



**TOWN OF MORAGA  
TOWN COUNCIL PROTOCOLS**

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## **1. AUTHORITY**

The Town Council establishes these Protocols to provide for continuity of responsibility in the Town Council's decision making process and to allow sufficient time and opportunity for full consideration and public discussion of important issues which the Town Council must review and decide. Adopting protocols which establish procedural rules for matters such as the election of Council Officers (Mayor and Vice Mayor) and the manner of conducting Town Council meetings will facilitate these goals. The following provisions shall be in effect upon their adoption by the Town Council and until such time as they are amended or new provisions are adopted in the manner provided by these Protocols.

## **2. ROLE OF TOWN COUNCIL**

The Town Council is the highest-level decision-making body for the Town of Moraga. In performing its duties, the Council represents all Moraga citizens.

In executing its duties the Town Council shall take into account considerations, such as the needs and desires of the community, financial, legal, health, environment, and safety impacts. The Town Council will welcome new ideas and innovative approaches, as appropriate, and aim to provide a high level of communication and transparency on its activities and decision making. Furthermore, the members of the Town Council will strive to treat each other, staff, and other parties with dignity and respect.

**2.1 Responsibilities** - The Town Council responsibilities include at least the following types of responsibilities:

- Faithfully apply Moraga's General Plan and Municipal Code and make revisions to the General Plan and Municipal Code as needed;
- Prior to making decisions, perform appropriate diligence;
- Develop policies that will guide the Town Manager in his/her management of the Town, taking into consideration the value of promoting efficiency and effectiveness in operations while maintaining a reasonable level of service;
- Develop Moraga's over-arching annual goals for each calendar year; and monitor progress of achieving the annual goals and report out to the Town at mid-year and year-end;
- Recruit, hire, and/or terminate the Town Manager as necessary, and conduct an annual Town Manager performance review as set forth in Section 4.1;
- Recruit, hire, and/or terminate the Town Attorney as necessary, and conduct an annual Town Attorney performance review as set forth in Section 4.1;
- Review and approve/deny/revise Ordinances, Resolutions, planning decisions and Minutes;
- Review and revise as necessary, and approve by July 1 of each calendar year, the annual Operating and Capital Improvement Program budgets as prepared by the Town Manager; and

- Communicate with residents as appropriate to receive input from, and provide information to, residents.

2.2 Considerations - The Council may consider any matter it deems relevant, material, and/or helpful in performing its duties, such as, for example:

- Consistency with the Moraga General Plan and Municipal Code and all applicable laws;
- Input provided by applicants, Town citizens, staff and other stakeholders on each issue;
- Availability of Town funds if needed, and impact on the Town's financial health;
- Availability of required Town resources, especially personnel;
- Consistency with the Town Council's annual goals; and
- The Town's risk tolerance and the potential impact of safety, environmental, commercial and operational risks.

2.3 Fiscal/Negotiating Authority – The Town Council as a whole, in a duly noticed meeting, may provide direction to staff regarding budget, authorize expenditures, and approve agreements and contracts. However, no individual Councilmember, subcommittee or ad hoc committee shall have any authority to do any of the following on behalf of the Town unless expressly granted that authority by the Town Council: i) expend (or authorize the expenditure of) funds, or (ii) negotiate or approve the drafting or execution of agreements, contracts or Memorandums of Understanding.

2.4 Civility –Town Councilmembers will strive to conduct themselves in an appropriate, polite, respectful and civil manner when dealing with each other, staff and all parties. Except as otherwise set forth in these protocols, Town Council meetings will be governed by Robert's Rules of Order for the purpose of maintaining proper decorum and order during meetings.

### **3. COUNCIL OFFICERS**

#### **3.1 Election of Council Officers**

The election or removal of Mayor or Vice Mayor requires at least three (3) affirmative votes. A Councilmember may not succeed themselves in the office of Mayor or Vice Mayor. The Town Council is encouraged to rotate the offices of Mayor and Vice Mayor amongst the members of the Council according to their order of seniority (considering only the Town's two most recent election cycles), as appropriate. In years when members of the Town Council are to be elected to their seats during a general election, the Town Council shall attend to the election of a Mayor and a Vice Mayor for one (1) year terms at the first regular meeting after the certification of general election results has been received by the Town and only after newly elected Town Councilmembers have been installed. In years when no members of the Town Council are to be elected, the Town Council shall consider the election of the Mayor and a Vice Mayor for one (1) year terms at the first regular meeting in December. An election of a Councilmember to fill a vacancy

as Mayor or Vice Mayor occurring mid-term shall be for the remaining portion of the one-year term for that office.

### 3.2 Role of Mayor and Vice Mayor

The Mayor shall be recognized as the official head of the Town for all ceremonial purposes. The Mayor presides over Council meetings, and shall strive to ensure there is sufficiently broad and in-depth communications on agenda items. The Mayor shall sign all Ordinances, Resolutions and Minutes adopted by the Council when the Mayor is presiding. The Vice Mayor shall serve all functions of the Mayor when the Mayor is unable or unavailable to fulfill those functions.

