on COVID-19; and updates from the Contra Costa County Health Department, the Centers for Disease Control (CDC) and the World Health Organization (WHO). He had offered his assistance to seniors to obtain groceries and other urgent needs. He had also spoken to experts' assertions the country was in a state of recession.

Councilmember Sos – Reported she had attended a RecycleSmart Personnel Committee and Marin Clean Energy (MCE) Board meetings; and an emergency meeting for the Lamorinda School Bus Transportation Agency (LSBTA).

Councilmember Woehleke – Reported he had been participating in teleconference meetings related to COVID-19 including teleconferences with the Town Manager and the Mayor, and the General Manager of Moraga Country Club (MCC), reporting that all recreational activities at MCC had been cancelled.

Councilmember Wykle – No report.

- B.** Town Manager Update – Town Manager Cynthia Battenberg reported the Town had received official word from the Federal Emergency Management Agency (FEMA) that the Town had been granted \$495,000 remaining grant funds for the Laguna Creek Project, a \$1.5 million fully grant-funded project, with design work to now move forward. More information would be provided to the Town Council in the near future. She also reported the nuisance abatement at 398 Rheem Boulevard had commenced with SiteWorks proceeding as planned on the 21-day project. Also, Public Works and Police Department staff were actively working and the Public Works Department had increased the cleaning of restrooms to twice a day. All Town play structures, basketball courts and the skate park had been closed.

4. PUBLIC COMMENTS AND SUGGESTIONS

Town Clerk Marty McInturf reported no comments from the public had been received.

5. ADOPTION OF MEETING AGENDA

PUBLIC COMMENTS OPENED

Town Clerk McInturf reported no comments from the public had been received.

PUBLIC COMMENTS CLOSED

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

6. ADOPTION OF CONSENT AGENDA

A. Approval of Consent Items

Consent Agenda Items 6.2, 6.7 and 6.9 were removed from the Consent Agenda.

PUBLIC COMMENTS OPENED

Town Clerk McInturf reported no comments from the public had been received.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Sos/McCluer) to adopt Consent Agenda Items 6.1, 6.3, 6.4, 6.5, 6.6 and 6.8. Roll Call Vote: 5-0.

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| 6.1 | Receive <u>Accounts Payable</u> Claims for: 03/13/20 (\$245,989.06) | Approved |
| 6.2 | <i>Approve <u>Minutes</u> for the Town Council Special and Regular Meetings on February 12, 2020</i> | Removed |
| 6.3 | <u>Purchase of Two Vehicles</u>
Consider Resolution 19-2020 Authorizing the Town Manager to Purchase a Recreation Vehicle for \$40,492.33 and a Public Works Vehicle for \$41,430.01 from Nation Auto Fleet Group, Watsonville, CA Pursuant to the Town of Moraga Purchasing Policy | Approved |
| 6.4 | <u>NPDES Rate Per Equivalent Runoff Unit</u>
Consider Resolution 20-2020 Continuing the Existing Rate Per Equivalent Runoff Unit (ERU) for FY 2020/21 of \$35 Per ERU as the Annual Assessment for Drainage Maintenance and the National Pollutant Discharge Elimination System (NPDES) Program | Approved |
| 6.5 | <u>Trash Reduction Summary Report</u>
Receive Summary Report on the Accomplishments in Trash Reduction Included in the 2018/19 Annual Report to the Regional Water Quality Control Board | Approved |

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| 6.6 | <u>Hauling Permit for PG&E's St. Mary's Pipeline Project</u>
Consider Resolution 21-2020 Ratifying a Hauling Permit for PG&E's St. Mary's Pipeline Project on St. Mary's Road near Bollinger Canyon Road to the Lafayette City Limit to Off-haul Approximately 675 Cubic Yards of Soil | Approved |
| 6.7 | <u>Vendors/Consultants Report</u>
Receive Report Regarding the Vendors/Consultants to Whom the Town Paid More than \$15,000 a Year for Two or More of the Past Three Years | Removed |
| 6.8 | <u>Letter Endorsing the Proposed CSU Campus in Concord</u>
Consider Authorizing the Town Manager to Send a Letter to the California State University (CSU) Chancellor Recommending Expansion of the California State University East Bay Presence to the City of Concord | Approved |
| 6.9 | <u>Canyon Road Bridge Replacement Project Cost Update</u>
Receive Report on Canyon Road Bridge Replacement Project Cost Update | Removed |

