



**TOWN OF MORAGA
REGULAR MEETING**

**July 8, 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 SHELTER IN PLACE ORDERS OF THE HEALTH OFFICER OF CONTRA COSTA COUNTY, INCLUDING THE MOST RECENT ORDER DATED JUNE 16, 2020 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 Shelter in Place Orders including the most recent Order dated June 16, 2020, the July 8, 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 7:05 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

Councilmembers absent: None

2. PLEDGE OF ALLEGIANCE

Councilmember Sos led the Pledge of Allegiance.

3. SPECIAL ANNOUNCEMENTS

There were no special announcements.

4. PROCLAMATIONS AND PRESENTATIONS

There were no proclamations or presentations.

5. PUBLIC COMMENTS AND SUGGESTIONS

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

Barry Behr: I want to thank the Town staff, Councilmembers Steven Woehleke, Renata Sos, and Breyana Brandt, Director of the Parks and Recreation Department for responding to my concern of the need to trim the trees along St. Mary's Road in Moraga. The Fire District recommended the tree limbs be cut six to eight feet up from the ground as it reduces the chance of fire spreading beyond the tree line. Not only was this project completed in a professional manner, but as a secondary benefit it makes walking on the trail safer due to more visibility. Thank you, Barry Behr.

6. ADOPTION OF CONSENT AGENDA

A. Acceptance of Consent Items

Consent Agenda Items 6.2 and 6.6 were removed from the Consent Agenda.

PUBLIC COMMENTS OPENED

Town Manager Cynthia Battenberg reported no comments from the public had been received for this item.

PUBLIC COMMENTS CLOSED

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

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|-----|--|----------------|
| 6.1 | Receive <u>Accounts Payable</u> Claims for: 06/19/20 (\$1,292,779.30) | Approved |
| 6.2 | <i>Approve <u>Minutes</u> for the Town Council Regular Meeting on June 10, 2020</i> | <i>Removed</i> |
| 6.3 | <u>Town Council Protocols Amendment</u>
Consider Resolution 42-2020 Amending the Town Council Protocols as Directed by the Council at the Town Council Meeting on June 24, 2020 | Approved |
| 6.4 | <u>Ordinance Amending Chapter 8.88 (Signs)</u>
Consider Waiving the Second Reading and Adopting Ordinance 291 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 Status – Exempt) | Approved |
| 6.5 | <u>Right-of-Way Dedication at 1299 School Street</u>
Consider Resolution ___-2020 Accepting Irrevocable Offer of Dedication of Certain Property at 1299 School Street (Chase Bank) For Public Right-of-Way and Public Utility Easement Purposes and Authorizing the Town Manager to Execute the Acceptance of the Irrevocable Offer of Dedication and all Other Necessary Documents (CEQA Status: Exempt) | Approved |

6.6 Continue Local Emergency Due to Coronavirus (COVID-19)
Consider Resolution 43-2020 Renewing and Continuing the Local Emergency Relating to COVID-19 as Proclaimed by the Director of Emergency Services on March 17, 2020 and Ratified by Town Council on March 23, 2020 and Continued on May 13, 2020

Removed

B. Consideration of Consent Items Removed for Discussion

1. Approve Minutes for the Town Council Regular Meeting on June 10, 2020

Councilmember Woehleke requested an amendment to the first sentence of the second to last paragraph of page 7, of the Town Council Regular Meeting Minutes of June 10, 2020, as follows:

***Councilmember Woehleke** also referenced Page 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.*

PUBLIC COMMENTS OPENED

Ms. McInturf reported no comments had been received via e-mail for this item.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Woehleke/Sos) to approve Minutes for the Town Council Regular Meeting on June 10, 2020, as modified. Roll Call Vote: 5-0.

Speaking to Consent Agenda Item 6.5, Right-of-Way Dedication at 1299 School Street, Assistant Town Attorney Denise Bazzano noted the Town Council had already taken action on the item and was informed that an e-mail had been forwarded to the Mayor from resident Dave Bruzzone. Given the public comment from the property owner, the Mayor was asked to read the comments into the record at this time.