## 4. COUNCIL APPOINTMENTS

### 4.1 Town Manager and Town Attorney

The Town Council shall appoint the Town Manager in accordance with Moraga Municipal Code Section 2.08.010 and approve the employment contract and any amendments. The Town Council shall evaluate the Town Manager's performance annually and as part of each evaluation, the Town Council and Town Manager will agree upon goals and objectives for the Town Manager's performance for the following year.

The Town Manager's responsibilities are set forth in Moraga Municipal Code Section 2.08.070, including without limitation: (i) the day-to-day operations of the Town, (ii) developing the annual budget, (iii) executing the direction, goals and priorities articulated by the Town Council, (iv) principal responsibility for all official communications from the Town to the public, (v) directing Town staff, and (vi) other duties as assigned by the Town Council during duly noticed meetings. The Town Council interfaces with Town staff only through the Town Manager, unless otherwise authorized by the Town Manager.

The Town Council shall appoint and approve the contract for Town Attorney Services and any amendments and shall review the Town Attorney's performance as needed. The Council and Councilmembers may interface directly with the Town Attorney, as needed.

### 4.2 Councilmember Appointments

As soon as practicable following the annual reorganization meeting, the Mayor shall announce the Mayor's nominations of Councilmembers to serve in various existing roles requiring a Council representative; the nominations are subject to the review and approval of the Town Council.

The Town Council may, by a majority vote, (i) expand the number of bodies to which it appoints Town representatives to additional Regional Boards and Commissions, and/or (ii) create additional commissions, committees and other groups to advise the Council. In such cases, at least three (3) affirmative votes on the Town Council are required to appoint each representative to a Regional Board or Commission, and/or appoint each member to a new subordinate advisory body.

### 4.3 Ad Hoc Committees

From time to time, the Town Council may create Ad Hoc committees. These committees are temporary committees, generally 18 months or less, established by the Council to address a specific issue and bring a recommendation to the Council as a whole. Ad Hoc committees generally automatically dissolve once the assigned project has been completed. Membership of an Ad Hoc committee is at the discretion of the Council and must contain less than a quorum of Councilmembers.

The Council shall provide direction at the time of creation of Ad Hoc committees to identify the composition, scope of authority, duties, expected output, report-back schedule, term, staff liaison and budget (if any) of the Ad Hoc committee. Councilmembers may also want to discuss methods for Ad Hoc committees to report back to the Town Council on their progress. No Ad Hoc committee shall operate outside the original scope of authority granted at its creation, except upon a formal vote of approval by the Town Council during a duly noticed meeting.

### 4.4 Outside Activities

Participation by individual Councilmembers on/in any Moraga based board, committee, commission, or other service, leadership, or advisory groups not governed by Section 4.2 or 4.3 herein is discouraged without prior Town Council discussion at a public meeting.

## **5. MEETINGS**

The Town Council is subject to the Ralph M. Brown Act Open Meetings Law ("Brown Act") (Government Code Section 54950 et seq). All meetings of the Town Council are open to the public, except for Closed Sessions which are authorized to be held in private under the Brown Act.

### 5.1 Meeting Dates and Times

5.1.1 Dates - Regular meetings will be held on the 2nd and 4th Wednesday of each month (unless canceled by majority vote of the Town Council or due to a lack of items for consideration or a quorum) or as set by calendar adopted by the Town Council in January of each calendar year. Adjourned regular, workshop or special meetings may be called by the Mayor, or by a majority of the Council. If the meeting date should fall on a legal holiday, the Council may cancel the meeting or reschedule for an alternate date and time designated by the Council. All meetings of the Town Council (except Closed Sessions) shall be open to the public.

5.1.2 Starting Time and Location - All Regular meetings shall begin at the time set forth in Section 2.04.010 of the Moraga Municipal Code. Meetings will be held at the Council Chambers, 335 Rheem Boulevard, Moraga, California 94556, unless stated otherwise in the notice. Meetings may be preceded or followed by Special meetings, including Closed Sessions.

5.1.3 Ending Time - Unless otherwise adjourned, all meetings of the Town Council shall automatically be adjourned at 10:30 p.m., except that a majority vote of the Town Council may extend the automatic adjournment to 11:00 p.m. Adjournment of the meeting may be further postponed after 11:00 p.m. only by unanimous consent to adjourn not later than a specified time. More than one such unanimous postponement of adjournment may be adopted.

## 5.2 Closed Sessions

A Closed Session may be held before, during, or after any Regular or Special meeting for any purpose authorized by the Brown Act. Following the Closed Session, the Presiding Officer shall report any actions taken in Closed Session that are subject to public disclosure under the Brown Act before moving on to the rest of the agenda (if any). A Closed Session, when held, will appear on the Agenda as such, and will conform to the Brown Act of the State of California in effect at the time of the meeting. It is a violation of the Brown Act to disclose information obtained or presented in anticipation of or during a Closed Session, which shall be confidential. Public comment shall be received in open session prior to a closed session.