B. Consideration of Consent Items Removed for Discussion

1. Approve Minutes for the Town Council Special and Regular Meetings on February 12, 2020

Mayor Korpus provided redline edits to Pages 11 and 12 of the Regular Meeting Minutes of February 12, 2020, which she read into the record at this time. She also offered further modification to her redline edits specifically to the second sentence of the last full paragraph as shown on Page 11, as follows:

She [**Mayor Korpus**] *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.*

Councilmember Sos requested an amendment to the last sentence of the fifth full paragraph as shown on Page 13, to read:

She [**Councilmember Sos**] *suggested there was potential harm to the Town in not clarifying the appeal provision.*

PUBLIC COMMENTS OPENED

Town Clerk McInturf reported no comments from the public had been received.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Sos/McCluer) to approve the Minutes for the Town Council Special and Regular Meetings on February 12, 2020, subject to the redline edits provided by Mayor Korpus as further modified, and the edit provided by Councilmember Sos, as read into the record. Roll Call Vote: 5-0.

2. Vendors/Consultants Report
Receive Report Regarding the Vendors/Consultants to Whom the Town Paid More than \$15,000 a Year for Two or More of the Past Three Years

In response to the Vice Mayor, Ms. Battenberg clarified the FY 2018/19 Vendor List Sorted by Vendor Name, as attached to the staff report, specifically the costs shown for Wilmington Trust, N.A., reflected three payments for the Pavement Program, and the Town Council Chambers and Town Offices. As to the items which had been highlighted for Request for Proposals (RFPs), particularly for the Contra Costa County Animal Control, there had been an increase in the rates and staff was evaluating how the Town may be able to provide the services at reduced cost. The costs shown for the Impec Group involved janitorial services and Town staff would be issuing an RFP for those services in April 2020.

The other contracts that had been identified for potential cost-saving opportunities and as outlined in the staff report were for Public Works Department consultants. Town staff had been evaluating the use of consultants for all projects, which would be ongoing.

PUBLIC COMMENTS OPENED

Town Clerk McInturf reported no comments from the public had been received.

PUBLIC COMMENTS CLOSED

Vice Mayor McCluer thanked staff for the preparation of the staff report and the information provided on all Town vendors. He agreed with the vendors who had been identified for RFPs in the staff report. He had discussed some of the Information Technology (IT) vendor services with the Town Manager who shared with him that the costs were a fraction of a person less than half and that the City of Lafayette was not interested in shared services for IT services. He also acknowledged the costs for legal fees had previously been identified and discussed by the Town Council.

Vice Mayor McCluer added he had spoken with the Town Manager about the vendor costs shown for the California Choice Benefit Administrators, a benefit broker working with health providers, which involved a large expense with no prior RFP, and which he suggested should be further evaluated. He otherwise appreciated the continued journey evaluating the Town's costs.

Mayor Korpus noted the Town Council was not taking any action on the item and was only being asked to receive the report. The recommendation offered by the Vice Mayor to the Town Manager was between him and the Town Manager, unless requested as a future agenda item.

Councilmember Woehleke commended staff for the staff report and the pursuit of making the Town's system more efficient and economized.

Councilmember Wykle also commended staff on the work provided.

ACTION: It was M/S (Sos/McCluer) to Receive Report Regarding the Vendors/Consultants to Whom the Town Paid More than \$15,000 a Year for Two or More of the Past Three Years. Roll Call Vote: 5-0.

3. Canyon Road Bridge Replacement Project Cost Update
Receive Report on Canyon Road Bridge Replacement Project
Cost Update

In response to Councilmember Woehleke, Public Works Director/Town Engineer Shawn Knapp clarified the lease for the temporary Canyon Road Bridge starting at the end of September 30, 2019, had been picked up by the Highway Bridge Program (HBP), and from that point the HBP

would be picking up the monthly lease and paying for the removal of the temporary bridge at the appropriate time.

