

**TOWN OF MORAGA  
TOWN COUNCIL REGULAR MEETING**

**September 22, 2010  
MINUTES**

**7:00 P.M. Regular Meeting**

Joaquin Moraga Intermediate School Auditorium  
1010 Camino Pablo, Moraga, California 94556

**I. CALL TO ORDER**

The regular meeting was called to order at 7:04 P.M. by **Mayor Ken Chew**.

**ROLL CALL**

Councilmembers present: Mayor Ken Chew, Vice Mayor Karen Mendonca, and Councilmembers Howard Harpham, Michael Metcalf\* and Dave Trotter

\* (Councilmember Metcalf arrived at 8:27 P.M.)

Councilmembers absent: None

**II. PLEDGE OF ALLEGIANCE**

**Councilmember Trotter** led the Pledge of Allegiance.

**III. SPECIAL ANNOUNCEMENTS**

There were no special announcements.

**IV. PROCLAMATIONS AND PRESENTATIONS**

**A. Swearing in of New Police Officer Mary Ann Grubb**

Chief of Police Robert Priebe introduced new Police Officer Mary Ann Grubb and identified her many accomplishments and education. He welcomed her to the Town of Moraga.

Town Clerk Marty McInturf presented the Oath of Office to new Police Officer Mary Ann Grubb. The entire Town Council welcomed Officer Grubb to the Town of Moraga.

**PUBLIC COMMENTS OPENED**

There were no comments from the public.

**PUBLIC COMMENTS CLOSED**

**B. Proclamation Designating the Week of September 19-25, 2010 to be Falls Prevention Awareness Week**

**Mayor Chew** read into the record a proclamation designating the week of September 19-25, 2010 as Falls Prevention Awareness Week, and presented the proclamation to Ann McCarten with Meals on Wheels and Kevin Raneau with Senior Helpers.

Kevin Raneau, Senior Helpers, thanked the Council and the Town of Moraga for the recognition. He identified the statistics related to falls for individuals over the age of 65 noting that the program was valuable in educating citizens in the ways to prevent the potential for falling.

Ann McCarten, Meals on Wheels, also spoke to the many educational programs related to fall prevention. She reported that on Saturday, September 25, a Walk for Fall Prevention would be held in the City of Pleasant Hill at Ellinwood Park. Additional information was available at [www.fallpreventionwalk.org](http://www.fallpreventionwalk.org). She invited everyone to participate.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

**V. DISCUSSION ITEMS**

There were no discussion items.

**VI. ADOPTION OF THE CONSENT AGENDA**

**A. Approval of Consent Items**

Consent Agenda Item 3 was removed from the Consent Agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

<b>ACTION: It was M/S (Harpham/Mendonca) to approve Consent Agenda items 1, 2, 4, 5, 6 and 7. Vote: 4-0-1. Metcalf absent.</b>
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|--|----------------|
| 1) Accounts Payable Claims for 8/27/10 (\$16,372.15); 8/27/10 (\$153,458.58); 8/27/10 (\$3,000.00); 9/03/10 (\$900.00); 9/10/10 (\$216,456.53)                                       | Approved       |
| 2) Approve Revised Minutes from the Town Council Meeting May 26, 2010  | Approved       |
| 3) <i>Approve Minutes from the Town Council Special and Regular Meetings August 25, 2010</i>   | <i>Removed</i> |
| 4) Adopt Resolution 73-2010 Authorizing the Town Manager to Sign a Contract for Services for the 2010 Holiday Tree Lighting  | Approved       |
| 5) Adopt Resolution 74-2010 Authorizing the Town Manager to Execute a Contract with Sharp Business Systems for a 48-Month Lease on a Multi-Function Copier for the Police Department | Approved       |

- 6) Motion to Cancel the November 24 and December 22, 2010 Town Council Meetings Approved
- 7) Proclamation Designating the Week of September 17-23, 2010 as Constitution Week Approved

**B. Consideration of Consent Items Removed for Discussion**

1. Approve Minutes from the Town Council Special Meeting and Regular Meeting August 25, 2010

The following corrections were made to the minutes of the August 25, 2010 meeting:

To the fifth sentence of Reports on Page 5, Vice Mayor Mendonca:

*She [Vice Mayor Mendonca] added that she would be participating in a Saint Mary's College Panel on September 15; the League of California Cities Annual Meeting on September 16 and 17; a televised debate between Senate candidates Carly Fiorina and Barbara Boxer at Saint Mary's College on September 1; and a screening of a movie honoring Women's Equality Day on August 26 at the Lafayette Library.*

And to the second paragraph of Page 5:

*Michelle Kenyon, representing the Town Attorney's Office, stated in response to the Council and Ms. Simpson's comments, that in her opinion the issue should not be sent to the Attorney General or the District Attorney.*

**PUBLIC COMMENTS OPENED**

There were no comments from the public.