## 5.3 Special Meetings

Special meetings may be called by the Mayor, a majority of the Councilmembers, the Town Attorney, or the Town Manager. The call for a Special meeting must specify the day, hour, and place and the subject(s) to be considered. Twenty-four hours' notice must be given prior to a Special meeting, and the agenda for the Special meeting must be made available to members of the public consistent with the requirements of the Brown Act. Only matters specified in the notice may be discussed at Special meetings. The public shall be given an opportunity to address the Council before or during consideration of any matter described in the notice for the Special meeting.

## 5.4 Quorum

A quorum must exist in order for the Town Council to conduct business. Three (3) members of the Council shall constitute a quorum. In the event a quorum is not in attendance within 30 minutes after the time noticed for commencement of the meeting, no meeting shall be held on the noticed date, and the noticed meeting will adjourn to the next Regular meeting or to a later set date, time and place if so declared by the Town Clerk.

## 5.5 Teleconferencing

Teleconferencing during Town Council meetings shall be permitted in accordance with the procedures set out in Government Code Section 54953(b), as amended. The teleconferencing location shall be placed on the agenda and noticed and posted at the site at least 72 hours in advance of said meeting. The public is welcome to attend and participate in the meeting at the site.

## 5.6 Adjournment

The Council may adjourn any Regular, Adjourned Regular, Special or Adjourned Special meeting to a time and place specified in the order of adjournment. If all Councilmembers are absent from any Regular or Adjourned Regular meeting, the Town Clerk may declare the meeting adjourned to a stated date, time and place. The Town Clerk shall post a copy of the order or notice of adjournment at Town offices and other places designated by the Council as required by law. Whenever a Regular or Adjourned Regular meeting is adjourned as provided in this section, the resulting Adjourned Regular meeting is a Regular meeting for all purposes. When an Order of Adjournment of any meeting fails to state the hour at which the adjourned meeting shall be held, it shall be held at the hour specified for Regular meetings.

## 5.7 Minutes of Proceedings

An account of all public proceedings of the Town Council shall be recorded by the Town Clerk and entered into Town records as official meeting minutes following approval by the Council, and shall thereafter be kept, published, and or distributed in compliance with applicable Town policy, if any.

## 5.8 Attendance

5.8.1 Councilmembers are encouraged to inform the Town Clerk, Town Manager and Mayor when they are unable to attend an upcoming meeting. The Presiding Officer shall announce absences and reasons for such absences (if publicly known) during the roll call at the beginning of a meeting.

5.8.2 The Town Manager shall attend all meetings of the Council unless excused. The Town Manager's designee shall substitute for the Town Manager during a Council meeting for which the Town Manager is absent.

5.8.3 The Town Attorney or Assistant Town Attorney shall attend all meetings of the Council unless excused. The Town Attorney or Assistant Town Attorney, whichever is present, shall act as the Council's parliamentarian.

5.8.4 The Town Clerk shall attend all Regular meetings of the Council unless excused. The Town Clerk's designee shall substitute for the Town Clerk during a Council meeting for which the Town Clerk is absent. The Town Clerk (or his/her designee, as appropriate) shall record, prepare and maintain the official record of each Council meeting, and perform other related duties as prescribed by the Town Council or the Town Manager, or both.

5.8.5 Department Heads and employees shall attend Council meetings as directed by the Town Manager.



## 5.9 Recording of Meetings

All Regular meetings of the Town Council shall, to the extent feasible, be recorded by electronic recording device and streamed live during the course of the meeting. The recording shall be made by the Town Clerk and retained in accordance with the Town's records retention schedule. The Town Clerk shall post the electronic recording of meetings, as available, on the Town's website. The use of other recording, videotaping or television equipment by members of the audience is permitted from the back row of the Council Chambers or side aisles against each wall of the Council Chambers, as designated by Town staff, in a manner so as not to obstruct the view of the audience, or create consistent noise or illumination that would constitute a persistent disruption of the proceedings. The Town Council may further restrict or prohibit the recording of proceedings upon a finding by the Council that the recording cannot continue without noise, illumination, or obstruction of view that constitutes a persistent disruption of the proceedings.

## 5.10 Avoiding Brown Act Violations Relating to Meeting Attendance

Members of the Council shall comply fully with the requirements of the Brown Act, including those in Government Code Section 54952.2 to avoid potential violations relating to attendance at meetings such as conferences; meetings conducted by Town staff/consultants; meetings presented by organizations other than the Town; and meetings of other legislative bodies.

# 6. AGENDA

## 6.1 Order of Business

The business for a Regular meeting shall generally be shown on the Agenda in the following order:

### 6.1.1 Call to Order/Roll Call

### 6.1.2 Pledge of Allegiance

6.1.3 Special Announcements - This includes reports by the Presiding Officer from Closed Session.

6.1.4 Proclamations and Presentations - These items include presentations by individuals or organizations as well as recognition of individuals, groups and events of significance by proclamation or other action of the Town Council. These items are agendaized following approval by the Mayor and Town Manager.

6.1.5 Public Comments and Suggestions - This item is intended to permit the public an opportunity to advise the Council of items of interest in the community. The Council will consider brief comments from the audience on items that are not listed on the Agenda. The Council cannot discuss details or vote on non-agendaized items. Any concerns may be referred to staff or placed on a future agenda (as set forth in Section in 6.1.12).