Mayor Korpus read into the record the following comment received via e-mail for Consent Agenda Item 6.5:

Dave Bruzzone: Dear Marty, tonight's Town Council Consent Agenda Item, 6.5, Right-of-Way Dedication at 1299 School Street, just came to my attention late yesterday. I'm sorry I need more time to understand and review this issue before I can comment on it. Thanks, Dave Bruzzone.

Vice Mayor McCluer requested the Town Council discuss Consent Agenda Item 6.5 in response to the public comment.

Ms. Bazzano reiterated the item had already been acted upon, although it was within the Mayor's discretion to consider the item again, which would require a motion for reconsideration.

Vice Mayor McCluer offered a motion, seconded by **Councilmember Sos** to reconsider and reopen Consent Agenda Item 6.5, Right-of-Way Dedication at 1299 School Street.

On the motion, **Councilmember Woehleke** suggested it may be better to continue the item to a future meeting when there may be more data available to consider.

Councilmember Sos understood the motion would allow such direction to occur and for the Town Council to understand whether the item was time sensitive and could be postponed until the next meeting of the Town Council to allow further comment.

Councilmember Wykle asked to be informed of Mr. Bruzzone’s issues prior to reconsideration of the item.

Mayor Korpus understood that could not be done at this time since it would be a substantive revisiting of an item that had already been accepted.

ACTION: It was M/S (McCluer/Sos) to reconsider and reopen Consent Agenda Item 6.5, Right-of-Way Dedication at 1299 School Street. Roll Call Vote: 5-0.

- 2. Right-of-Way Dedication at 1299 School Street
Consider Resolution __-2020 Accepting Irrevocable Offer of Dedication of Certain Property at 1299 School Street (Chase Bank) For Public Right-of-Way and Public Utility Easement Purposes and Authorizing the Town Manager to Execute the Acceptance of the Irrevocable Offer of Dedication and all Other Necessary Documents (CEQA Status: Exempt)

Vice Mayor McCluer asked the Town Manager whether there was anything preventing the Town Council from moving the item to the next meeting after the summer recess in August.

Public Works Director/Town Engineer Shawn Knapp reported he had spoken with Mr. Bruzzone several times on this subject. The action before the Town Council would provide the Town Manager authority to execute the acceptance of the irrevocable Offer of Dedication and all other necessary documents for two easements that could come to the Town.

Mr. Knapp explained that Mr. Bruzzone had become aware of the item via tenant improvements on Bruzzone property for Chase Bank. Chase Bank had gone through nearly all of its improvements to be constructed, a Building Occupancy Permit had been issued, and only a few items remained to be closed out, including the Town accepting right-of-way (ROW) and the frontage of the Moraga Way sidewalk portion of property to be dedicated as sidewalk, which would become permanent ROW to the Town. In addition would be the dedication of a public utility easement for an electrical pedestal to be powered by PG&E to power two lights along Moraga Way to provide two new street lights, which would be part of the Street Lighting Assessment District paid through parcel taxes for maintenance.

Mr. Knapp understood that Mr. Bruzzone had been concerned with the encumbrance of the additional public utility easement directly behind the sidewalk and the energized pedestal powering the street lights, and Mr. Bruzzone wanted additional time to understand the implications since it encumbered Bruzzone property. The other easement for the ROW was a Planning Commission and Town Council required item. Mr. Bruzzone had asked that he have additional time to investigate the matter further. The Bruzzones would present the easement dedication to the Town for signature and the Town Council would be giving the authority to the Town Manager to assign and record the easement dedication, although until those instruments had been brought to the Town, no dedication could occur.

Mr. Knapp confirmed the Mayor’s understanding that if the Town Council took action at this time to approve Consent Agenda Item 6.5, it would not prejudice Mr. Bruzzone in any way since the dedication of the easement would not be complete until Mr. Bruzzone brought it forward himself. If the Town Council were to delay taking action on the item, the downside would be for the tenant who would not be able to close out on the project and collect bonds the Town continued to hold and other things to keep the project open until the matter had been satisfied. There were also

potential financial impacts to the tenant, Chase Bank, and Mr. Bruzzone had informed staff he was cognizant of that and he did not want that impact to his tenant but he still wanted to have more understanding and investigation into the item.

