



**TOWN OF MORAGA
REGULAR MEETING**

**June 10, 2020
MINUTES**

7:00 P.M. Regular Meeting

TELECONFERENCED MEETING LOCATION ONLY

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 31, 2020, APRIL 29, 2020 AND MAY 18, 2020 ORDERS OF THE HEALTH OFFICER OF CONTRA COSTA COUNTY, WHICH PERMITTED THE TOWN TO CONDUCT ESSENTIAL BUSINESS 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 31, 2020, April 29, 2020 and May 18, 2020 Shelter in Place Orders, the June 10, 2020 meeting was not physically open to the public.

All Town Councilmembers and Town staff participated in this meeting via teleconference.

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

Chief of Police Jon King led the Pledge of Allegiance.

3. SPECIAL ANNOUNCEMENTS

There were no special announcements.

4. PROCLAMATIONS AND PRESENTATIONS

A. Moraga Police Department Update

Chief of Police Jon King referenced the death of George Floyd on May 25, 2020 while being arrested by Minneapolis Police officers and read into the record the first paragraph of a letter he wrote to other Moraga Police Department (MPD) officers and the community about the incident. The letter was posted on the Town's website and on MPD social media accounts. He reported

that since May 25, MPD officers had responded as part of the Contra Costa County Mutual Aid Mobile Field Force to provide mutual aid assistance to other cities in the area. He was also honored to attend a peaceful rally at Moraga Commons Park on June 1, 2020, which involved participants of all ages from throughout the community. The rally was organized by students and staff members from both Campolindo and Miramonte High Schools. Chief King emphasized that MPD would continue to support peaceful protests in the community.

Chief King also reported that MPD would continue to promote and support inclusiveness in the community. MPD held two Town Hall meetings this past year, which were the first in its 40-year history, and would be continuing with other programs, such as Coffee with a Cop and Lunch with the Law on school campuses. He also said MPD would be working with all schools in Moraga to support staff and to interact and build relationships with students. He advised that MPD would continue to listen to and communicate with the community. This included the Saint Mary's College community, which was an integral part of the Town. MPD officers were already provided with crisis intervention and de-escalation training and would be updated with current training on implicit bias. Chief King also noted that he was always looking for additional training for officers to assist them in doing their jobs well.

Chief King also spoke to mental illness and how it affected people of different cultures, and reported on a conversation he had with an individual from the National Alliance for Mental Illness who had been present at the protest at Commons Park. He emphasized his intent to work with that individual to provide training for Moraga Police Officers.

Chief King also reported he had received e-mails from the community regarding the *8CantWait* campaign sponsored by Campaign Zero, a part of the Black Lives Matter movement. He provided a PowerPoint presentation to highlight Moraga Police Department policies as compared to the recommendations from the *8cantwait.org* campaign, and noted many of the policies that had been recommended by *8cantwait.org* were already in place. Policies proposed by *8cantwait.org* included: restricting chokeholds/strangleholds; de-escalation requirements; requiring officers to give a verbal warning prior to the use of deadly force; requiring officers to exhaust all reasonable alternatives before using deadly force; requiring officers to intervene; prohibiting officers from shooting at moving vehicles; using force continuum; and requiring comprehensive reporting.

Chief King added he had also received e-mails recommending the Town of Moraga defund the police. He provided an overview of the cost of providing police services in Moraga as compared to other communities and explained that Moraga had the lowest cost per resident as compared to any other agency in Contra Costa County, with the City of Clayton the closest in spending to the Town of Moraga. He also highlighted the Town's crime statistics for the first quarter of 2020.

Responding to the Council, Chief King reported since becoming the Acting Chief of Police for the Town of Moraga in February 2016, he could recall two complaints; one each related to the use of force and racial discrimination. In each case, a complete investigation had been conducted and in both cases, body-worn camera video had been used in the investigation. In the case of the alleged racial discrimination complaint the officer had been exonerated. In the case of the alleged use of force complaint, the officer had been exonerated on the use of force while a separate issue had not. In 2019, the Moraga Police Department had three reportable uses of force, and two of those cases involved minor injuries.

Chief King explained he had made note of the speakers at the Commons Park protest for the purpose of potential contacts. He reported that Campolindo High School had a Black Student Union, which group he planned to reach out to discuss their experiences. He was willing to do that with any other person or group in the community. He also spoke to the volume of communication with the California Police Chiefs Association about best practices and in

response to the impacts from Senate Bill (SB) 32, which required an increase in training and the need for officers to have all the tools and training at their disposal to do the best job for the community.

Chief King reported he had emphasized to his officers the need to be polite, professional, and to treat people the way you would want to be treated in the same situation.

PUBLIC COMMENTS OPENED

Town Clerk Marty McInturf read into the record the following public comment received via e-mail:

Sara Mooradian: Chief, I logged into the Town Hall meeting, albeit briefly, and was able to hear your update. I did not hear anything that specifically addressed a timeline for updating the Town's use of force policies to align with the eight policies referenced below. Can you please confirm when revisions will be shared with the public and what edits expected? I did not receive any response to my question with respect to adding a positive message on the Town marquee, can you please provide a reply? Thank you.

PUBLIC COMMENTS CLOSED

Mayor Korpus thanked the Police Chief for his presentation during these challenging times in response to the death of Mr. Floyd. She noted as the community tried to find its footing after recent events, there had been concern whether or not the community was doing everything it could to promote a healthy and safe environment for everyone.

Mayor Korpus commented that the Moraga Chamber of Commerce had recently held a Town Hall, and she suggested this was the time when every organization and public body should be taking a look at whether there was more that could be done to ensure it was not consciously or unconsciously fostering the inequality of any group of people regardless of their color, creed, or orientation. She commended the Police Chief for his involvement during the Commons Park protest and had been impressed by his calm and sensitive understanding and care he and those Moraga Police Officers in attendance had shown. She also acknowledged the input from the community and the receipt of e-mails about the *8cantwait.org* campaign, and the recommendations to defund the Police Department.