#### 6.1.6 Adoption of Consent Agenda:

- a) Approval of Consent Items - The Council may adopt a Consent Agenda as part of the regular meeting Agenda. A Consent Agenda may consist of items of a non-controversial and routine nature submitted by the Town Manager. The Town Manager shall propose specific action on each Consent Agenda item and such recommendation will become the action of the Council upon adoption of the Consent Agenda. Consent Agenda items are adopted in total and under one (1) motion by the Council, and are not subject to individual debate and discussion. Items typically placed on the Consent Agenda include, but are not limited to, the following:

Receive Accounts Payable - Submitted by the Town Manager and the Administrative Services Director and represent the expenditures made by the Town during the identified period. The Accounts Payable Claims Report will reflect all checks issued for regular payment. A request to receive and file the financial demands of the Council are considered routine in nature and will be placed first on the Consent Agenda.

Approval of Minutes - The Town Council consideration of previous Council meeting minutes for approval will be placed second on the Consent Agenda. Once previous minutes are approved, they will stand as the written record of the Town Council's actions and will be considered the official record of the Council meeting proceedings.

Ordinances, Resolutions and Requests for Action - Resolutions considered non-controversial and routine in nature, Ordinances for second reading and adoption, and Requests for Action may be agendized on the Consent Agenda. A roll call vote will be required when Ordinances are placed on the Consent Agenda.

- b) Consideration of Consent Items Removed for Discussion - Any member of the Town Council may remove a Consent Agenda item therefrom for consideration and discussion by the Council. The removed item shall be placed on the regular Agenda and recorded in the Minutes under "Consideration of Consent Items Removed for Discussion."

6.1.7 Adoption of Meeting Agenda - The Council, by majority vote, shall adopt the Agenda as final before proceeding to the consideration of the first matter. Following adoption, Agenda items may not be added or removed, or their order changed unless by consent of three (3) or more of the members of the Council present at the time the Agenda was adopted as final. An Agenda item not considered or completed for lack of time shall become an Agenda item at the following meeting unless the item is expressly continued to another time.

6.1.8 Reports - Members of the Town Council and the Town Manager shall use this section of the Agenda to provide brief reports on activities undertaken in their official capacities since the last scheduled Council Meeting (e.g., attendance as a Council

representative at Committee or community meetings) and other items of significant interest to the Moraga community as a whole.

6.1.9 Public Hearings - The Public Hearings section of the Agenda is for official public hearings required by law or for which a hearing would be in the public interest. See Section 8 for information about conducting a Public Hearing.

6.1.10 Ordinances, Resolutions and Requests for Action - Ordinances, Resolutions and Requests for Action subject to Town Council approval usually will be placed in this section of the Agenda. Occasionally, Resolutions and the first reading of Ordinances are placed under Public Hearings. When this is the case, the Council will consider these matters where appropriate.

6.1.11 Discussion Items - Items presented under this section are not for final action, but may require direction from Town Council for formal consideration of the items at a future Town Council meeting.

6.1.12 Council Requests for Future Agenda Items - Members of the Town Council will have the opportunity to request, by motion, that the Town Council direct staff to place a matter of business on a future Agenda pursuant to Government Code Section 54954.2(a)(3). No discussion of the subject or merits of the proposed agenda item may occur in connection with the motion, except to explain the general nature of the item. If the motion to place an item on a future Agenda is seconded and then supported by three (3) or more affirmative votes, the proposed item will be placed on a future agenda. If a successful motion is silent regarding timing, the proposed item will be placed on a future Agenda at the earliest appropriate time, as determined by the Town Manager and Mayor. If a motion provides specific direction regarding timing or any other parameter for the item, the proposed item will be placed on a future Agenda consistent with that direction, to the extent feasible (as determined by the Town Manager and Mayor).

6.1.13 Communications - Communications submitted to the Council at least 24 hours in advance of the meeting will be considered by the Council unless considered as part of a noticed Agenda item earlier.

6.1.14 Adjournment - The Agenda shall note the next regular Council meeting and specify if it is other than a regular meeting.

## 6.2 Preparation of the Agenda

The Town Manager and Town Clerk, in consultation with the Mayor, shall prepare the Town Council meeting Agenda, sequence of Agenda items and other procedural matters. Except as set forth in Section 6.1.4, this provision does not empower a Mayor to add any item to the Agenda without complying with the process described in Section 6.1.12. Items proposed for inclusion on the Agenda by anyone other than the Town Manager or the Town Council pursuant to Section 6.1.12 must be submitted to the Town Manager and Town Clerk in writing seven (7) days preceding the regular meeting for consideration.

### 6.3 Agenda Materials

A staff report shall be prepared for each Agenda item except in unusual circumstances or unless otherwise directed by the Town Council. Attached to the staff report shall be documents received by or developed by staff that are pertinent to the staff report. Members of the public and other interested parties (i.e. developers) may submit documents related to an Agenda item to the Town Clerk; such documents shall be included in the Agenda materials if they are received in time for inclusion in the packet. Councilmembers shall refrain from attempting to submit documents (or having their spouse or children submit documents) to the Town Clerk or Town Manager for inclusion in the Agenda packet, but instead may bring printed copies of such materials to the meeting for distribution during the discussion period for the relevant agenda item. To facilitate the efficient progression of the Town Council through the Agenda, and to maintain a clear distinction between Staff presentations and recommendations vs. individual Councilmember opinions, during the staff presentation of a staff report Councilmembers shall not be permitted to utilize the Town's technological infrastructure to broadcast printed materials on a display screen to either the Town Council or the public except during the discussion period for an agendized item.