PUBLIC COMMENTS OPENED

Ms. McInturf reported no comments had been received via e-mail for this item.

Ed Cook, Chase Bank, saw no risk if the Town Council were to delay action on the item for six weeks since Chase Bank had received its occupancy permit and was open for business.

Dan Popa, Architect for Chase Bank, concurred that Chase Bank had no issues delaying action on the item.

PUBLIC COMMENTS CLOSED

In response to the Mayor, Mr. Knapp explained that as long as nothing changed in the legal documents, staff would return with the same information. If something changed, staff would return with new information the Town Council could act upon.

Town Councilmembers discussed whether to continue the item or to approve subject to changes in the legal document, which could streamline the process.

Ms. Bazzano advised that the resolution would have to be amended if approval was contingent upon Mr. Bruzzone's agreement to the terms.

Councilmember Sos liked the staff recommendation for approval subject to the landlord's agreement with the understanding the item could come back with additional comments, which allowed Mr. Bruzzone the opportunity to explore and analyze any possible concerns.

ACTION: It was M/S (Korpus/Wykle) to continue Right-of-Way Dedication at 1299 School Street, a Resolution Accepting Irrevocable Offer of Dedication of Certain Property at 1299 School Street (Chase Bank) For Public Right-of-Way and Public Utility Easement Purposes and Authorizing the Town Manager to Execute the Acceptance of the Irrevocable Offer of Dedication and all Other Necessary Documents (CEQA Status: Exempt), to the next meeting of the Town Council. Roll Call Vote: 5-0.

3. Continue Local Emergency Due to Coronavirus (COVID-19)
Consider Resolution 43-2020 Renewing and Continuing the Local Emergency Relating to COVID-19 as Proclaimed by the Director of Emergency Services on March 17, 2020 and Ratified by Town Council on March 23, 2020 and Continued on May 13, 2020

Councilmember Woehleke explained that he had removed the item to allow the Town Manager an opportunity to provide a COVID-19 update.

PUBLIC COMMENTS OPENED

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

PUBLIC COMMENTS CLOSED

Ms. Battenberg reported on the impacts to Town operations due to COVID-19, and detailed the efforts being made to social distance and keep the community safe, with the Town Offices

remaining closed to the public. While there had been complaints in the community about people not wearing face masks, she described it as a community problem and urged people to model good behavior and wear a face mask. She also detailed the Coronavirus Aid, Relief, and Economic Security (CARES) Act which had been adopted with funding for municipalities. The Town of Moraga had qualified for up to \$209,000, with restrictions on how the funds could be spent. No funds could be spent on revenue shortfall or anything included in the budget, with some operating expenses and other projects being considered for the use of the funds, including the establishment of an outdoor area at the Council Chambers to serve as an overflow area and projects at the Hacienda to assist with some of the child care programs. There was also the possibility of sharing some of the funds with the business community impacted by COVID-19. The money must be spent by October 30, 2020, and staff would return at the next Town Council meeting with recommendations for consideration.

Ms. Battenberg also reported the Town's businesses were back open for outdoor dining and some of the retail shops were now open. She emphasized the countywide effort to keep the economy from collapsing while not furthering the pandemic. She encouraged everyone to wear their face masks and practice social distancing.

ACTION: It was M/S (Woehleke/McCluer) to adopt Resolution 43-2020 Renewing and Continuing the Local Emergency Relating to COVID-19 as Proclaimed by the Director of Emergency Services on March 17, 2020 and Ratified by Town Council on March 23, 2020 and Continued on May 13, 2020. Roll Call Vote: 5-0.

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 (Wykle/McCluer) 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 participated in the League of California Cities' Executive Forum for Mayor and Councilmember seminars; California League of Cities meeting via Zoom, briefing the Council on the discussions and the Executive Committee's approval and endorsement of a letter in response to the death of George Floyd, and request for the East Bay Division of the League of California Cities to also adopt the letter as a body which had not been done since it had not been an agenda item; and changes to the Regional Housing Needs Allocation (RHNA) numbers process. She had also attended the Mayors' Conference; and via videoconference had been able to present the Mayor's Address for the Town's Fourth of July virtual event.

