

TOWN OF MORAGA TOWN COUNCIL PROTOCOLS



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1. AUTHORITY

As the Town of Moraga's governing body, the Town Council established these protocols to provide for continuity of responsibility in its decision-making process, and to allow sufficient time and opportunity for full consideration and discussion of important public policy issues and matters that fall within the Town Council's jurisdiction. Adopting protocols which establish procedural rules for matters such as the election of the Town Council officers (Mayor and Vice Mayor) and the manner of conducting the Town Council meetings helps to facilitate these goals. The following provisions shall be in effect upon 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 serves as the elected governing body for the Town. In performing its duties, the Town Council represents all Moraga residents, local businesses, and interested parties.

In executing its duties, the Town Council shall take into account, among other considerations, 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 in its activities and decision making. Furthermore, the Councilmembers will strive to treat each other, staff, and other parties with dignity and respect.

2.1 Responsibilities

The Town Council responsibilities include the following:

- Faithfully comply with applicable state laws, the Moraga Municipal Code, and Moraga General Plan, and make revisions to the Municipal Code and General Plan as needed;
- Perform due diligence prior to making decisions, including as identified in Section 2.2;
- Develop and approve policies, make decisions, and guide the Town Manager in their management of the Town organization, taking into consideration the promotion of efficiency and effectiveness in operations while maintaining sustainable service levels;
- Develop and approve the organization's annual goals; monitor progress of such goals during the year; and, receive an annual report from the Town Manager on the outcomes of the goals;

- Recruit, hire, and provide an annual performance review of the Town Manager, as set forth in Section 4.1;
- Recruit, hire, and provide an annual performance review of the Town Attorney, as set forth in Section 4.1;
- Review, revise, and approve ordinances, resolutions, planning decisions, meeting minutes, and related documents;
- Review, revise, and approve the biennial operating and capital improvement program budget, as prepared by the Town Manager, and conduct mid-year budget reviews as submitted by the Town Manager;
- Communicate with residents to receive input from, and provide information to, residents;
- Represent the Town on local, county, regional, state, and national boards and committees; and,
- Represent the Town at public functions.

2.2 Considerations

The Town Council may consider any matter it deems relevant, material, and/or helpful in performing its duties. Examples include:

- Perspectives of each Councilmember;
- Substantive materials related to the question, especially reports presented by staff;
- Consistency with the Municipal Code, General Plan, and applicable laws;
- Input provided by applicants, residents, staff, and other parties on each question;
- Availability of Town funds, if needed, and impact on Town's financial health;
- Availability of required Town resources, especially personnel;
- Consistency with Town Council's annual goals; and,
- Town's risk tolerance and 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 the budget, authorize expenditures, and approve agreements and contracts. However, no individual Councilmember, subcommittee, or Ad Hoc committee shall have authority to do 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, memorandums of understanding, and/or related documents.

2.4 Civility

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

To the extent feasible, the Councilmembers are encouraged to ask staff questions before a meeting and/or communicate with staff in advance as to what questions will be asked during the public meeting. (See also Section 10.3, Relations with Staff.)

2.5 Maintaining and Enhancing Functionality

Part of the role of the Town Council is to ensure that organizational functionality (as described by above Sections 2.1–2.4) is maintained and enhanced for the benefit of the Town. The Town Council is encouraged to hold periodic meetings that are focused on the functioning, productivity, and efficiency of the Town Council as a whole.

3. COUNCIL OFFICERS

3.1 Election of Council Officers

The election or removal of the Mayor or Vice Mayor requires at least three affirmative votes of the five members of Town Council. A Councilmember may not succeed themselves in the office of Mayor or Vice Mayor. Historically, the Town Council rotates the offices of Mayor and Vice Mayor on an annual basis to facilitate organizational stability. Annually, the outgoing Mayor is typically succeeded by the Vice Mayor, subject to ratification by at least three affirmative votes of the Town Council.

In years when members of the Town Council are to be elected, or appointed, to their seats during a general election time frame, Town Council shall attend to the election of a Mayor and Vice Mayor for one year terms at the first regular meeting after certification of the general election results, or effective appointment dates, have been received by the Town, and only after newly elected or appointed Town Councilmembers have been installed. In years when no members of the Town Council are elected or appointed, Town Council shall consider the election of Mayor and Vice Mayor for one-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.