Mayor Korpus appreciated that the Police Chief had addressed those topics in his presentation as well as his ongoing willingness to answer all of her questions over the past couple of weeks. She had been persuaded at present the Police Chief was responding to the issues appropriately and she had been deeply reassured with the approaches to be taken and continue to be taken to examine the policing policies and practices without any preconceptions or predetermined outcomes. She suggested the Police Chief's proactive approach in dealing with the issues should be commended. She looked forward to any further insights that could be developed as the Police Chief found ways to help ensure Moraga was providing a safe place for its citizens to live and for children to grow up that was free of systemic bias, disrespect, and discrimination. She thanked the Police Chief for his exemplary service to the Town.

Chief King emphasized that work on the Town's Police Department policies would continue as reported.

At this time **Mayor Korpus** detailed the parameters of the Brown Act as related to the presentation from the Police Chief.

Councilmember Sos also thanked the Police Chief for the presentation and the information about community based policing and outreach. She too had been horrified by the death of Mr. Floyd and many others. She referenced a number of testimonials from black students at a protest in the City of Lafayette who had attended Lamorinda schools and who had been subjected to racist bullying by their peers. She agreed the community could do better and should step up and out against racism in any form. She was pleased the community had availed itself of the right to protest peacefully, particularly the youth and a broad section of the community. She supported action on top of protesting and noted the community stood for inclusion, non-discrimination, and equal justice and opportunity for everyone, and needed to translate those aspirations to reality where the privileged should help those who were not as fortunate.

Town Manager Cynthia Battenberg reported she would be bringing in a diversity expert on equity and inclusion who would be working with staff on three different workshops, including *Understanding and Mitigating Unconscious Bias, Allies and Accomplices, and Inclusive Leadership*. She stated it was important for the Town as an organization to bring someone in to help the Town better understand this issue.

Councilmember Wykle thanked the Police Chief for the presentation, agreed with the comments, and agreed that more could be done. He acknowledged the receipt of e-mails from *8cantwait.org* and hoped the Police Chief was also looking at the positive e-mails received that had been posted on NextDoor. He referenced the fact that a Moraga Police officer had spoken to Campolindo High School students and parents in the past, and he thanked the Police Chief for his outreach years ago. He too appreciated the Police Chief's commitment to continuous improvement and thanked him for his service to the Town.

Councilmember Woehleke thanked the Police Chief and the entire Moraga Police Department for being an excellent community partner. He recognized and commended all of the Police Department's work to strengthen partnerships given these challenging situations. He also acknowledged that many people wanted the Town Council to address the matter on a broader scope but they were constrained by the parameters of the Brown Act. He hoped the Town Council would consider addressing a strategic plan/way forward to do its part.

Vice Mayor McCluer also thanked the Police Chief for the ongoing efforts. He too expressed his sadness over the death of Mr. Floyd, a situation that had been ongoing far too long due to bigger issues in society, such as racism. He referenced the 1991 Rodney King assault and the resulting violence and read into the record a statement made by Mr. King in 1992. He agreed that a lot needed to be done including evaluating police force policies and programs, but also going into society to do more. He suggested that training and sensitivity programming for Town government was common but that community efforts could also be organized for action such as consideration of the *8cantwait.org* policies. He also referenced the legacy of Martin Luther King Jr. and the Civil Rights Act, which he suggested should be used as the model moving forward.

Chief King thanked the Town Council for the opportunity to serve the community.

5. PUBLIC COMMENTS AND SUGGESTIONS

The following comments were received via e-mail and read into the record by Ms. McInturf and **Mayor Korpus**:

Cassie Hilaski: I'd like to thank the Police Chief for his report and the Town Council for making time for him to share about policing policy in Moraga. While it appears that the Department is trying to properly train its force and limit use of force, I believe there is still room for

improvement in achieving the 8cantwait. But, I appreciate the Police Chief's willingness to listen and learn, and hope he continues on in that journey.

Canyon Bridge: I would like to express my gratitude that the bridge has not been completely closed during construction. However, I'd also like to express my dismay for the lack of information provided on the Town's website regarding the construction schedule. There seems to be very limited information for an activity that significantly affects many in the community. My daughter relies on that bridge for a daily commute to summer camp and to school. Further, there are a number of Miramonte/Campolindo students who rely on that bridge to get to and from school. I urge the Town to maximize the number of hours the bridge can be open to facilitate travel back and forth for commuters and students. Thank you, Cassie Hilaski.

Brian Coyle: Canyon Road Bridge does not need to be closed seven hours every day. Some history: Moraga closed the original bridge three years ago. The original bridge had been inspected by Caltrans 8 months before. It got a 62.5 rating, was deemed structurally sound. The Town Engineer claimed it had a 48.8 rating. That was the 2014 inspection. The bridge was repaired in 2015, and passed in 2016. Caltrans 2016 inspection occurred six months after the landslide. Canyon School went to court to block the original bridge's demolition. Contra Costa Judge Barry Goode said it was obvious closing the bridge would impact emergency services response. Water under the bridge? Not exactly. Moraga is not spending \$14 million, the combined costs of the temporary and new bridges, to improve access to Canyon. The Bruzzone family blocks commercial development. Sales tax is Moraga's finance. Moraga suffocates without commerce. This isn't a bridge to nowhere. It's a bridge to Bruzzone Indian Valley development. Moraga's Town Council did not have to ban traffic from the current bridge, while the new bridge is constructed. The crew had to dedicate flag people to block unsuspecting drivers anyway. There's no risk involved in crossing. Closing the current bridge only marginally impacts the new bridge construction. Push the people of Canyon, and Canyon School, into a corner, and you'll get attention. We will mobilize the media and public opinion. We will go to court. The Town Council probably finds me annoying, like a buzzing bee. Canyon is a bee-hive. If you kick it, you'll be more than annoyed. Respectfully, Brian Coyle, President Canyon School Board.

John Heylin: Please change the bridge closure hours to better reflect the hours of Canyon Elementary School. Also please include the Canyon Community on future bridge updates.

6. ADOPTION OF CONSENT AGENDA

A. Approval of Consent Items

Consent Agenda Items 6.2 and 6.4 were removed from the Consent Agenda.