Mayor Korpus reported she had also engaged in multiple communications with Moraga-Orinda Fire District (MOFD) President Steve Danzinger and City of Orinda Mayor Darlene Gee, exchanged information on the drafting of the charter for the Fire Prevention Joint Subcommittee. In addition, she had attended a Closed

Session and Special Meeting of the Town Council serving as the Moraga Geologic Hazard Abatement District (GHAD) Board.

Vice Mayor McCluer – Reported he had attended a Town Council Closed Session and Special GHAD Board meeting; watched the second part of the League of California Cities’ Executive Forum for Mayors and Councilmembers; and Association of Bay Area Governments (ABAG) Special General Assembly Meeting via Zoom.

Councilmember Sos – Reported she had attended parts of the League of California Cities Webinar; Southwest Area Transportation Committee (SWAT) meeting via Zoom, briefing the Council on the discussions; and the Closed Session of the Town Council.

Councilmember Woehleke – Reported he had attended the ABAG Special General Assembly meeting via Zoom; League of California Cities Webinar; and a Special Meeting of the Town Council, briefing the Council on all discussions.

Councilmember Wykle – Reported he had attended the Moraga Chamber of Commerce meeting via Zoom and briefed the Council on the discussions; and a Special Meeting of the Moraga GHAD Board.

- B. **Town Manager Update** – Town Manager Battenberg introduced the Town’s new Planning Director Afshan Hamid, and described her experience and background.

Planning Director Afshan Hamid was present via teleconference but unable to provide any verbal comments due to audio difficulties.

Ms. Battenberg also reported the Town Council would be on legislative break the second meeting of July and the first meeting of August. The next Town Council meeting was scheduled for August 26, 2020. There were three Council seats open for the November election and the Town Council nomination period would open on July 13, 2020 and close on August 7, 2020. Persons interested in serving on the Council were encouraged to contact the Town Clerk for additional information at townclerk@moraga.ca.us. A Planning Commission meeting had been scheduled for July 20, 2020 to discuss the Moraga Center Specific Plan (MCSP) Implementation of zoning and design guidelines.

In addition, a major pour of the Canyon Road Bridge had occurred on July 3, and would be the only early morning pour that would occur publicly this construction year. During the next couple of weeks the deck would be poured and the project would continue to move forward.

9. DISCUSSION ITEMS

There were no discussion items.

10. PUBLIC HEARINGS

There were no public hearings.

11. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

- A. **Settlement Agreement with East Bay Municipal Utility District (EBMUD)**

Consider Resolution 44-2020 Approving Settlement Agreement with East Bay Municipal Utility District (EBMUD) that Provides for Remediation of Landslide on EBMUD Property and Protection of the Canyon Road Bridge

Assistant Town Attorney Bazzano presented the staff report and advised that the Settlement Agreement reflected a cost-effective solution to the problems created by the landslide and would provide timely protection for the Canyon Road Bridge. The alternative to the Settlement Agreement would be expensive, with lengthy litigation with no guarantee of success, and if EBMUD built the Retaining Wall System (RWS) as expected, it would provide stability to the hillside so that the East Bay Regional Park District (EBRPD) could rebuild the regional trail that had been damaged by the landslides.

Staff and the Town Attorney's office recommended approval of the Settlement Agreement, and a draft resolution had been prepared as shown in Attachment A to the staff report.

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/Woehleke) to adopt Resolution 44-2020 Approving the Settlement Agreement with East Bay Municipal Utility District (EBMUD) that Provides for Remediation of Landslide on EBMUD Property and Protection of the Canyon Road Bridge. Roll Call Vote: 5-0.

Mayor Korpus thanked Ms. Bazzano and others who had worked on the Settlement Agreement.

Mayor Korpus declared a recess at 8:15 p.m. The Town Council meeting reconvened at 8:25 p.m. with all Councilmembers and staff present via teleconference.