All Councilmembers may vote for Mayor and Vice Mayor, and may consider seniority, experience, leadership, willingness to collaborate, efficiency, the number of votes received when elected, or any other relevant and legal factor.

A Councilmember who does not wish to accept the position of Mayor or Vice Mayor may decline the position and Town Council will conduct nominations for the position among the other remaining Councilmembers.

3.2 Role of Mayor and Vice Mayor

The Mayor shall be recognized as the official head of the Town Council, including representing the Town at all official and ceremonial events. The Mayor presides over Town Council meetings, and shall strive to ensure that there is sufficiently broad and in-depth communication on meeting agenda items. The Mayor shall sign all ordinances, resolutions, meeting minutes, and other documents adopted by the Town 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.

The Mayor and Vice Mayor will be provided annual media relations training to be able to effectively represent the Town during applicable emergencies and events which will require media interaction, noting that the Town Manager will continue to serve as the primary Town official for traditional and routine media relations and public communication purposes.

4. COUNCIL APPOINTMENTS

4.1 Town Manager and Town Attorney

The Town Council shall appoint the Town Manager in accordance with 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 in compliance with the Town Manager's employment agreement. The Town Council and the Town Manager will agree on performance expectations which will form the primary basis for measuring performance-related successes and opportunities at completion of each year of service.

The Town Manager's responsibilities are set forth in Municipal Code Section 2.08.070 and/or determined by the Town Council. Examples include: (i) managing the organization's day-to-day activities; (ii) developing and proposing the biennial budget; (iii) executing Town Council direction, goals, and priorities; (iv) serving as the principal spokesperson for the Town with the media and public; (v) managing and directing Town staff; and, (vi) managing other duties as assigned by the Town Council during duly noticed meetings.

The Town Manager will continue to manage routine media releases. However, the Town Manager will seek review of emergency and more substantial media releases by the Mayor or their designee before media releases are made public.

The Town Council shall appoint and approve the contract for the Town Attorney services, and any amendments, and shall review the Town Attorney's performance on an annual basis. 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 their nominations of Councilmembers to serve in various roles requiring a Town Council representative. These nominations are subject to the review and approval by the Town Council as a whole.

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 (ii) create additional commissions, committees, and other groups to advise the Town Council. In such cases, at least three (3) affirmative votes of 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 in nature, generally lasting up to 18 months or less and are established to address a specific issue and bring a recommendation to the Town Council as a whole. Ad Hoc committees generally dissolve once the assigned project/task has been completed. Membership of an Ad Hoc committee is at the discretion of the Town Council and must contain fewer than a quorum of Councilmembers.

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

5. MEETINGS

The Town Council is subject to compliance with the State of California 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 session meetings, which are authorized by the Brown Act to be held in private.

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 Town Council. If the meeting date should fall on a legal holiday, the Town Council may cancel the meeting or reschedule for an alternate date and time designated by the Town Council. All meetings of the Town Council (except closed session meetings) shall be open to the public.

5.1.2 Starting Time and Location

All regular Town Council meetings shall begin at 5:30 p.m. Meetings will be held at the Council Chambers located at 335 Rheem Boulevard, Moraga, California 94556, unless stated otherwise in the meeting notice. Meetings may be preceded or followed by special meetings, including closed session meetings.

5.1.3 Ending Time

Unless otherwise adjourned, all Town Council meetings shall automatically be adjourned at 9:30 PM, except that a majority vote of the Town Council may extend the adjournment to 10:00 PM. Adjournment of the meeting may be further postponed after 10:00 PM after receiving unanimous consent of the Town Council to adjourn not later than a specified time. More than one such unanimous postponement of adjournment may be adopted.