PUBLIC COMMENTS OPENED

Ms. McInturf reported no comments from the public had been received for this item.

PUBLIC COMMENTS CLOSED

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

6.1	Receive <u>Accounts Payable</u> Claims for: 05/22/20 (\$206,392.55)	Approved
6.2	Approve <u>Minutes</u> for the Town Council Regular Meeting on May 13, 2020	Removed

- 6.3 Consolidation of Municipal Election Approved
 Consider Resolution 33-2020 Requesting and Consenting to Consolidation of November 3, 2020 Municipal Election and Setting Specifications of the Election Order; and Consider Resolution 34-2020 Adopting a Policy for Candidate's Statements Printed in Voter's Information Pamphlets
- 6.4 Short Term Rentals Ordinance Removed
 Consider Waiving the Second Reading and Adopting Ordinance 290 Amending Various Sections of Title 2 – Administration and Personnel, and Title 8 - Planning and Zoning, of the Moraga Municipal Code to Amend Section 8.04.020 – Definitions, of Title 8, Planning and Zoning, of the Town of Moraga Municipal Code to Include a Definition of "Hosted Short-Term Rental," "Non-Hosted Short-Term Rental," "Operator," "Owner," and "Short-Term Rental," and Establishing Chapter 8.114 – Short-Term Rentals, in Order to Regulate Short-Term Rental Units within the Town (CEQA Status: Exempt)
- 6.4 Responsibility for Right-of-Way Landscaping Ordinance Approved
 Consider Waiving the Second Reading and Adopting Ordinance 289 Amending Title 12, Adopting Chapter 12.10 – Trees, Shrubs, and Hedges and Other Landscaping in the Right-of-Way (CEQA Status: Exempt)

B. Consideration of Consent Items Removed for Discussion

1. Approve Minutes for the Town Council Regular Meeting on May 13, 2020

Mayor Korpus requested modification to the second and third sentences of the first paragraph of Page 14 of the May 13, 2020 Town Council Regular Meeting Minutes, as follows:

She [Mayor Korpus] emphasized it was the private property owner's property and not the Town's right to decide that STRs should maintain the availability of housing, which involved a much larger problem and that it was unfair to expect individual property owners that wanted to operate STRs to bear a disproportionate burden in trying to solve that problem. She recommended the Town Council do nothing unless a good argument was made for doing something, and that only carefully worded regulations that were narrowly targeted to address the safety issue should be considered.

In response to the Vice Mayor, **Mayor Korpus** stated she had not reviewed the Livestream and although what had been said had been reported in the words, it had not been clearly stated in the words, which she had reframed.

Councilmember Woehleke requested an amendment to the fourth sentence of the second to last full paragraph as shown on Page 12, as follows:

He [Councilmember Woehleke] expressed concern the Town Council may consider the adoption of an Ordinance that involved far more detail than what was needed.

PUBLIC COMMENTS OPENED

Ms. McInturf reported no comments from the public had been received for this item.

ACTION: It was M/S (Sos/Woehleke) to approve Minutes for the Town Council Regular Meeting on May 13, 2020, as modified, and as read into the record by Mayor Korpus and Councilmember Woehleke. Roll Call Vote: 5-0.

2. Short Term Rentals Ordinance

Consider Waiving the Second Reading and Adopting Ordinance 290 Amending Various Sections of Title 2 – Administration and Personnel, and Title 8 - Planning and Zoning, of the Moraga Municipal Code to Amend Section 8.04.020 – Definitions, of Title 8, Planning and Zoning, of the Town of Moraga Municipal Code to Include a Definition of “Hosted Short-Term Rental,” “Non-Hosted Short-Term Rental,” “Operator,” “Owner,” and “Short-Term Rental,” and Establishing Chapter 8.114 – Short-Term Rentals, in Order to Regulate Short-Term Rental Units within the Town (*CEQA Status: Exempt*)

Vice Mayor McCluer explained he had pulled the item since the strategy around Hosted Short-Term Rentals (STRs) had been to improve safety and reduce the risk of violence; however, the language for Non-Hosted STRs was a concern since for half of the year there remained potential risks. The City of Orinda had decided not to include Non-Hosted STRs in its Ordinance, many other jurisdictions had a Hosted STR policy only, and many did not have the same policies as proposed in Moraga’s Ordinance. He understood the majority of the Town Council wanted some type of Non-Hosted capability for STRs, and while he had agreed to a compromise during the May 27, 2020 meeting, based on the materials he had read he now recommended the Town Council consider allowing 14-calender days for Non-Hosted STRs to offer a balance to the Non-Hosted STR concept and to make it safer for the community. This approach had been offered by a Planning Commissioner at the time the Planning Commission had deliberated the STR Ordinance.

Councilmember Woehleke requested the following revision to Attachment A, as follows:

- Page 2, first WHEREAS clause revised to read: ***WHEREAS, on May 13, 2020, and May 27, 2020 the Town Council held a duly noticed public hearing, took testimony on, and considered the proposed amendments.***

Assistant Town Attorney Denise Bazzano commented that if the date had not been reflected in the first reading, it would not be added for the second reading. She defined the proposed revision as a substantive change.

Councilmember Woehleke also referenced Page 3, Section 3, Section 8.04.020, definition for “Operator” and recommended the definition and other references to Operator be eliminated if relying on the Hosted STR criteria. Also, the definition for “Owner” remained a concern given that Airbnb and Redwood City, as examples, had used the concept of Legal Primary Residence, which had been legally recognized. He asked whether the Assistant Town Attorney could craft language that would be enforceable for the Town along with crafting language to address the concerns raised by the Vice Mayor.

Councilmember Sos identified a typographical error in the last sentence of Page 2, Section 2 (a), to be corrected to read: *These operations are occurring without regulations ~~and~~ designed to mitigate such dangers, leaving neighborhoods vulnerable to danger that could have been reasonably mitigated by appropriate regulation.*

PUBLIC COMMENTS OPENED

Ms. McInturf reported no comments from the public had been received for this item.