B. Laguna Creek Restoration Project Update

Receive Laguna Creek Restoration Project Update and Provide Direction to Staff

Public Works Director/Town Engineer Shawn Knapp provided a PowerPoint presentation of the Laguna Creek Restoration Project located west of the Pavilion building at the Hacienda de las Flores, with the project intended to address previous flooding at the site. The current proposal was to daylight the creek and retrofit and replace an existing 8-foot diameter culvert, and replace and daylight it with an open natural creek channel. The flood risks, damage during a storm in 2005/2006, prior repairs and the associated costs in response to that event were identified along with the location of the drainage area including the Laguna Creek tributaries and watershed, and the Federal Emergency Management Agency (FEMA) and Contra Costa County Flood Control District (FC District) 100-Year Peak Flow Rates, and the results of a 2014 Hydraulic Study and Alternative Report. Ten alternatives had been analyzed and were all highlighted in depth.

Of the ten alternatives, two had been analyzed further including Alternative 5 to replace the existing culvert with a larger 14 by 12 foot culvert, and Alternative 10 to daylight Laguna Creek to a natural channel. In 2014, the Town Council had directed staff to explore the two alternatives as part of the Hydraulic Study and Alternatives Study with the Preferred Alternative, identified as Alternative 10, daylighting Laguna Creek to a natural channel. This alternative would reduce the flood water surface elevations and the flood risk to the Pavilion, and include external grant funding due to habitat improvements. That alternative had been selected by the Town Council pursuant to Town Council Resolution 34-2014 on April 23, 2014.

Mr. Knapp provided an overview of the Laguna Creek Restoration Project which would remove the existing 8-foot diameter culvert adjacent to the Pavilion building, construct a natural channel with habitat for endangered species, relocate the Central Contra Costa Sanitary District (CCCSD) sewer line, construct a vehicular bridge over the creek and improve public accessibility and protections. Of the grants staff had been able to secure, all had been based on the option to daylight the creek and provide environmental benefits.

Mr. Knapp highlighted the numerous daylighting design challenges, project benefits, funding sources, and the FEMA and EBRPD grants which totaled \$1.57 million. The project would be multi-phased with FEMA Phase 1 and consist of the design and environmental studies. At 65 percent design, FEMA would complete the National Environmental Policy Act (NEPA) evaluation prior to authorizing Phase 2.

Mr. Knapp explained that if the Town Council were to decide to move forward with the Phase 1 approach, it would allow staff to proceed with Request for Proposals (RFPs), Phase 1, Scope of Services, which would include the preparation of 15 percent design with options, presentation at community workshops to seek feedback, and update the Town Council and seek feedback at 15, 30 and 65 percent design stage, and then adopt the California Environmental Quality Act (CEQA) document, support FEMA's NEPA clearance processes and complete Phase 1 for FEMA. This process allowed the Town Council to have a stepped approach with additional information to ensure the project was well designed and information provided on the options within the budget of the project. FEMA Phase 2 would consist of the final design and permitting, and Phase 3 would proceed into construction.

Mr. Knapp asked that the Town Council provide direction to staff to continue with the RFP/Request for Qualifications (RFQs) process to select an engineering firm for Phase 1, preliminary engineering, confer with the granting agencies to coordinate full project funding, and return to the Town Council in fall 2020 to consider awarding a design contract. This process would cost the Town approximately \$13,000 through Phase 1, the Town's contribution if the Town did not continue on to Phases 2 and 3, given that funds would be held back by the EBRPD as a 20 percent retention as part of its grant to the Town, although those funds would be returned to the Town if the Town went through the construction phases.

Responding to the Council, Mr. Knapp and Ms. Battenberg clarified:

- The existing no build and smooth line existing culvert pipe alternatives represented current conditions, with the protection level at the Pavilion at 15 years or 15+ years as it related to the lining level, and while there could be some improvement with the lining as part of a previous project completed at the end of 2013, it did not relate to when the area had flooded.
- Anything over 400 cubic feet per minute (CFM) would overwhelm the capacity up the headwall. During the 2005/2006 flood event there had been damage to retaining structures, and embankments had failed with trees and other debris entering Laguna Creek. Support along the edge of the previous headwall, as depicted in photographs from the 2005/2006 flood, and as shown in the PowerPoint presentation, showed one of the supports coming off of the flow impeding the flow due to downed trees. Councilmember Woehleke noted that such incidents had not occurred every 12 years contrary to information provided to the Town Council.
- Alternative 7 would raise the Pavilion structure four feet and had been rejected as a possible alternative given residual effects from flooding, and since other things in the path of the water could be damaged such as if the garden at the back of the Pavilion was not

also raised, and to a shed located in the path of the floodwater which contents could also be damaged.