PUBLIC COMMENTS OPENED

Town Clerk McInturf reported no comments from the public had been received.

PUBLIC COMMENTS CLOSED

Councilmember Woehleke wanted to ensure that the Town learned and benefitted from this experience. He emphasized the importance of the contingencies, which in this case were larger than normal, stated that some projects did not have flexible funding, and hoped that future projects would learn from past projects, set contingencies and estimate allowances.

Councilmember Wykle commended staff on the staff report and the work done throughout the years, particularly the efforts of the current Public Works Director/Town Engineer. He noted nearly 80 percent of the project was being funded by other funds including grants, and he recognized the many challenges involved.

Vice Mayor McCluer also commended the work of the Public Works Director/Town Engineer, and his understanding the information in the staff report would be included in the About Town newsletter.

Councilmember Sos agreed the update was helpful and she too thanked the Public Works Director/Town Engineer for the great work. She emphasized the importance of public transparency and thanked staff for taking the time to provide the information.

Mayor Korpus agreed with all comments.

ACTION: It was M/S (Woehleke/McCluer) to Receive Report on Canyon Road Bridge Replacement Project Cost Update. Roll Call Vote: 5-0.

7. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

A. Declaration of Local Emergency in the Town of Moraga

Consider Resolution 22-2020 Ratifying the Director of Emergency Services' Proclamation Declaring a Local Emergency in the Town of Moraga Due to the Coronavirus (COVID-19)

Town Manager Battenberg presented the staff report and asked the Town Council to adopt the resolution contained in Attachment A to the staff report.

Responding to the Council, Ms. Battenberg reiterated the purpose of the Declaration of Local Emergency, with all agencies in Contra Costa County having declared a local emergency for the same purpose. The Moraga Police Department would take the lead for the Emergency Operations Center (EOC) with established roles and chain of command, although Contra Costa County had activated its own EOC and the Town of Moraga was in coordination with the County at this time. There were currently 71 cases of COVID-19 in Contra Costa County, with one death, although the specific jurisdiction where the death had occurred had not been identified. It was unknown whether the Town of Moraga had any cases of COVID-19 at this time.

Ms. Battenberg commented that the fiscal impact to the Town from cancelled activities and Town programs was unknown and would have to be determined as to the impacts to the Town's budget. She noted a wedding and another event scheduled at the Hacienda de las Flores in

March and April had been cancelled and deposits refunded. No decision had been made yet on the status of any Town activities and events scheduled for the month of May.

Ms. Battenberg advised that staff planned to provide information to the Town Council soon on the status of the RFP for the Hacienda de las Flores.

PUBLIC COMMENTS OPENED

Town Clerk McInturf reported no comments from the public had been received.

PUBLIC COMMENTS CLOSED

Councilmember Wykle commended the Town Manager for the Declaration of a Local Emergency. He recognized it sent a clear message to citizens that everyone needed to take this matter seriously. He reported he had a teleconference with Boy Scouts earlier and had reiterated the serious nature of the emergency declaration. He also recognized the declaration would allow the Town to request possible grant funds in the future.

Councilmember Sos thanked the Town Manager for the comprehensive report and commended the Chief of Police for the frequent, helpful, informative, reassuring, and attention-getting communications on Nixle. She also commended the mostly positive activities on the NextDoor website, and posts by doctors that COVID-19 should be taken seriously and social distancing was required. She supported the emergency declaration.

Vice Mayor McCluer also commended the Town Manager on the well-done emergency declaration and identification of the potential fiscal impacts impacting the Town budget. Anything that could be done to assist the Chamber of Commerce and the Town's small business community was encouraged.

Councilmember Woehleke complimented the in-Town communications and those throughout the State during this time. He supported the declaration as necessary and he recognized that Town staff and officials had, and would, continue to address a very dynamic situation. He wanted to ensure that the ongoing efforts and future planning were visible to the Town's residents, and ensure that planning encompassed a range of scenarios over the next couple of months, including the Governor's worst-case scenario. He reported he had conversations with both the Town Manager and the Mayor, and had been encouraged that both the planning and follow-through would happen.