PUBLIC COMMENTS CLOSED

Councilmember Woehleke offered a motion, seconded by **Vice Mayor McCluer** recommending the Town Council forego acting on the Ordinance at this time and request that staff rework the Ordinance based on the input from the Town Council.

Ms. Bazzano clarified the motion would be to continue the item to a date uncertain so that staff could bring back a revised version of the Ordinance based on the comments by Councilmembers at this time.

Councilmember Wykle understood the concerns raised by Councilmember Woehleke and Vice Mayor McCluer, although it had now been eight months since the tragic event that had occurred in the City of Orinda, and the Town of Moraga had no regulations in place for STRs. He expressed concern the Ordinance could be continued further and something bad could happen in the community. While an operator or owner being present most of the time would make him more comfortable with the Ordinance, the Police Chief had opined that the Ordinance, as proposed, was a close second as written. He preferred that the Town have regulations in place and not take a risk. He was willing to support the Ordinance as it was, and while imperfect something was better than nothing.

Councilmember Sos agreed with Councilmember Wykle that something should be done right away. She emphasized there had been two thorough public hearings on the Ordinance, with input from property owners and the public, and the Ordinance struck the appropriate balance between public safety and respecting the rights of property owners. She too was in favor of adopting the Ordinance as-is.

Mayor Korpus also agreed that while imperfect and while of the belief the Town should not have a Short-Term Rental Ordinance at all, the Ordinance would establish regulations and had been targeted to the safety issue everyone had been very concerned about. She opposed the pending motion to continue the item.

ACTION: It was M/S (Woehleke/McCluer) to continue to a date uncertain, waiving the Second Reading and Adopting Ordinance 290 Amending Various Sections of Title 2 – Administration and Personnel, and Title 8 – Planning and Zoning, of the Moraga Municipal Code to Amend Section 8.04.020 – Definitions, of Title 8, Planning and Zoning, of the Town of Moraga Municipal Code to Include a Definition of “Hosted Short-Term Rental,” “Non-Hosted Short-Term Rental,” “Operator,” “Owner,” and “Short-Term Rental,” and Establishing Chapter 8.114 - Short-Term Rentals, in Order to Regulate Short-Term Rental Units within the Town (CEQA Status: Exempt), to allow staff to bring back a revised version based on the comments made by Councilmembers at this time.
Roll Call Vote: FAILED: 2-3 Ayes: Woehleke, McClure Noes: Sos, Wykle, Korpus.

ACTION: It was M/S (Sos/Korpus) to waive the Second Reading and Adopt Ordinance 290 Amending Various Sections of Title 2 – Administration and Personnel, and Title 8 – Planning and Zoning, of the Moraga Municipal Code to Amend Section 8.04.020 – Definitions, of Title 8, Planning and Zoning, of the Town of Moraga Municipal Code to Include a Definition of “Hosted Short-Term Rental,” “Non-Hosted Short-Term Rental,” “Operator,” “Owner,” and “Short-Term Rental,” and Establishing Chapter 8.114 - Short-Term Rentals, in Order to Regulate Short-Term Rental Units within the Town (CEQA Status: Exempt), subject to the non-substantive edit to the last sentence of Page 2,

Section 2 (a), to be corrected to read: *These operations are occurring without regulations and designed to mitigate such dangers, leaving neighborhoods vulnerable to danger that could have been reasonably mitigated by appropriate regulation.*

Roll Call Vote: 3-2 Ayes: Sos, Wykle, Korpus Noes: McCluer, Woehleke.

7. ADOPTION OF MEETING AGENDA

PUBLIC COMMENTS OPENED

Ms. McInturf reported no comments from the public had been received for this item.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (McCluer/Wykle) to adopt the Meeting Agenda, as shown. Roll Call Vote: 5-0.

8. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Korpus – Reported she had attended the Audit and Finance Committee (AFC) meeting and conferred with resident Adam Andrasko, Chief Executive Officer (CEO) of USA Artistic Swimming, reporting an Olympic swim team was currently training in Moraga at the Soda Center. She also reported she had attended the peaceful George Floyd Solidarity Protest at Commons Park; spoken with resident Steve Smith about Public Works Department related issues and followed up with staff on those issues; attended the Mayors' Conference via Zoom (briefing the Council on the discussions including updated information on COVID-19, when businesses had been allowed to re-open); and an upcoming Association of Bay Area Governments (ABAG) Assembly Zoom meeting on June 11, 2020 to discuss the budget and other financial issues.

At this time, **Mayor Korpus** asked for a Moment of Silence for *Federal Security Officer David Patrick Underwood*, a resident of the City of Pinole, who had been killed in a drive-by shooting in the City of Oakland during a recent protest.

Mayor Korpus further reported she had attended and made a presentation during the Zoom Moraga Town Hall sponsored by the Moraga Chamber of Commerce.

Vice Mayor McCluer – Reported he had participated in a peaceful George Floyd Solidarity Protest at Commons Park; Moraga School District (MSD) Board meeting via Zoom, and briefed the Council on the discussions; participated as a beta reviewer of the Town's new website; and had spoken with the Town Manager and Public Works Director/Town Engineer in response to a resident's concern with paving and an inquiry from a church regarding the responsibility of the removal of a dead tree. He had also attended the Mayors' Conference via Zoom; had communications with Dave Bruzzone, Jay Kerner, U.S. Realty Partners, and Moraga Chamber of Commerce Executive Director Kathe Nelson regarding the Town's Sign Ordinance; participated in a tour of the Commons Park irrigation project with the Parks and Recreation Director; participated in the Zoom Moraga Town Hall sponsored by the Chamber of Commerce, which he encouraged be held on a regular basis; and took the opportunity to commend

resident Ian Crew for his work with the Lamorinda Councils regarding potential flight pattern changes over the Lamorinda area briefing the Council on the status of that effort.

Councilmember Sos – Reported she had attended a RecycleSmart Board meeting via Zoom and briefed the Council on the discussions; Lamorinda School Bus Transportation Agency (LSBTA) meeting briefing the Council on the discussions; and participated in the Zoom Moraga Town Hall sponsored by the Chamber of Commerce.