- The three grants the Town had received for the project required daylighting and if the Town Council were to choose any option that did not include daylighting the Town would lose the identified grant funding.
- Phase 1 included preparation of a hydraulic study which would test the assumptions from the report prepared by Consultant WRECO in 2013, and the hydraulic study would offer a better sense of the actual flow rates and define the flow rates through an intensive hydraulic analysis for the site, with some of the information to be extrapolated from other areas of the site and assumptions made, to be refined and evaluated in more detail to provide a reasonable design level and better determine the cost of the project.
- Through optimization the design costs would be lower and more in line with the site needs.
- Two of the grants received involved fixed numbers and one of the grants was scalable with the potential for additional monies for risk and for amenities that would be outside the scope of building a natural channel. There could be other amenities provided within the scope of the grants for public usage, education, protection, and environmental enhancements.
- The Town had just been informed the California River Parkways, California Natural Resources Agency (CNRA) had extended the deadline for the project, which staff had not anticipated at the time of the preparation of the staff report. The CNRA grant was the first grant awarded to the Town but was not enough for the entire project so staff had sought other potential grants. Given the CNRA deadline had been extended to March 2025, it allowed staff to go back and put those funds back into the project in the amount of \$400,000, with the total grant funds equal to \$1.97 million.
- As to the compatibility issues between FEMA and the CNRA, as outlined in the staff report, staff had brief discussions with the Grant Administrator who was now more willing to work with Town staff.
- Prior repairs conducted in 2007 and 2013 related to the CMP pipe, as part of the 2013 wall repair and banks stabilization and as part of a change order, the pipe had been grouted in response to concerns with the life span of the material. The life span had a defined period and as part of the additional studies of the current project that lifespan would be analyzed further.
- Awarding a contract to a design engineer would allow the design engineer to review all the ways to make the most economic and feasible project moving forward, with an analysis of anything that could be pulled out of the design including potential redesign of the project, and making the project smaller based on the individual needs of the site, all of which would be presented to the Town Council on multiple occasions to provide information and allow for feedback and input.
- When reaching 65 percent, the Town will have a design that has gone through 15, 30 and 65 percent reviews. The design team will be able to identify risks and mitigation measures along with design options and costs at each of the review stages. The Town Council will be able to provide input at these review points to make design adjustments and recommend preferred alternatives to identified risks.

- The Town had obtained a FEMA mitigation grant. FEMA also managed the National Flood Insurance Program which produces estimated peak 100 year flood run-off rates, the lower of two standards presented, and at a minimum the project would meet FEMA standards for peak elevation. The purpose of the FEMA grant was to avoid floods. The more conservative Contra Costa County information had been based on building out the Town, providing additional runoff due to the build out, and involved higher numbers due to assumptions made in 1992. Those assumptions would be investigated to determine whether they would be relevant in 2020. While the information from FEMA was valid, it did not analyze every section of a tributary, but typically analyzed an area and used modeling to project the flow rates in a different area. There would be study in more detail to determine an appropriate flowrate for the project.
- The main sewer line ran parallel to the undersized culvert and as the creek was opened up the sewer line could potentially be exposed, which was the reason it would be moved over to allow room for the opening of the creek, and had been included in the project cost. More engineering would be required to identify the depth of the existing system, to determine whether some protections could be provided to prevent the movement of the sewer line, and would be part of the engineering design to make the project less expensive. Relocation of the sewer line was part of the daylighting of the project but if engineering could identify some alternatives to not remove it, saving costs could be an option. Until an analysis was done, the preferred alternative for the sewer line was unknown.
- Daylighting of the creek would have to be creative, utilize the space, and be able to carve out enough space for the daylighting to be achieved, which staff acknowledged would be a design challenge through the 15 and 30 percent design process.
- Downstream of Laguna Creek was under a different condition than upstream, with the 8-foot diameter culvert not being restricted downstream which flowed differently than the upstream portion. The entire site would be evaluated holistically with an analysis of the impacts downstream to allow for a better design and benefit.
- The Town Council could decide to proceed with Phase 1 and even when the project reached 65 percent design, the Town Council could ultimately decide not to move forward with the project and the cost would be only \$13,000.
- As to whether there would be sufficient room for the daylight option, it would be clearly defined early on in the design process. If the Town Council wanted to stop the project at the end of Phase 1, and while the Town would be out \$13,000, the Town would still have significant information for other alternatives that could come out of the design process.
- Phase 1, as envisioned in the July 8, 2020 staff report, was being funded by FEMA and EBRPD grants with both grants funding the project in full, with the caveat that the EBRPD grant hold back 20 percent from each payment until the project was complete. If the Town Council decided not to proceed with the full project and move forward with Phases 2 and 3, the EBRPD would keep the \$13,000 for Phase 1.
- WRECO would continue to be retained as an On-Call Consultant. At this time, staff was unaware whether the costs for the consultant would qualify for grant reimbursement. There was funding in the Storm Drain Maintenance budget to cover the \$13,000 held back by the EBRPD plus the costs for the services of WRECO, if the Town was not reimbursed via grant funds.