**PUBLIC COMMENTS CLOSED**

**ACTION: It was M/S (Mendonca/Harpham) to approve the minutes of the August 25, 2010 Special and Regular meetings, as amended. Vote: 4-0-1. Metcalf absent.**

**VII. REPORTS**

**A. Mayor's and Councilmembers' Reports**

**Mayor Chew** - Reported that he had been invited to Holy Trinity Church's unveiling of Saint Nikolai on Sunday, September 19, and the event had been well attended.

**Vice Mayor Mendonca** - Reported that the MYIC would hold a meeting on Thursday, September 23. She also reported on her attendance during the League of California Cities Conference on September 16-17 in San Diego and reported on the voting results on a number of resolutions. A packet of information from the conference was provided to the Council for informational purposes.

**Councilmember Harpham** - Reported that he had attended a recent lecture presented by the Saint Mary's College Theology Department. The lecture had been well attended and educational.

**Councilmember Metcalf** – Not in attendance.

**Councilmember Trotter** - Reported that he had attended the Executive Committee meeting of the Contra Costa Mayors' Conference in early September with a number of decisions having been made on recommendations to be presented to the entire Mayors' Conference Board in the near future. He also reported on the untimely passing of Tim McInerney who had been appointed to the ADA Advisory Committee. Services had been held in Mr. McInerney's memory on September 16 and 17 and Councilmember Trotter thanked Town Staff for attending. He asked that the Town Council meeting be adjourned in memory of Tim McInerney.

- B. Town Manager Update – Mr. Segrest reported that he would be sending a letter to the East Bay Regional Communication System Authority advising of the Town's intention to purchase that equipment outright given the associated costs and financing. The Town Council would be asked at a future meeting to authorize a request to fund that equipment from the Traffic Safety Fund. He also reported that staff had completed the investigation of the rubberized cape seal project on Moraga Road with the preliminary report showing good bonding of the new surface. A more detailed analysis of the final coat and needed repairs remained pending. Staff continued to negotiate a solution with the contractor for the resurfacing of the top coat.

Mr. Segrest also provided the Council with a verbal status report on CCCTA issues from Al Dessayer who was unable to attend the meeting.

#### VIII. COMMUNICATIONS

There were no communications.

#### IX. ADOPTION OF MEETING AGENDA

##### PUBLIC COMMENTS OPENED

There were no comments from the public.

##### PUBLIC COMMENTS CLOSED

<b>ACTION: It was M/S (Trotter/Mendonca) to adopt the Meeting Agenda, as shown. Vote: 4-0-1. Metcalf absent.</b>
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#### X. PUBLIC COMMENTS AND SUGGESTIONS

Hollie Lucas-Alcalay, Moraga, reported that a group of residents had contacted the Town to advise of their opposition to the Dollar Tree store application for the Rheem Valley Shopping Center which had recently been approved by the Planning Commission. She stated that she had attended all of the Planning Commission meetings on the application and was disappointed that the Commission had approved the Dollar Tree store, which did not reflect the type of businesses desired in Moraga or as outlined in the Moraga General Plan. She questioned the absence of a Specific Plan for the Rheem Valley Shopping Center which could have been used by the Commission to prevent low-end retailers from entering the Town. She also expressed concern with Kimco Realty's management of the Rheem Valley Shopping Center, which in her opinion affected residents' property values. She further expressed concern with the lack of vision the Town had taken for sustainable businesses as opposed to the accomplishments experienced in the cities of Lafayette and Orinda.

Cavan McCarthy, Moraga, echoed the comments made by the previous speaker. While she understood that the demographics in the community had changed over the years, she had visited a Dollar Tree store located in the City of Pleasant Hill which she found to be a disaster. She expressed concern having a potentially sad, dilapidated, and filthy presence in the Town of Moraga. She referenced numerous items sold by Dollar Tree stores that were similarly sold by CVSpharmacy, but at a lower price per ounce. She too questioned the absence of a Specific Plan for the Rheem Valley Shopping Center which could have been used as a guideline for the Commission during its deliberations on the application. She asked that the Town Council consider agendaizing that issue for discussion at its next meeting.

Planning Director Lori Salamack reported that the permitted use application for the Dollar Tree store had been approved by the Planning Commission on September 20 and had been appealed by Dollar Tree on September 21.