Late Correspondence: Correspondence pertaining to an agendized item received after the Agenda packet has been distributed, but before 5:00 p.m. on Council meeting day, will be copied and presented to the Council and the public at the meeting, if practicable.

Councilmembers shall refrain from circulating or causing to be circulated to more than one (1) other Councilmember any written or recorded information relating to any agendized item before that agendized item is publicly heard at a Council meeting, though such information may be distributed during the discussion period for such item. The only exception to this rule is for communications received by a Councilmember from residents not serving on the Town Council, which may be forwarded to the Town Clerk (without editorialization) for circulation to the rest of the Town Council. For clarity, this prohibition also precludes Town Councilmembers from drafting and submitting communications regarding an agendized item to the Town Clerk or Town Manager for inclusion in the Agenda packet for a meeting at which the Councilmember will be absent.

Copies of materials distributed by Town staff and others at the meeting shall be made available to members of the public as soon as practicable. Changes and additions to staff reports and correspondence received will be provided to Councilmembers before the meeting, when possible, and made available to the public at the meeting, when possible.

### 6.4 Agenda Posting

The Town Clerk shall post the Agenda and Agenda Materials at least 72 hours before a Regular meeting and at least 24 hours before a Special meeting in the following locations, which are freely accessible to members of the public: Moraga Town offices, Moraga Library, Commons Park and Hacienda de las Flores and posted on the Town's website. At the meeting, a public copy will be available for review.

The Agenda will be delivered, no later than the Friday preceding each Regular meeting, to the Mayor and other Councilmembers and made available to members of the public consistent with the requirements of the Brown Act. The Agenda shall specify the time and location of the meeting and contain a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session.

## **7. PUBLIC PARTICIPATION**

### **7.1 Safety and Order**

When the Town Council is in session, all persons present must preserve safety and order, and should strive to conform their conduct civilly. Members of the public should sit in the audience seating area, unless addressing the Council or entering or leaving the Council Chambers, should not block the aisles with personal belongings, and should silence audible equipment when in the Council Chambers (including cellular telephones). Members of the public may not, except when testifying on or participating in an Agenda item, enter the open area directly in front of the dais or speak from the audience.

The audience should refrain from conduct which is disruptive to the meeting including clapping, booing, cheering, or jeering, etc.

Any person who disrupts the meeting shall be called to order by the Presiding Officer. Disruption shall include, but not be limited to, speaking without being recognized by the Presiding Officer, clapping, booing, cheering, jeering, interrupting a speaker with the floor, yelling, physically assaulting another person (or threatening to do so), inciting others to disruptive conduct, and blocking the audience or camera view of the proceedings. If disruptive conduct continues, the Presiding Officer may request 1) restraint and civil behavior from all members of the public; 2) a short break in the proceedings; or 3) if the member of the public continues to disrupt the proceedings, the Sergeant at Arms remove the person from Council Chambers.

### **7.2 Addressing the Council**

No person may address the Council without the permission of the Presiding Officer or a majority of the quorum. A person addressing the Council will be asked, but not required, to complete a form (a speaker card to the Town Clerk) providing his/her name and city of residence in writing as well as orally for the record during their presentation. Each person addressing the Council shall do so from the podium, speaking into the microphone for the record. When speaking from the podium on an Agenda item, members of the public shall address only the Council, and not the audience or staff. A Councilmember, through and at the discretion of the Presiding Officer, may request staff to answer questions or address issues raised during public comment.

7.2.1 Public Comments - During the "Public Comments and Suggestions" portion of the meeting, any person may address the Council on an item that is not otherwise on the agenda. Public comment will also be allowed during each item on the agenda.

7.2.2 Council Questions - Following the remarks of each speaker upon an agenda item, Councilmembers, through and at the discretion of the Presiding Officer, shall have the opportunity to question the speaker. However, the Council shall not comment or question a speaker about an item that is not on the Agenda.

7.2.3 Limits - In general, public participants are encouraged to limit their comments to three (3) minutes. The Presiding Officer may impose strict time limits (including reduced time limits) on persons addressing the Council when appropriate and in the spirit of permitting all present an opportunity to address the Council. In the event a public participant desires to make a presentation which exceeds three (3) minutes, any such speaker must make a formal request in writing to the Town Manager prior to the day of the Town Council meeting at which the public participant desires to speak. The Presiding Officer will then determine at the time of the Town Council meeting how much additional time shall be allotted for such presentations and speakers, if any, depending upon the number of requests and number of persons desiring to speak at any particular meeting.