5.2 Closed Session Meetings

A closed session meeting may be held before, during, or after any regular or special meeting for any purpose authorized by the Brown Act. Following the closed session meeting, the presiding officer shall report any actions taken in closed session that are subject to public disclosure under the Brown Act, and based on guidance provided by the Town Attorney, before moving on to the rest of the regular or special meeting agenda (if any). A closed session meeting, when held, will appear on the agenda as such, and will conform to the Brown Act. It is a violation of the Brown Act to disclose information obtained or presented in anticipation of or during a closed session meeting. All information provided and discussed in closed session shall be confidential. Public comment shall be received in open session prior to a closed session meeting.

5.3 Special Meetings

Special meetings may be called by the Mayor, a majority of Councilmembers, Town Attorney, or Town Manager. The call for a special meeting must specify the day, hour, location, and subject(s) to be considered. Twenty-four hours' notice must be given prior to holding a special meeting. The agenda must be made available to members

of the public consistent with the requirements of the Brown Act. Only matters specified in the meeting notice may be discussed at special meetings. The public shall be given an opportunity to address the Town 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 Town Council shall constitute a quorum. In the event a quorum is not achieved 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 location, if so declared by the Town Clerk.

5.5 Teleconferencing

Teleconferencing during the Town Council meetings shall be permitted in accordance with the procedures set out in State Government Code Section 54953, as amended.

5.6 Adjournment

The Town 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 the Town offices and other places designated by the Town Council, as required by law. Whenever a regular or adjourned regular meeting is adjourned, as provided in this section, the resulting adjourned meeting will be considered a regular meeting. 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 Town Council, and shall thereafter be kept, published, and/or distributed in compliance with applicable Town policy.

5.8 Attendance

5.8.1 Councilmembers

Councilmembers are encouraged to inform the Town Clerk, Town Manager, and/or 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 Town Manager

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

5.8.3 Town Attorney

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

5.8.4 Town Clerk

The Town Clerk shall attend all regular Town Council meetings, unless excused. The Town Clerk's designee shall substitute for the Town Clerk during a Town 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 Town Council meeting, and perform other related duties as prescribed by the Town Council or directed by the Town Manager, or both.

5.8.5 Department Heads and Employees

Department heads and employees shall attend Town 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 an electronic recording device and streamed live during the course of the meeting. The recording shall be coordinated by the Town Clerk and retained in accordance with the Town's records retention schedule. The Town Clerk shall post electronic recordings of meetings, as available, on the Town's website.

The use of other recording, videotaping, or other electronic equipment/devices by members of the audience is permitted from the back row of the Council Chamber or side aisles, as designated by Town staff, in a manner so as not to block emergency exit paths, obstruct the view of the audience, 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 Town Council that the recording cannot continue without noise, illumination, or obstruction of view that constitutes a persistent disruption of the proceedings.

5.10 Brown Act Compliance

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

6. MEETING 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 Presentations

6.1.4 Public Communication

This item is intended to permit the public an opportunity to share their views on items not on the meeting agenda and to advise the Town Council of items of interest in the community. The Town Council will listen to comments from the audience on items that are not listed on the meeting agenda. However, the Town Council cannot discuss details or vote on non-agendized items. Any concerns may be referred to staff or placed on a future agenda (as set forth in Section in 6.1.12).

6.1.5 Adoption of Meeting Agenda

The Town Council, by majority vote, shall adopt the meeting 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 Councilmembers present at the time the agenda was adopted. 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.

6.1.6 Consent Calendar:

6.1.6a Consideration of Consent Item Removed for Discussion

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

6.1.6b Acceptance of Consent Items

The Town 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 Town Council upon adoption. Consent Agenda items are adopted in total and under one (1) motion by the Town 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 Warrants & Accounts Payable

The Town Manager may submit routine expenditures made by the Town during a specified period for Town Council review and approval. The Accounts Payable Claims Report will reflect all checks/electronic payments issued for regular payment. A request to receive and file the financial demands (warrants) of the Town Council are considered routine in nature and will be placed early on the Consent Agenda.

Approval of Minutes

The Town Council review and approval of previous Town Council meeting minutes will be placed next on the Consent Agenda. Once previous minutes are approved, they will stand as the official written record of the Town Council's actions.