Mayor Korpus echoed the comments, concurred that the Declaration of a Local Emergency had been well thought out, was needed, and sent a message to everyone that COVID-19 needed to be taken seriously. She also recognized that Contra Costa County had taken the lead in disseminating information and making recommendations. She identified the telephone number for Contra Costa County's Health Department and affirmed much was occurring behind the scenes to plan for the future, continue Town operations, and continue to provide Town services to the best of the Town's ability.

Mayor Korpus recognized the efforts of the community and her own efforts reaching out to some members of the community and the sharing of information. She was optimistic the Town would survive this situation and urged everyone to stay the course, and listen to the medical advice given to avoid the surge and to flatten the curve of the virus.

Ms. Battenberg expressed her appreciation to Chief King and all Moraga Police Department staff who continued to show up to work every day to serve Town residents. She also

recognized the Public Works and Administrative Services Departments essential staff who had shown up for work continuing to serve the community.

ACTION: It was M/S (McCluer/Woehleke) to adopt Resolution 22-2020 Ratifying the Director of Emergency Services' Proclamation Declaring a Local Emergency in the Town of Moraga due to the Coronavirus (COVID-19). Roll Call Vote: 5-0.

8. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Councilmember Woehleke requested a future agenda item to address the COVID-19 crisis, convening the Disaster Council as provided for in the Moraga Municipal Code (MMC), including the discussion of community membership. He also would like resolution on whether the Town Council would review the time period for the Declaration of a Local Emergency given discrepancies between the MMC and State requirements.

Ms. Battenberg confirmed that staff had a general list of which individuals should serve as community members on a Disaster Council and acknowledged the list had not been approved by the Town Council. She cited Section 2.48.030 (e), of the MMC regarding Membership of the Disaster Council, which is *to consist of the Mayor serving as the Chair, Town Manager serving as the Vice-Chair, Assistant Director of EOC (Chief King) and Chief of Emergency Services provided for the emergency plan consisting of the Administrative Services, Public Works and Parks and Recreation Directors, and representatives of civic, business, labor, veterans, professionals, or other organizations having an official emergency responsibility as may be appointed by the Director, with the advice and consent of the Town Council.* These included the Moraga-Orinda Fire District (MOFD), Moraga School District (MSD), Acalanes Union High School District (AUHSD), Saint Mary's College (SMC), Community Emergency Response Team (CERT) and the Chamber of Commerce.

Assistant Town Attorney Denise Bazzano explained that pursuant to Section 2.48.030 (e), the Director may appoint those organizations but the Town Council at some point may ratify or weigh in on the appointments.

Councilmember Sos understood the request was for a standing item for an update on the status of the Declaration of a Local Emergency and activities in the Town, and if Town Council action was required for anything, whether to ratify membership of the Disaster Council or other matters, the Town Manager may need Town Council direction or consent to be agendaized as appropriate, which Councilmember Woehleke confirmed.

Ms. Bazzano read into the record Government Code 8630 of the California Emergency Services Act, which *required the body to review the need for the continuing emergency at least every 60 days until the body terminated the emergency.* There was nothing to prevent the Town Council from placing the item on a future agenda but it would be required every 60 days to review and confirm to exist. She saw no legal reason why a new category of agenda items on the agenda for every meeting pertaining to the Declaration of a Local Emergency could not be done.

Responding to the Mayor, Ms. Battenberg stated she was always cognizant of what an additional administrative burden was, and what was meaningful and significant in terms of obtaining input, and if there was any benefit to obtaining policy direction from the Council, staff had placed such items on the agenda. In this case, she had concerns with having every Council meeting or meeting every 14 days placing such an item on the agenda, or having to hold a special meeting of the Town Council to allow for reaffirmation every 14 days. The Government Code allowed greater flexibility, requiring review every 60 days which was helpful given the fluid situation.