### 7.3 Conduct of Speakers

Statements by a member of the public shall be related to the Agenda item at hand, except during the Public Comments and Suggestions segment of the meeting. No person shall use loud, profane, threatening, or personally abusive language, or engage in any other disorderly conduct so as to disrupt, disturb, or otherwise impede the orderly conduct of any Council meeting. Persons who violate this rule may be barred from attendance for the remainder of the Council meeting, provided that the Presiding Officer has notified the person to conduct himself/herself in a manner consistent with this provision, and warned the person that he/she will be removed if he/she continues to disrupt the Council meeting. If after notification and warning the person persists in disrupting the meeting the Presiding Officer shall order the person to leave the Council meeting. If the person does not remove himself/herself, the Presiding Officer may request any law enforcement officer who is on duty at the meeting to remove that person from the Council Chamber.

### 7.4 Written Communications

The Council will consider any written communication submitted to it at least 24 hours prior to the meeting. Correspondence received sufficiently in advance of a meeting, including communications relating to a specific matter on a Council agenda, will be handled as described in Section 6.3.

## **8. PUBLIC HEARINGS**

### 8.1 Ex Parte Communications

When a Public Hearing is required for an Agenda item, the Presiding Officer shall first ask all Councilmembers to disclose on the record material communication (e.g., email, other written correspondence, conversations, and site visits) occurring outside the hearing that relate to the subject of the hearing. The Councilmembers shall identify with whom he/she had such communications and the general nature of the communication and if a site visit was conducted.

## 8.2 Procedures

Presentations at public hearings shall be in the following order:

8.2.1 Item announced by Presiding Officer and Presiding Officer requests regarding Ex Parte Communications.

8.2.2 Presiding Officer reviews order of procedure for public hearing.

8.2.3 Staff summarizes issue before Town Council.

8.2.4 Council asks questions of staff for the purpose of eliciting information relevant or useful to the Town Council's determination of the item at hand.

8.2.5 Presiding Officer opens the Public Hearing - The purpose of this portion of the public hearing is to provide an opportunity for persons interested in the subject of the hearing to testify in support of or opposition to the matter being heard. The order of testimony shall be as follows:

- a) Applicant, and/or appellant, where appropriate, presents arguments in favor of application or appeal.
- b) Statements from persons desiring to speak in support of or opposition to the application or appeal.
- c) Applicant and/or appellant offers concluding remarks.
- d) Questions from the Town Council to applicant and/or appellant, and questions from the Council (where appropriate) to the opponent(s) to the application or appeal.
- e) Subject to the discretion of the Presiding Officer, the Councilmembers may ask questions of speakers for clarification during the public testimony portion and during deliberations.

8.2.6 Presiding Officer Closes Public Hearing - Following the public portion of the hearing, the Presiding Officer shall declare the public portion of the meeting closed.

8.2.7 Council Deliberates – After the Presiding Officer has closed the public comment period of the meeting for that agenda item, the matter shall be taken up by the Town Council. Each Councilmember shall be given an opportunity to speak to the subject. When the Council discussion is concluded, the Council shall make its decision.

8.2.8 Council Action - Council may, at this time, continue a matter to a specific future date to obtain additional information. Continuing a public hearing to a specific date does not require additional notice. When the Council discussion is concluded, the Council shall make its decision and vote on the item making findings of fact as required by law.

## 8.3 Absence During a Public Hearing

A Councilmember otherwise qualified to vote may not vote on a matter if the Councilmember was absent from all or part of the public hearing on the matter, unless

the Councilmember both (1) reviews the minutes and the staff report or listens to the audiotape of the entire portion of the hearing he/she missed, if the minutes are not available, and (2) reviews all physical and written evidence introduced at the hearing before the meeting at which the decision is to be rendered.

## **9. ADDITIONAL MEETING RULES OF CONDUCT**

### **9.1 Presiding Officer**

The Mayor, or Vice Mayor if the Mayor is absent or unavailable, shall act as the Presiding Officer and shall preside and call the meeting to order at the hour appointed. In the absence of both, the meeting shall be called to order by the Town Clerk and those Councilmembers present shall proceed to elect a temporary Presiding Officer. The Presiding Officer may move, second, and debate from the Chair, and shall not be deprived of any rights and privileges of a Councilmember. The Presiding Officer is responsible for maintaining order during the meeting and for facilitating efficient progression through the agenda by avoiding unnecessarily cumulative or repetitive debate and the presentation of irrelevant matter.

### **9.2 Actions Limited to Posted Agenda**

The Town Council shall not take action on any item not appearing on the posted Agenda except when there is an emergency, there is a need for immediate action, or the item was posted for a prior meeting less than five (5) days before and was continued, as prescribed more fully in Government Code Section 54954.2.

### **9.3 Continuance of an Item**

An Agenda item may be continued by the Town Council by a majority vote.

### **9.4 Standards of Decorum**

When an Agenda item is addressed, the Presiding Officer shall first ask for a staff presentation. Next, the Presiding Officer shall ask for clarifying questions from the Council of staff for the purpose of eliciting information relevant or useful to the Town Council's determination of the item at hand. After that, the Council shall receive public comment. After public comment, the Presiding Officer shall close the public comment portion and open the item for discussion by the Council.