Councilmember Woehleke – Reported he had attended a Moraga Chamber of Commerce meeting and the Zoom Moraga Town Hall sponsored by the Chamber of Commerce; and participated as a beta reviewer for the Town's new website.

Councilmember Wykle – Reported he had attended a RecycleSmart Board meeting via Zoom and a meeting of the AFC.

- B.** Town Manager Update – Town Manager Battenberg reported the Parks and Recreation Department Summer Camp had commenced on June 8 in groups of twelve, and all Town employees had returned to work on June 8. While the Town Offices remained closed to the public, the public could make appointments and contact staff via telephone. She added the Town's new website was scheduled to go live on June 15, and she thanked all of those involved in the beta testing. On June 15, the Town's new Senior Civil Engineer Bret Swain would start with the Town, and on June 18 due to the hard work of staff, the project team, and contractor, the daily closing of Canyon Road Bridge would end with intermittent closures to occur on an as-needed basis. Additionally, the Town's new Planning Director Afshan Hamid would start on July 6, 2020.

Mayor Korpus declared a recess at 8:39 p.m. The Town Council meeting reconvened at 8:47 p.m. with all Councilmembers present via Zoom.

9. DISCUSSION ITEMS

There were no discussion items.

10. PUBLIC HEARINGS

A. Street Lighting Assessment District

Conduct a Public Hearing and Consider Resolution __-2020 Confirming the Engineer's Report for the Town of Moraga Street Lighting Assessment District 1979-1, Approving Assessments and Assessment Diagram, and Levying Assessments for Fiscal Year 2020/21 (*Staff Recommendation: Continue this item to a date certain of June 24, 2020*)

Public Works Director/Town Engineer Shawn Knapp reported the public notice had not been published in advance of the hearing and in conformance with the Street Lighting Assessment requirements and law, he recommended the Town Council continue the item to a date certain of June 24, 2020, and publish a new notice in general circulation with the June 24, 2020 date.

PUBLIC HEARING OPENED

Ms. McInturf reported no comments from the public had been received for this item.

ACTION: It was M/S (Korpus/Woehleke) to continue the Public Hearing and Consideration of a Resolution Confirming the Engineer’s Report for the Town of Moraga Street Lighting Assessment District 1979-1, Approving Assessments and Assessment Diagram, and Levying Assessments for Fiscal Year 2020/21, to a date certain of June 24, 2020. Roll Call Vote: 5-0.

11. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

B. Ordinance Amending Chapter 8.88 (“Signs”) to Streamline the Approval Process

Consider Waiving the First Reading and Introducing by Title Only, an Ordinance Amending Chapter 8.88 – Signs, of Title 8, Planning and Zoning, of the Town of Moraga Municipal Code to Streamline the Approval Process for Certain Types of Signs; Allow for New Master Sign Programs to Include Greater Variation from the Standards Prescribed by Chapter 8.88; and Amend Certain Specific Standards and Regulations for New Commercial Signage including Wall Signs, Monument Signs and Portable Signs. (*CEQA Determination: Exempt*)

Senior Planner Steve Kowalski provided a PowerPoint presentation which outlined the Ordinance amending Chapter 8.88 (“Signs”) in order to streamline the Town’s approval process, and recommended the Town Council waive the first reading and introduce the Ordinance provided as Attachment A.

Responding to the Council, Mr. Kowalski explained that the proposed changes to the Moraga Municipal Code (MMC) were in response to one of the Town Council Goals in 2019 to streamline the approval process for commercial signage. The changes were equally rigorous compared to the City of Orinda’s regulations, with the Town’s proposed regulations more typical of a larger city. He confirmed that staff had received no negative comments regarding the proposed changes, clarified that all decisions of the Zoning/Design Review Administrator were appealable, and explained that staff had attempted to carve out the easiest and most innocuous signs and make them exempt from an appeal process although given the way the MMC had been written that was not possible absent significantly more changes to the MMC. The proposed amendments had been brought to the Planning Commission for consideration and the Commission had preferred the signs not be appealable, which staff had agreed to at the time; however, the Assistant Town Attorney had explained that would not be allowed given the way the MMC was currently written. The intent that quick and easy signs were easier to approve remained the purpose of the proposed amendments, although he confirmed they would still be subject to an appeal.

Mr. Kowalski also acknowledged that Jay Kerner, the CEO of U.S. Realty Partners, (the major property owner of the Rheem Center), had submitted a design review application for a Master Sign Program (MSP) for the Rheem Center and a facelift for the buildings. He had been working hand-in-hand with Mr. Kerner’s architects in terms of how the proposed amendments may impact those plans. If the Town Council approved the proposed amendments, they would be in line with what the MSP was proposing.

Ms. Battenberg reported she had reviewed the City of Lafayette’s Ordinance, and similar to what was being proposed in Moraga, Lafayette allowed administrative review of a sign that met the MSP requirements as well as signs under 20 square feet, whereas the proposed Ordinance would allow signs under 25 square feet to be subject to administrative review.

Mr. Kowalski further confirmed that the Town's Design Guidelines would apply to any of the signs as part of the design review process and the Zoning/Design Review Administrator would consider the Design Guidelines in making decisions on applications.

PUBLIC COMMENTS OPENED

Ms. McInturf reported no comments from the public had been received for this item.

PUBLIC COMMENTS CLOSED

Vice Mayor McCluer thanked staff for the report and recognized that staff had reached out to stakeholders, which he had also done. He reported that Jay Kerner and Kathe Nelson supported the staff recommendations and had submitted correspondence to the Planning Commission. He also reported that Dave Bruzzone had found there had been minor input, but Mr. Bruzzone had conversations with Ms. Nelson whose opinion was there had been major input. He commended the process to fulfill one of the 2019 Town Council Goals, and agreed it was time to update the Town's Sign Ordinance. He fully supported the proposed amendments.