6.1.7 Councilmember and Staff Announcements, Reports on Activities or Special Announcements

Councilmembers and the Town Manager shall use this section of the meeting agenda to provide brief verbal reports on activities undertaken in their official capacities since the last scheduled Town Council Meeting (e.g., attendance as a Town representative at committee or community meetings), and other items of significant interest to the Moraga community as a whole. Council member AB1234 Reports.

6.1.8 Public Hearing Items

This section of the agenda is for official public hearings required by law or for subjects that are in the public interest. See Section 8 for information about conducting a public hearing.

6.1.9 Department Reports

Ordinances, resolutions, and "Requests for Action" subject to Town Council approval will usually be placed in this section of the meeting agenda. Occasionally, resolutions and the first reading of ordinances will be placed under public hearings. When this is the case, the Town Council will consider these matters where appropriate.

6.1.10 Council Requests for Future Agenda Items

When an individual Councilmember desires to place an item on a future Town Council meeting agenda, they are encouraged to start by working with the Town Manager to see if it is possible to add the item to an upcoming agenda. The Town Manager will determine if the item should be placed on the agenda. If the Town Manager determines not to place the item on the agenda, the Councilmember may bring the item forward during the "*Council Requests for Future Agenda Items*"

portion of the meeting agenda for a determination by a majority vote by the Town Council.

Per CA Government Code Section 54954.2(a)(3), no discussion of the subject or merits of the proposed future agenda item may occur in connection with the motion, except to explain the general nature of the item. A successful motion (proposed, seconded and passed by a majority vote of the Council) shall be placed on a future agenda. If a motion passes to place the matter on a future agenda, the Town Council will then provide direction to staff to do one of the following:

- 1) Place the matter as a "Discussion Item" at a future meeting (thus allowing the Town Council to discuss whether the issue warrants further exploration with staff resources);
- 2) Place the matter as an agenda item at a future meeting with limited staff report and resources; or
- 3) Place the matter as an agenda item at a future meeting with full staff report and resources.

If a successful motion is silent regarding timing, the proposed item will be placed on a future meeting agenda at the earliest appropriate time, as determined by the Town Manager, working in consultation with the 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 meeting agenda consistent with that direction, to the extent feasible (as determined by the Town Manager, working in consultation with the Mayor).

6.1.11 Communications

Communication submitted at least 24 hours in advance of a Town Council meeting will be considered by the Town Council, unless considered as part of a noticed agenda item earlier.

6.1.12 Town Manager Follow Up and Announcements

Town Manager follow-up announcements.

6.1.13 Adjournment

The Town Council meeting agenda shall note the next regular meeting date and specify if it is other than a regular meeting.

6.1.14 Closed Session (if applicable)

Town Council may move into closed session pursuant to applicable law, including the Brown Act (GC Section 54960, et seq.) for the purposes of conferring with the Town's Real Property negotiator; and/or conferring with the Town Attorney on potential and/or existing litigation; and/or discussing matters covered under GC Section 54957 (Personnel); and/or conferring with the City's Labor Negotiators.

6.2 Agenda Preparation

The Town Manager and Town Clerk, working 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 an item to the agenda without complying with the process described in Section 6.1.12.

6.3 Agenda Materials

A staff report shall be prepared for each Town Council meeting agenda item, except in unusual circumstances authorized by the Town Manager or directed by the Town Council. Attached to the staff report shall be necessary supporting documents received by or developed by staff that are pertinent to the subject matter. Members of the public and other interested parties (e.g., applicants/developers) may submit documents related to an agenda item to the Town Clerk and shall be included in the meeting agenda materials, if received in time for inclusion in the agenda packet.

Councilmembers shall refrain from attempting to submit documents (or have their spouse or children submit documents at the request of a Councilmember) to the Town Clerk or Town Manager for inclusion in the agenda packet. Rather, they 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 meeting agenda, and to maintain a clear distinction between the staff presentation and recommendation versus individual Councilmember opinions, during the staff presentation, Councilmembers shall not be permitted to use the Town's technological infrastructure to broadcast printed materials on a display screen to the Town Council or public, except for responding during the discussion period for an agendized item. This prohibition also precludes Councilmembers from drafting and/or submitting communication 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.