The following additional standards of decorum shall apply during every meeting:

9.4.1 Council- While the Council is in session, Councilmembers will preserve order and decorum, and a member will neither (by conversation or otherwise) delay or interrupt the proceedings or the peace of the Council, nor disturb a member while speaking, or refuse to obey the orders of the Presiding Officer.

9.4.2 Use of Electronic Devices – While the Council is in session, to satisfy due process requirements, Councilmembers shall give their full attention to the proceedings. Councilmembers are permitted to use laptop computers and other electronic devices such



as iPads while Council is in session; however, electronic devices may not be used while Council is in session to access the internet or to communicate with residents, staff or other Councilmembers regarding any item on the agenda for that meeting.

9.4.3 Staff Members - Staff members of the Town will observe the same rules of order and decorum applicable to the Town Council.

## 9.5 Debate

9.5.1 Right to the Floor - Every Councilmember desiring to speak on an agenda item will refrain from doing so until he/she gains recognition by the Presiding Officer and is given the floor, at which time he/she will confine himself/herself to the question under debate. The Presiding Officer shall have the discretion, unless overruled by a majority vote of the Town Council present at the meeting, to terminate a Councilmember's right to the floor upon the Presiding Officer's determination that doing so is reasonably necessary to enforce the Protocols set forth herein.

9.5.2 Interruptions - A Councilmember, once recognized, shall not be interrupted when speaking except to be called to order by the Presiding Officer, unless a point of order has been raised by another Councilmember or unless the speaker chooses to yield to a question by another Councilmember. If a Councilmember, while speaking, is called to order, the Councilmember shall cease speaking until the question of order is determined; if determined to be in order, the Councilmember shall be permitted to proceed.

9.5.3 Points of Order - The Presiding Officer will determine all points of order subject to the right of any Councilmember to appeal to the Council. If an appeal is taken, the question will be, "Will the decision of the Presiding Officer be sustained?" A majority vote of the Council conclusively determines the question of order.

9.5.4 Result of a Vote - The Presiding Officer shall announce the result of the vote. A roll call vote shall be taken upon the request of any Councilmember or as legally required. No action shall be taken by secret ballot.

9.5.5 Appeals - Any ruling of the Presiding Officer may be appealed at the request of a Councilmember. The Presiding Officer shall call for a roll call vote to determine if the ruling is upheld.

9.5.6 Precedence of Motions - When a motion is before the Council, no other motion shall be entertained except:

- a) Motion to Amend - A motion to amend, which modifies the original motion, is in order but is debatable only if it has been accepted by both the maker and seconder of the motion. Amendments are voted on first; the main motion vote is last. A motion may be amended more than once with each amendment being voted on separately. There shall only be one (1) amending motion on the floor at any one time.

- b) Substitute Motions - A substitute motion is in order for the purpose of taking out the main motion altogether and replacing it with a new and different motion. A substitute motion must be voted on before an amendment of the main motion; if the substitute motion is adopted the main motion dies and so does any amendment of the main motion.
- c) Motion to Postpone - A motion to postpone to a definite time is subject to debate and amendment as it relates to propriety of the postponement and time set. A motion to postpone a public hearing must set a definite date for the hearing. If a motion to postpone indefinitely is adopted, the Agenda item shall be carried forward by the Town Clerk.
- d) Motion to Table - A motion to table is not debatable and not subject to amendment. The purpose of a motion to table is to suspend the item for an indefinite time. If the agenda has been adopted, the motion to table should include a motion to amend the meeting agenda. If a motion to table passes, consideration of the matter during the same meeting may be resumed only upon the motion of a member voting with the majority on the motion to table.
- e) Motion to Close Debate - When a motion to close debate is made and seconded, there shall be no further debate except on whether or not to close debate. If the question carries, the Presiding Officer shall put pending amendments to a vote without debate in the inverse order of their introduction before putting the main question. If the question is decided negatively, the main question and its amendments remain before the Council.

9.5.7 Motions Not Subject to Debate - All motions are debatable except for the following, which shall be put to an immediate vote:

- a) Motion to adjourn, which requires a simple majority.
- b) Motion to recess, which requires a simple majority.
- c) Motion to table, which requires a simple majority.
- d) Motion to limit debate (“I move the question” or “I move to limit debate of this item to \_\_ minutes”).

9.5.8 Reconsideration - Providing that no intervening rights will be prejudiced, a Councilmember who voted with the majority on that question may move the reconsideration of that question at the same meeting in which the original decision was made or at the next following meeting. After a motion for reconsideration is acted upon, no other similar motion regarding the same matter at the same meeting may succeed without unanimous consent.

9.5.9 Conflict of Interest and Bias - A conflict of interest or even the appearance of a conflict of interest can diminish the public’s confidence in the integrity of the governmental process. Therefore, a Councilmember who has a conflict of interest under the Political Reform Act or Government Code §1090 et seq., may not participate in the Agenda item causing the conflict, unless an exception to the conflict exists which allows

participation. Councilmembers should contact the Town Attorney for advice if a potential conflict of interest may exist, or if there is a question as to whether or not their participation in a particular agenda item is appropriate.