Councilmember Woehleke commended staff and also fully supported whatever effort could be done to streamline the process and make the signage requirements more user-friendly. He recognized the challenges for signs in Moraga and referenced Section 8.88.070 – Master Sign Program, B(3), as written, which raised concern for both the Rheem Center and the Moraga Center Specific Plan (MCSP) Area, since both were located along a scenic corridor, noting that the language in this section may allow for multiple monument signs. He offered a number of examples of past applications for monument signs that had been controversial given the concern for having multiple monument signs along the scenic corridor. While he generally supported this section and reliance on the Design Review Board (DRB) to make that judgment, he stated at times the process had not worked in the past.

Councilmember Woehleke recommended that Section 8.88.060 – Sign review procedure, Section E, Finding 1 be revised, and that staff review the Design Review Guidelines and possibly rephrase the finding to require consistency with the General Plan's expectations for the Town in terms of its semi-rural character and proximity of the scenic corridor to prevent multiple monument signs within close proximity along a scenic corridor.

Councilmember Woehleke also recommended that Section 8.88.090 – Permanent Signs, B(4), Monument Signs subsection (iv) Height, be revised to be consistent with what was in the Design Guidelines for setting expectations for signage along the scenic corridor for both the Rheem and Moraga Centers. He recommended this section be modified to read: *Height. The maximum monument sign height is ten (10) feet above grade in a nonresidential zoning district and six (6) feet above grade in a residential zoning district.*

Mr. Kowalski advised that staff had not proposed any changes to the section under discussion although the proposed changes could be made.

Mayor Korpus explained that she was somewhat ambivalent to most of the proposed changes and was inclined to follow the staff recommendations given the Town Council's clear desire to make the process easier and make the Town more welcoming to businesses where possible, even if the Town's regulations were not as strict as its neighbors. She acknowledged Councilmember Woehleke's concerns with the potential for multiple monument signs along a scenic corridor and the height of monument signs and had been persuaded to look at the Town's Design Guidelines to ensure they were in alignment with what had been proposed; however, to the extent there was any contradiction the Ordinance would prevail and the Design Guidelines would come in later and would not apply if already allowed. She agreed that staff be

directed to evaluate the Design Guidelines and was not opposed to the modification to Section 8.88.090 (B)(4)(iv), as recommended by Councilmember Woehleke.

In response to Councilmember Wykle, Mr. Kowalski reiterated that Jay Kerner had submitted an application for an MSP which would render that part of the current Design Guidelines null and void. He clarified that when an MSP was adopted it would trump the regulations contained therein in the Design Guidelines. He added there was a Design Guideline currently in place for the MSP for the Rheem Center; Mr. Kerner's application was pending, and once the MSP for the Rheem Center was approved, the Design Guidelines would have to be modified at that point.

Ms. Bazzano explained that when amendments to the MSP for the Rheem Center were brought forward, staff would likely recommend conformance with the Sign Ordinance.

Ms. Battenberg commented that if the applicant for the Rheem Center had not reviewed the Design Guidelines, they may not be aware there were 11 points in the Design Guidelines related to signs with one of the points having specifically outlined how the Rheem Center should be handled. That particular guideline, Guideline #CC3.11, would have to be eliminated as part of the process of adopting an MSP for the Rheem Center.

Councilmember Woehleke reiterated his concerns as he had outlined in an attempt to ensure the regulations were clear.

Mayor Korpus expressed concern with the Town Council possibly passing something that was in direct conflict with the Design Guidelines as currently stated, although the current Design Guidelines had not been brought forward to the Town Council to review whether the Town Council should decide to diverge from it in the Ordinance. She asked the Assistant Town Attorney to opine whether the Town Council should, for the sake of notice, defer the item to the next meeting and address the Design Guidelines issue at the same time to ensure they were both in conformity.

Ms. Bazzano advised the item had been agendized for a first reading of the Ordinance. It would be appropriate if the Town Council wanted to continue the item to allow staff to do further work. If the Design Guidelines conflicted with a portion of the Ordinance, it made sense for the Town Council to review the Design Guidelines, although she reminded the Council that the Planning Commission would need to review and make a recommendation prior to the Town Council making any changes to the Design Guidelines.

Ms. Battenberg recommended that since the MSP for the Rheem Center also needed Planning Commission consideration, the Design Guidelines should be brought to the Planning Commission concurrently.

Ms. Bazzano pointed out that if the new Ordinance was to apply to the Rheem Center application, the Ordinance must be adopted 30 days before becoming effective. She also clarified that if the Town Council adopted the Ordinance, any sign must comply with the Design Guidelines. When it was known that at least one of the findings in the revised Ordinance did not comply with the Design Guidelines, she stated that issue could be addressed later.

Mr. Kowalski commented that although the new Ordinance contained some things that would conflict with the existing MSP for the Rheem Center, the current MSP was not being re-opened.

Ms. Bazzano confirmed that the MSP for the Rheem Center already adopted by the Town Council was not being re-opened, although the Mayor had expressed concern that there may be conflicts with the Design Guidelines for the Rheem Center and the Town Council may want to

review those Design Guidelines to determine whether or not this was an appropriate change. The Town Council may consider continuing the item to the next Town Council meeting with staff to bring back information just to inform the Town Council of the standards in the Rheem Center MSP and Design Guidelines to allow more discussion on the topic.

Ms. Battenberg recommended that staff be allowed to update the Ordinance and then go back and update the Design Guidelines separately.

Ms. Bazzano confirmed the Town Council may move forward and adopt the Ordinance as it was and then ask staff to bring back the additional information so that there would be clarity prior to the second reading. The Town Council may proceed with the first reading and decide not to adopt the Ordinance if the Town Council was not inclined to do so at the second reading.

Councilmember Sos stated there was no disadvantage to adopting the Ordinance at this time with the knowledge there could be potential conflicts with the Design Guidelines, since by definition, the Design Guidelines must conform to the Ordinance not the other way around. She preferred to move forward with the Ordinance, allow the first reading and the timeline to commence, and allow the Rheem Center MSP to be approved in a timely fashion.

Vice Mayor McCluer agreed to approve the Ordinance for the first reading, and bring the Design Review Guidelines back at the next meeting to ensure conformance.