Councilmember Wykle understood the dynamic and serious situation of COVID-19. He did not want to create a scenario where the Town Manager would have to wait on Town Council action, whether via a regular or special meeting. Similar local emergency declarations had been made in the past in Moraga and placed on the Consent Agenda, which process he supported. He did not want to create any undue burden for Town staff.

Vice Mayor McCluer did not see the request placing any potential undue burden on staff and he was confident the Town Manager would bring information to the Town Council as needed. He liked the idea of a placeholder allowing the Town Council to have the flexibility for the conversation which would not inhibit the Town Manager in any way.

Mayor Korpus understood the request was for a category providing a meeting opportunity at every meeting for the Town Manager to bring any issues to the Town Council to provide an update and take any action as needed, but not as an open-ended opportunity for the Town Council to initiate new matters or bring new things for the first time, which she would personally view as a Brown Act violation. She stated if there was any direction the Town Council needed to give the Town Manager, she would be able to do so under the Town Manager's Report. She opposed the request for a future agenda item as too ambiguous, confusing, and placing a burden on the Town Manager to come up with something even if there wasn't anything to bring forward.

Councilmember Woehleke recognized the Town Manager had the opportunity to provide the Town Council an update every couple of weeks at Town Council meetings. As a member of the Town Council representing the entire Town, he emphasized there needed to be broad representation on the Disaster Council. He asked the Town Council to be cognizant they were in an extraordinary period at this time.

Ms. Bazzano reminded the Council a Councilmember was to request a future agenda item and there needed to be a vote on the request. She recommended a vote be taken at this time on the request.

ACTION: Request for a Future Agenda Item for a Repeating Agenda Item where the Town Manager Gave Reports or Dealt with Issues Relating to the Declaration of a Local Emergency. Roll Call Vote: 0-5. MOTION FAILED: Noes: McCluer, Sos, Woehleke, Wykle, Korpus.

Councilmember Woehleke requested a future agenda item include assurance that the daylighting of the Laguna Creek Project would be presented to the Town Council prior to initiation of any actions resulting in significant expenditure of Town funds.

On the request, Ms. Bazzano advised the Town Manager could be asked when she expected the Laguna Creek Project to be brought to the Town Council to determine whether or not it could be brought earlier than planned.

Ms. Battenberg reported now that the Town had obtained funding staff would be looking through the RFP process to bring someone on board to do the design work associated with the daylighting of the creek, which would involve multiple options, with a recommendation to be brought to the Town Council for action later in the summer. Staff would have to do significant analysis in terms of how to approach the work and identify the various options available. She stated that as part of the budget process each year the Capital Improvement Program (CIP) was presented, which had included the Laguna Creek Project that the Town Council had approved in 2019, with action directing staff to move forward.

Councilmember Woehleke requested an update from the Town Manager on the Laguna Creek Project prior to an RFP being issued.

Mayor Korpus restated the request for a future agenda item for an update on the Laguna Creek Project prior to an RFP being issued.

Councilmember Wykle noted there had been several Town Council meetings on the Laguna Creek Project during his tenure on the Council, which had pre-dated everyone else, and it had been identified in the CIP where grant funding had been approved.

Ms. Battenberg clarified the budget for the Laguna Creek Project had previously been approved. Staff would return to the Town Council with the design contract to include outreach meetings and the like.

ACTION: Request for a Future Agenda Item to Include an Update from the Town Manager on the Laguna Creek Project Prior to a Request for Proposals Being Issued. Roll Call Vote: 2-3. MOTION FAILED: Ayes: Woehleke, McCluer. Noes: Sos, Wykle, Korpus.

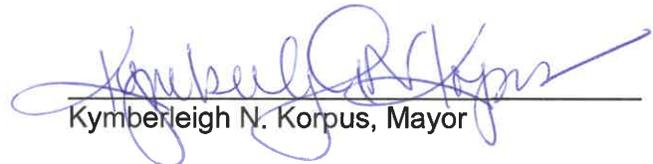
9. ADJOURNMENT

ACTION: It was M/S (McCluer/Wykle) to adjourn the meeting at 6:34 P.M. Roll Call Vote: 5-0.

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Kimberleigh N. Korpus, Mayor