9.5.10 Protests – Following the success of a motion carried by the majority of the Town Council, a dissenting Councilmember shall have the right to enter into the public record any additional reasons for dissent or protests against the motion which the Councilmember was precluded from articulating during debate on the motion. The Presiding Officer has the discretion to limit a Councilmember's entry into the public record of reasons for dissent or protests against any motion carried by the majority when reasonably necessary to facilitate the efficient progression through the Agenda by avoiding unnecessarily cumulative or repetitive statements and the presentation of irrelevant matter.

9.5.11 Voting - At least three (3) affirmative votes are required to enact an Ordinance, adopt a Resolution, approve a motion granting a franchise or authorizing the payment or expenditure of money or incurring of a debt, amend these Protocols, or place a new matter on a future agenda. The majority of the quorum present at a meeting is required to adopt other motions, except as otherwise indicated herein. A "majority" refers to a majority of the quorum present.

Every Ordinance shall be adopted by a roll call vote. All other matters may be referred to a voice vote unless a roll call is requested by a member of the Council or is required by law. On all matters for which a voice vote is authorized, the Presiding Officer may ask for "all those in favor?", or words of similar import. The Presiding Officer shall then request for "all those opposed?" The Presiding Officer shall report out the results of the vote, and the name of those Councilmembers who opposed the item. If a Councilmember objects to the procedure, a roll call vote shall be called in the normal manner and the ayes and noes recorded in the minutes.

9.5.12 Division of the Question - If a matter properly put before the Council contains two (2) or more separable propositions, any Councilmember may, with the consent of one other member of the Council, divide the question into its separable parts for consideration. Separable propositions shall mean two separate questions or issues which if acted on together might create ambiguity as to the effect of the vote, and which if acted on separately, contain two or more separate issues or questions.

## **10. ADMINISTRATIVE MATTERS**

### **10.1 Correspondence**

10.1.1 Electronic Correspondence - Councilmembers shall use accounts issued to them by the Town for all email correspondence regarding Town business. Councilmembers shall not use accounts issued to them by the Town for personal correspondence. Councilmembers may elect to forward (without editorialization) copies of emails they receive from non-Councilmember residents to the Town Clerk, who will include such emails in the staff reports for relevant Agenda items as set forth in Section 6.3.

10.1.2 Other Correspondence - Written correspondence received by a Councilmember at the Town offices by postal service, personal delivery, and messenger service shall be opened by staff and handled consistent with the Town of Moraga Records Retention Program, which may require the Town to retain a copy. Councilmembers may elect to forward copies of written correspondence they receive to the Town Clerk, who will include such correspondence in the staff reports for relevant Agenda items.

## 10.2 Communications with the Public

Councilmembers shall be clear in all their communications with members of the public and the media when the opinions and positions they convey are their own individual positions, and whether they have been authorized by the Council to speak for the Council as a whole on any topic of discussion.

In addition to the above, the Town Council recognizes that there are inherent risks associated with the wide dissemination of information posted on social media platforms (e.g., Facebook, Nextdoor, and Twitter, etc...) and the fact that Councilmembers have no ability to ensure their posts on social media platforms are understood by everyone in the manner in which they were originally intended to be understood. Given these dangers, Councilmembers are encouraged to limit their posts on social media platforms regarding issues that may come before the Town Council to providing relevant logistical or factual information pertaining to such issues.

## 10.3 Relations with Staff

As required by MMC 2.08.080, Councilmembers of the Town Council shall deal with employees of the Town only through the Town Manager, except otherwise permitted by the Town Manager. The Town Manager shall take their orders and instructions from the Council as a body only when the Council is sitting in a duly convened meeting, and no individual Councilmember shall give any orders or instructions to the Town Manager outside of a Town Council meeting, without approval of the Town Council. Neither the Council as a whole, nor an individual Councilmember, shall give orders or instructions to subordinates of the Town Manager.

## **11. FAILURE TO OBSERVE PROTOCOLS**

These Protocols govern the conduct of Town Councilmembers and the conduct of meetings. These Protocols are intended to expedite the transaction of the business of the Town Council in an orderly fashion and are deemed to be procedural only. Failure to strictly observe these Protocols shall not affect the jurisdiction of the Town Council or invalidate any action taken at a meeting that otherwise conforms to law.

The Chief of Police or such member or members of the Police Department as he or she may designate, shall be Sergeant-At-Arms of the Town Council and shall carry out all orders given by the Presiding Officer through the Town Attorney for the purpose of maintaining order at Town Council meetings. Any Councilmember may move to require the Presiding Officer to enforce the rules, and the affirmative vote of a majority of the Town Council shall require him or her to do so.

## **12. AMENDMENT OR SUSPENSION OF THESE PROTOCOLS**

### **12.1 Amendment of Protocols**

These Protocols may be amended by an affirmative vote of at least three (3) Town Councilmembers except as follows:

Where a provision of these Protocols requires action by a specific affirmative vote which is greater than three (3) Town Councilmembers, then an amendment to that provision requires the same vote required for that provision.

### **12.2 Suspension of Protocols**

Any provision of these Protocols not required by State law or the Moraga Municipal Code may be temporarily suspended by a vote of at least three (3) Town Councilmembers.