Councilmember Woehleke remained concerned with the language in Section 8.88.060 (E)(1) and suggested the language in this section should be modified given that the Ordinance took precedence over the Design Guidelines.

On the discussion, Section 8.88.090 – (B)(4)(iv), was further revised to read: *Height. The maximum monument sign height is ten (10) feet above original grade in a nonresidential zoning district and six (6) feet above original grade in a residential zoning district.*

Councilmember Woehleke offered a motion, seconded by **Mayor Korpus** to waive the first reading and Introduce by Title Only, an Ordinance Amending Chapter 8.88 – Signs, of Title 8, Planning and Zoning, of the Town of Moraga Municipal Code to Streamline the Approval Process for Certain Types of Signs; Allow for New Master Sign Programs to Include Greater Variation from the Standards Prescribed by Chapter 8.88; and Amend Certain Specific Standards and Regulations for New Commercial Signage including Wall Signs, Monument Signs and Portable Signs, and Find the Proposed Amendments to be Exempt from CEQA per CEQA Guidelines Section 15061(b)(3), and subject to a revision to Section 8.88.090 – (B)(4)(iv), to read: *Height. The maximum monument sign height is ten (10) feet above original grade in a nonresidential zoning district and six (6) feet above original grade in a residential zoning district.*

On the motion, Ms. Battenberg recommended further revision to Section 8.88.090 –*Height. The maximum monument sign height is ten (10) feet above pre-development grade in a nonresidential zoning district and six (6) feet above pre-development grade in a residential zoning district.*

As the maker of the motion, **Councilmember Woehleke** and **Mayor Korpus** as the second were not opposed to the revision offered by the Town Manager.

ACTION: It was M/S (Woehleke/Korpus) to waive the First Reading and Introduce by Title Only, an Ordinance Amending Chapter 8.88 – Signs, of Title 8, Planning and Zoning, of the Town of Moraga Municipal Code to Streamline the Approval Process for Certain Types of Signs; Allow for New Master Sign Programs to Include Greater Variation from the Standards Prescribed by Chapter 8.88; and Amend Certain Specific Standards and

Regulations for New Commercial Signage including Wall Signs, Monument Signs and Portable Signs, and Find the Proposed Amendments to be Exempt from CEQA per CEQA Guidelines Section 15061(b)(3), and subject to:

Revise Section 8.88.090 – (B)(4)(iv), to read: *Height. The maximum monument sign height is ten (10) feet above pre-development grade in a nonresidential zoning district and six (6) feet above pre-development grade in a residential zoning district.*

Roll Call Vote: 5-0.

Mayor Korpus reiterated the direction to staff to return with additional information regarding the Design Guidelines to allow the Town Council to clarify everything in the second reading.

Ms. Battenberg advised that staff would move forward with amendments to that section of the Design Guidelines in order to process the application from Mr. Kerner.

C. FY 2020/21 Operating and Capital Improvement Program Budgets

Consider Preliminary Fiscal Year 2020/21 Operating Budget, Including Updates to the Five-Year Financial Plan and Five-Year Capital Improvement Program (CIP), and Provide Direction to Staff

Ms. Battenberg provided an overview of the Town's budget message as shown in Attachment A of the staff report.

Administrative Services Director Norm Veloso provided a PowerPoint presentation of the Proposed FY 2020/21 Operating Budget for the Town and provided additional clarification in response to the Town Council on the assumptions for the reduction in sales tax and Measure K revenues. He noted that staff was comfortable with the assumptions that had been outlined and explained that the Town's industries were less vulnerable than other jurisdictions.

For the Town's grocery and drugstore businesses, a three percent increase had been projected due to the way the community had responded to such stores. The Town's tax consultants had provided similar projections on certain industries that would experience slight growth due to COVID-19, although the Town's restaurants and other brick and mortar store closures would have some impacts due to the Shelter-in-Place (SIP) order due to COVID-19.

Staff anticipated that in September 2020, the actual impacts from COVID-19 on the Town's sales taxes would be better known. Once the actual data was received, staff would analyze and monitor the information and submit it to the Town Council for either an early discussion or to be included in the midyear budget report. As to the impacts on property taxes from COVID-19, Mr. Veloso advised that any impacts would not be known until Fiscal Year 2021/22, to be reflected in property assessments in December 2021 and April 2022.

Ms. Battenberg added that the Town had a bit of a cushion in the budget via the vacant maintenance worker position and the cancellation of summer events. Also, the Town Council had decided to review the funding for the Bollinger Valley Study in January 2021 as part of the midyear budget adjustments. The cost for the study had also been split into two years with half of the funding in the 2021 budget and the remaining cost in the 2022 budget. She recognized that consideration of the midyear budget would require much more careful analysis.

Mr. Veloso also reported that due to COVID-19, internet sales had projected about a 7.3 percent increase in 2021 and a higher 10 percent increase in the second quarter of 2020, which was very promising. The Town Manager and Department Heads had been working on the budget diligently and had proposed four different scenarios which had been consolidated into a very

conservative scenario based on information on businesses being allowed to re-open. The projections for 2020/21 were prudent considering all of the unpredictability.

Ms. Battenberg also added that the Town was benefiting from the changes in the way that sales taxes had been allocated among jurisdictions, and anything that changed the allocation to be based more on destination, as the Wayfair case had done, would benefit the Town with some of the reduction being offset by that change. Moraga was not a sales tax in border community, and while the Town did not benefit from greater sales taxes, it was not seeing the larger declines faced by other communities given that the Town's economy was mostly supported by its residents. She also reviewed the Five-Year Financial Projections as outlined in the Operating Budget Revenue and Expenditure Summary Table as contained in the staff report.

As to the figures identified for the Planning budget, Ms. Battenberg explained that an audit had been conducted of the last ten years of the developer deposit accounts which found that a bad debt write-off of \$123,000 was required to correct the account.

As to the Town Council expenses as shown on Page GF-24 of the staff report and the expenses shown for Community Promotions, Ms. Battenberg clarified that funds had also been budgeted in 2019 and the funds had not been used.