PUBLIC COMMENTS OPENED

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

PUBLIC COMMENTS CLOSED

Councilmember Wykle recognized the existing CMP pipe had been grouted, but the top of the pipe and the sewer line were visible and exposed to weather and in need of replacement. As to the grants, Alternative 10, daylighting the creek, was the only alternative to qualify for grant funding which fully funded the project. He suggested the \$13,000 was worthwhile to be able to proceed with Phase 1, and while he remained concerned whether or not there was sufficient room for the daylight option, he was ready to move forward with Phase 1.

Vice Mayor McCluer thanked staff for the presentation and staff's continued success to obtain grant funds. He recognized that Alternative 10 was the only alternative that qualified for grant funds and the other alternatives appeared to be band-aids. Moving forward, he hoped for a cushion between the grant monies and the cost of the project to better level the risks. In his opinion, it was worth the \$13,000, along with the \$28,000 it would cost the Town to continue to secure the services of WRECO, to move forward with Phase 1.

Councilmember Sos stated the hydraulic studies would be very important moving forward with the discussion of the ten alternatives, which had convinced her the project should be re-assessed and agreed it would be nice to have a cushion, particularly if sewer lines were moved. She also wanted to see a cushion for risks and contingencies rather than adding amenities. She favored moving forward with Phase 1 and looked forward to a rigorous discussion once more data was available in terms of design. She also suggested it would be great for the project to be done in a way that was fully funded but at the same time cognizant of potential significant risks.

Councilmember Woehleke reported that Mr. Knapp and the Town's Associate Engineer Mark Summers had walked the site with him in the last week. He found the materials provided in the staff report to be valuable but wanted to determine whether the project would work. He clarified he was not pushing for retention of the existing culvert but that the information that had been available had not supported doing anything else.

Councilmember Woehleke commented that during the June 24, 2020 Town Council meeting, an opinion had been expressed specific to the project that the Measure K parcel tax vote outcome was a message from voters to use grants for storm drain projects such as this, although of the residents he had polled, they had concerns with the annual costs and lack of sunseting in combination with a lack of confidence in quality decision making by the Town Council.

Councilmember Woehleke emphasized the project must be robust, well planned and executed, succeed with a wide acceptable error band and thus tolerant of surprises. While there could be 99 percent confidence with the project, surprises happen, particularly with projects in-ground and he emphasized a robust program could be achieved through basic good project management. As part of the framing exercise, he suggested there should be a really complete scope definition, define what was in and out of scope, what still needed to be decided, and key buy-in from key stakeholders including the Town Council, to be used as a control reference. He suggested a cost estimate could not be created absent that scope document and although cost estimates had been included in the budget, he found it difficult to determine what was really there.

Councilmember Woehleke also commented that resolution on design storm flow rates be determined as quickly as practicable should be the priority, including confirmation of using the FC District model, which would make the project that much harder, and conversely the FEMA models were more pragmatic and workable. He noted that since the prior work had been done based upon the FC District model, and if it was below that, the design basis would change, and the Town

would have to ensure the project being pursued was consistent with that design basis and not the previous design basis. He emphasized it was not smart to build the wrong project based upon an old design basis.