Correspondence pertaining to an agenda item received after the agenda packet has been distributed, but two hours prior to meeting time on a Town Council meeting day, will be copied and presented to the Town Council and the public at the meeting, to the extent possible.

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 item is publicly heard at a Town Council meeting, though such information may be distributed during the discussion period for such item. The only exception to this rule is for communication 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 Town Council.

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

6.4 Agenda Posting

The Town Clerk shall post the Town Council meeting agenda, and supporting agenda materials, at least 72 hours before a regular meeting, and at least 24 hours before a special meeting via the following locations, which are freely accessible to members of the public: Moraga Town Offices, Moraga Library, Commons Park, and Hacienda de las Flores. The agenda will also be posted on the Town's website. At the meeting, a copy of the agenda will be available for public review.

The agenda packet will be delivered, no later than the Friday preceding each regular meeting, to the Mayor and Councilmembers, and made available to 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 Town Council or entering or leaving the Council Chamber, should not block the aisles with personal belongings, and should silence audible equipment (including all electronic devices). 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, 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/or 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) Remove a member of the public from the Council Chambers if the person continues to disrupt the proceedings, as defined in Government Code 54957.95 and after being warned, and after consulting with the Town

Attorney, the Sergeant at Arms will remove the person from the Council Chambers.

7.2 Addressing Town Council

No person may address the Town Council without the permission of the presiding officer or a majority of the quorum. A person addressing the Town Council will be asked, but not required, to complete a speaker card providing his/her name and community of residence in writing, as well as orally, for the record at the beginning of their comments. Each person addressing the Town Council shall do so from the podium, speaking into the microphone. Members of the public shall address only the Town 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.

7.2.1 Public Comments

During the “Public Comments and Suggestions” portion of the meeting, any person may address the Town Council on an item that is not otherwise on the agenda.

7.2.2 Councilmember Questions

Following the remarks of each speaker on an agendized item, Councilmembers, through and at the discretion of the presiding officer, shall have the opportunity to question the speaker. However, Councilmembers shall not comment or question a speaker about an item that is not on the meeting agenda.

7.2.3 Speaking Time 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 Town Council when appropriate and in the spirit of permitting all present an opportunity to address the Town Council.

7.3 Speakers’ Conduct

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 Town Council meeting. Persons who violate this rule may be barred from attendance for the remainder of the Town Council meeting, provided that the presiding officer has notified the person to conduct themselves in a manner consistent with this provision, and warned the person that they will be removed if they continue to disrupt the Town Council meeting. If after notification and warning the person persists in disrupting the meeting the presiding officer, after consulting with the Town Attorney, may order the person to leave the Town Council meeting. If the person does not remove themselves, the presiding officer, after consulting with the Town Attorney, may request the Sergeant at Arms remove the person from the Council Chambers.

7.4 Written Communication

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

8. PUBLIC HEARINGS

8.1 Ex Parte Communication

When required by State law for land use and/or other applicable agenda items that involve a public hearing, the presiding officer shall first ask all Councilmembers to disclose on the record any material communication (e.g., email, other written correspondence, conversations, and site visits) that they had outside the public hearing that relate to the subject matter. Councilmembers shall identify with whom they had such communication, general nature of the communication, and if a site visit was conducted.

8.2 Procedures

Presentations at public hearings shall normally be in the following order:

8.2.1 Item Announced by Presiding Officer

The presiding officer will also request information with respect to possible Ex Parte Communications.

8.2.2 Presiding Officer Reviews Order of Procedure

8.2.3 Staff Summarizes Issue

8.2.4 Councilmembers Ask Questions of Staff

This is 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 to share their views, ask questions, as well as 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 (where appropriate) to the opponent(s) to the application or appeal.
- E. Subject to the discretion of the presiding officer, 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, the matter shall be taken up by the Town Council. Each Councilmember shall be given an opportunity to speak to the subject. When Town Council discussion is concluded, the Town Council shall proceed to make a decision.

8.2.8 Council Action

The Town 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 Town Council discussion is concluded, the Town Council shall make its decision and vote on the item making findings of fact as required by law.