With respect to amended Page OF-9, Fiduciary Funds, Holiday Events, and the funds shown, Ms. Battenberg commented that the funds being shown had not been adjusted and staff would have to make adjustments since fundraising for the 4th of July fireworks would not be done this year since a decision had been made to cancel the celebration. Staff would have to review that number.

PUBLIC COMMENTS OPENED

Ms. McInturf reported no comments from the public had been received for this item.

Public Works Director/Town Engineer Knapp provided a PowerPoint presentation on the Preliminary Fiscal Year 2020/21 Capital Improvement Program (CIP) Budget which had been presented to the Town Council on multiple occasions. He noted that redline revisions had been provided to the Town Council specifically to the Capital Improvement Program Highlights under the section General Government, and to Page CIP-9, Table A, and Page CIP-27, to clarify that the total amounts for each of the projects would remain the same and not be changed.

Mr. Knapp advised that in July staff would be making a presentation to the Town Council on the Laguna Creek Restoration at the Hacienda project, which would allow an opportunity for the Town Council to provide direction on ways to move forward. He welcomed any input from the Town Council as to whether any modifications or changes were needed to the CIP budget. If during the July meeting the Town Council decided to continue the project, staff would return with a potential design award of contract at its meeting in August.

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

Mayor Korpis read into the record the following public comment received via e-mail:

Brent Meyers: For sales tax (and gas tax to a lesser extent) projections, there are really two elements: the immediate impact of COVID closures and disruption on taxable sales. Any residual impact to lower consumer spending (recession, depth and duration) and therefore less taxable spending. Did the sales tax consultant provide specific assumptions related to these two? For example, what is the underlying assumption for changes/impacts to consumer

spending once businesses fully reopen? (I'm offline from the meeting at the moment, so if too late to add this clarifier to the end, I understand). That is, for example, can you share the specific economic assumption(s) as to consumer spending in Moraga for the next fiscal year in terms of reduction and duration? 20% in the first few months, then back to the way it was? 8% reduction starting July 1 and lasting all year?

Ms. Battenberg responded to Mr. Meyers' questions and identified the percentage impact in the 2019/20 budget, eight percent over a three-month period of time, with sales tax projections in 2021 to fall below what they were for 2020.

PUBLIC COMMENTS CLOSED

Councilmember Wykle applauded staff for the hard work on the budget and the review of the potential impacts from COVID-19. He was comfortable with the predictions and found that the Administrative Services Director and the Town's consultants had been right on. He noted the stock market was almost back to what it had been prior to COVID-19, and he found the potential impacts had been calculated into the budget. If the impacts from COVID-19 were worse than projected, he recognized it may impact existing projects and he agreed there should be some contingencies in place.

Vice Mayor McCluer also thanked staff for the budget document recognizing the many uncertainties and challenges due to the impacts from COVID-19.

Ms. Battenberg also thanked the Town's new Accountant William Chong for all of his hard work.

Vice Mayor McCluer was pleased that staff would be considering a contingency plan. As to direction to staff, he commented as revenue was down, expenses should be reduced to ensure there was no deficit, 50 percent General Fund reserve, and make progress on unfunded needs. He found that overall they had gotten there with revenue down, with some expense actions taken, with reserves taken down to compensate for the deficit and achieve the reserve over 50 percent. When moving forward, if revenues and property taxes were down in the next year, the Town should be thinking of these actions.

While he liked the messaging in the budget document, **Vice Mayor McCluer** suggested in terms of transparency there should be some reference in the budget document about the use of reserve adjustments to ensure full disclosure. As to the unfunded needs, he was pleased the Town continued to make progress on those items and while he would like to see more monies for unfunded pensions, as long as they were filling the unfunded need part that was helpful and he looked forward to seeing the full picture in the next six months with some clarity on revenues and a funding solution for unfunded needs. He was overall pleased with the budget and again thanked staff.

Councilmember Sos stated the budget document was terrific and she echoed the comments made by the Vice Mayor and Councilmember Wykle as to contingency planning and monitoring in the event things were worse than anticipated where staff had identified places where reductions in expenses could be made. She also supported the effort to re-evaluate the numbers from the Parks and Recreation Department and shifting the plans for the summer, recognizing the uncertainty of the after-school programs in the next fiscal year. She also liked the recommendation for transparency in the budget message and recommended staff take a look at Page 4 and the discussion about the CIP funding in that only a certain percentage was from the General Fund and she did not want people to have the perception that only a small percentage was coming from Moraga taxpayer dollars.

Councilmember Sos also spoke to the legal fees and wanted a re-evaluation of the assumption of a decrease of 40 percent of the fees given there were two major pieces of litigation ongoing. She wanted to be comfortable the forecast was in the place it needed to be.

Ms. Battenberg advised that the 2019/20 legal fees had not been adjusted down and that would be reflected in the next budget where a larger surplus may be seen.

Mayor Korpus was surprised to see the reduction in legal fees and agreed that should be reviewed. She asked staff to look at the money regarding the 4th of July fireworks funds; echoed the comments from the Council that staff was being conservative, thoughtful, and careful about what they were doing; and would stay on top, observe what was happening, and make adjustments as necessary. Given the many challenges, she stated the budget reflected the good work by staff and the Town Council being careful with the Town's money moving forward.

Councilmember Woehleke found from a comprehensive standpoint that the budget looked good and he too commended all of staff's hard work.

12. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

There were no Council requests for future agenda items.

13. COMMUNICATIONS

There were no communications.

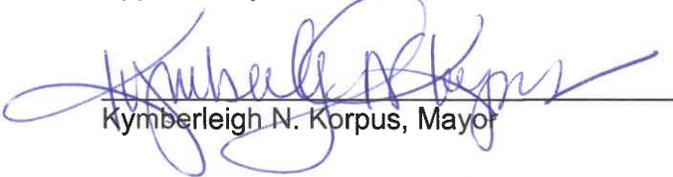
14. ADJOURNMENT

ACTION: It was M/S (McCluer/Wykle) to adjourn the meeting at 11:05 P.M. Roll Call Vote: 5-0.

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Kymberleigh N. Korpus, Mayor