Councilmember Woehleke emphasized the importance of project risk management, which had been disputed during the Canyon Road Bridge project. He suggested using risk management would help to optimize the project and make it more robust. He referenced the Caltrans Risk Management Manual which discussed risk management starting early and all the way through the project. Also, a credible and appropriate robust cost estimate should be prepared for the project and a credible cost estimate assurance was required. He believed the Town Council should expect staff to follow that path.

Councilmember Woehleke recognized that grant funding specific to daylighting had been pursued and that it was difficult to walk away from grant funding, although daylighting had challenges. He recommended that staff and Town Council be aware of two alternative cases. One, the Capital Constraint Case: what revised and reduced configuration could be executed with confidence within the approved budget, which may require some consolidation, simplification or use of value engineering to optimize the design. The second case, the Alaskan Wilderness Case: for a small town in the Alaskan Wilderness, how flood protection could be provided at the Pavilion.

Councilmember Woehleke suggested if the project could be configured and executed at the budget presented, he would support it, although it had challenges including technical execution, safety, environmental, and commercial. He also recognized that some Town citizens were enamored with restoring the creek, although many more may not support using limited Town resources for daylighting 200 feet of Laguna Creek and the Town Council should be cognizant of that issue as well. Further, the Town would be starting a project that would involve significant Town staff resources, and he did not want to commit to that unless there was a "pot of gold."

Mayor Korpus stated she had been convinced that daylighting was the right project for the Town both technically and financially. While she did have some concerns, she was confident in staff's ability to both conduct a study and figure out the true ramifications of the particular designs, in order to design an appropriate solution if possible, rather than rely on the plans from many years ago. She was satisfied that the worst-case scenario at this time and the out-of-pocket costs of \$13,000 would be in the Town's best interests. She supported moving forward with Phase 1 to see what could be done and determine if the problem could be solved using grant funds.

Mayor Korpus also recognized the desire for a cushion but she understood that daylighting the project offered an opportunity to position the property to withstand 100-Year Flood events, while also possibly providing for investment in a way to increase the physical beauty of the property to make the property more valuable. She did not want to have staff out-of-hand reject that opportunity since the Hacienda de las Flores was also a wedding site. When the project returned to the Town Council for consideration whether to move forward and the project scope identified, she wanted to see the staff perspective on the total best package keeping in mind the benefit of potentially having amenities, and a cushion, to be presented as an option for Town Council consideration.

Mayor Korpus otherwise found the staff presentation to be helpful and found that the Town was on the right path. She summarized the consensus of the Town Council to move forward, for now, with Phase 1.

Mr. Knapp advised that staff had clear direction to proceed with the RFP that would provide information back to the Town Council, and moving through the process staff would identify different ways to construct the project with and without different types of amenities the Town Council could review, with the end product the 100-Year Flood, to be done through the grant

funding and whatever else the grants may provide, aside from the risks to be incorporated as part of the task of the designer. After that was done, if there was any additional grant money, staff would identify the possibilities for amenities or changes to the project to enhance the facility, all to come before the Town Council for a decision.

12. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

There were no Council requests for future agenda items.

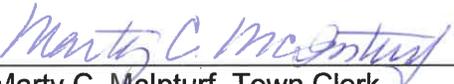
13. COMMUNICATIONS

There were no communications.

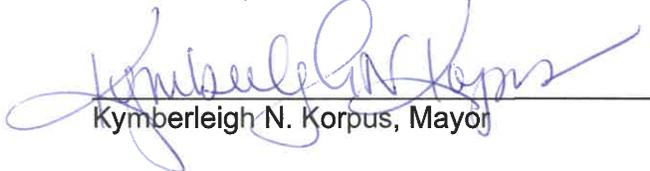
14. ADJOURNMENT

ACTION: It was M/S (McCluer/Wykle) to adjourn the meeting at 9:49 P.M. Roll Call Vote: 5-0.

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Kimberleigh N. Korpus, Mayor