8.3 Absence During 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 views/listens to the taping of the entire portion of the hearing they 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. 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 meeting 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 meeting agenda except when there is an emergency, there is a need for immediate action, and/or the item was posted for a prior meeting less than five (5) days before and was continued, as prescribed more fully in State Government Code Section 54954.2.

9.3 Continuance of an Item

A meeting agenda item may be continued by the Town Council via receiving a majority vote.

9.4 Standards of Decorum

Procedurally, when a meeting agenda item is addressed, the presiding officer shall first ask for a staff presentation. The presiding officer shall then ask for clarifying questions from Councilmembers of staff for the purpose of eliciting information relevant or useful to the Town Council's determination of the item. After that, the Town 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 Town Council.

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

9.4.1 Town Council

While the Town Council is in session, Councilmembers will preserve order and decorum, and will not (by conversation or otherwise) delay or interrupt the proceedings or the peace of the Town Council meeting, nor disturb another Councilmember while speaking, or refuse to obey the requests and/or orders of the presiding officer.

9.4.2 Use of Electronic Devices

While the Town 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 tablets/iPads, while the Town Council is in session. However, electronic devices may not be used while the Town Council is in session to communicate with other Councilmembers, staff, residents, and/or other interested parties regarding any item on the Town Council meeting agenda.

9.4.3 Staff Members

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

9.5 Debate

9.5.1 Right to the Floor

Each Councilmember desiring to speak on a meeting agenda item will refrain from doing so until they gain recognition by the presiding officer and is given the floor, at which time they will confine themselves to the question under debate. The presiding officer shall have the discretion, unless overruled by a majority vote of the Town Council present, 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 Town Council. If an appeal is taken, the question will be, "Will the decision of the presiding officer be sustained?" A majority vote of Town 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 Town 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 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, 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 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 Town 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 State Government Code §1090 et seq., may not participate in the meeting 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 meeting 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. Some actions, such as the passage of an urgency ordinance or adoption of a resolution of necessity, require an affirmative vote of a super-majority of the total Town Council (4/5). 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 councilmember 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 with the “ayes” and “noes” recorded in the minutes.

9.5.12 Division of the Question

If a matter properly put before the Town Council contains two (2) or more separable propositions, a Councilmember may, with the consent of one other Councilmember, 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 communication 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/or messenger service will be opened by staff and handled consistent with the Town 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 Town Council meeting reports for relevant meeting agenda items.

10.2 Communication with the Public

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

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, Twitter, etc.) and the fact that Councilmembers do not have the 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 risks, 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

In compliance with Municipal Code Section 2.08.080, the Town Council interfaces with staff only through the Town Manager, except for simple factual and logistical inquiries and routine communications which do not involve requesting action. These communications should normally be in written format, and the Councilmember shall copy the Town Manager or otherwise ensure the Town Manager is informed.

Neither the Town Council as a whole, nor individual Councilmembers, shall give orders or instructions to subordinates of the Town Manager. The Town Manager shall take orders and instructions from Town Council as a whole, and only when Town Council is sitting in a duly convened public meeting.

11. FAILURE TO OBSERVE PROTOCOLS

These protocols, along with state law and the Moraga Municipal Code, govern the conduct of Councilmembers in general, and their conduct at public meetings in particular. These protocols are intended to expedite the transaction of Town Council business in an orderly fashion and are deemed to be procedural only. Failure to strictly observe these protocols shall not affect the overall jurisdiction of the Town Council or invalidate any action taken at a meeting that otherwise conforms to law.

For the purpose of maintaining order of Town Council meetings, the Chief of Police, or such member or members of the Police Department as they may designate, shall serve as Sergeant at Arms of the Town Council, and shall carry out all orders given by the presiding officer through legal advice provided by the Town Attorney. Any Councilmember may move to require the presiding officer to enforce the protocols, and the affirmative vote of a majority of the Town Council shall require them to do so.

Each Councilmember is responsible for adhering to these protocols, and violations of these protocols should be addressed by the Town Council as a whole.

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) 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 California State law or the Moraga Municipal Code may be temporarily suspended by a vote of at least three (3) Councilmembers.