Barbara Simpson, Moraga, spoke to free enterprise and capitalism and suggested that a business would not open a store in a community unless it would likely break even. In her opinion, the management of the Rheem Valley Shopping Center had driven out its existing tenants. She suggested that empty storefronts would drive down property values. If consumers did not like the prices of the Dollar Tree she stated they would not shop there. She asked that the store be allowed to open and if successful noted that it would remain. If not, there would be more empty storefronts.

Edy Schwartz, Moraga, President of the Moraga Chamber of Commerce, also spoke to the Planning Commission hearings on the Dollar Tree store application which she had attended. She recognized the public testimony either in support or opposition to the Dollar Tree. She was pleased that the community had been involved and spoke passionately one way or the other. She emphasized the need to educate the public on the rules and regulations of businesses which would be very important to allow the public to speak to those issues. She also referenced a recent survey in the community which had found the Rheem Valley Shopping Center to be the most important issue in the community. She urged the Town Council to work to educate the population on the planning process so that the best decisions could be made.

Lynn Davis, Moraga, also reported that she had attended all of the Planning Commission hearings on the Dollar Tree application. While recognizing that vacancies in the Rheem Valley Shopping Center impacted property values, based on her own research and in her opinion, Dollar Tree stores were a socially irresponsible retailer and would not give back to the community as a local business would. She spoke to numerous recalled items sold by the Dollar Tree and read into the record a number of those items she had researched on the Consumer Product Safety website. She reported that a number of residents planned to file an appeal of the Planning Commission's decision to approve the Dollar Tree application.

On the discussion, Ms. Salamack reiterated that the decision of the Planning Commission to approve the Dollar Tree store had been appealed to the Town Council by Dollar Tree. In the event that the appeal was withdrawn by Dollar Tree, once filed, it would start a new ten-day period for anyone to file an appeal. If that occurred, the normal public noticing requirements would be initiated and include anyone who had spoken to the item during the Planning Commission hearings, who would all be notified by mail. If the initial appeal prevailed, it would be a de novo hearing with the applicant having the burden of proof before the Town Council with no vested rights coming from the Planning Commission. As to the appeal fee, the Town Council had waived the fee for new businesses some time ago with no application fee paid for the application. In this case, the appeal would be processed at the Town's cost.

Dale Walwark, Moraga, again clarified with staff the appeal process and applicable appeal fees.

**IX. PUBLIC HEARINGS**

- A. Public Hearing and Adopt Resolution No. 75-2010 Accepting and Approving the State of California's Continuation of the Citizen's Option for Public Safety (COPS) Supplemental Law Enforcement Services Fund Under AB 3229 for Fiscal Year 2010-11**

Chief of Police Priebe presented the request for the Town Council to accept and approve the State of California's continuation of the Citizen's Option for Public Safety (COPS) Supplemental Law Enforcement Services Fund (SLESF) grant program. The projected funding allocation for the Town of Moraga for fiscal year 2010-2011 would be \$100,000 as in past years, but with the understanding that full funding was not guaranteed. He noted that the Police Department had experienced a reduction in personnel necessitating a reorganization of duties. He asked the Town Council to accept the \$100,000 to pay for a twelfth police officer position who could assume responsibilities at the first of the year. In the event the Town Council approved the request, and COPS funding was again available in the next fiscal year, he intended to again request that the Town Council use such funds towards that officer position. He clarified that any person hired as an officer for the position would be made aware that the position would be contingent upon COPS funding and in the event that funding was discontinued, the position may be terminated.

In response to the Council, Chief Priebe clarified that newly appointed Officer Mary Ann Grubb would not be funded under the subject request in that she was the eleventh officer through sworn positions. He stated that funding for a twelfth officer position would allow greater flexibility for the Moraga Police Department.

**PUBLIC COMMENTS OPENED**

There were no comments from the public.

**PUBLIC COMMENTS CLOSED**

**ACTION: It was M/S (Trotter/Mendonca) to adopt Resolution No. 75-2010, AB 3229 Citizen's Option for Public Safety (COPS) Program Funding for Fiscal Year 2010-2011. Vote: 4-0-1. Metcalf absent.**

**XII. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION**

- A. Adopt Resolution 76-2010 Authorizing the Execution of Town Manager Employment Agreement**

Town Manager Michael Segrest reported that a subcommittee of the Town Council had worked with Jill Keimach, who had been hired as the new Town Manager. He asked the Town Council to adopt the resolution, as shown. He also affirmed that a revised version of the employment agreement had been provided to the Town Council where a reference to an Employee Handbook on Page 4 of the agreement had been eliminated since an Employee Handbook had not been formally adopted by the Town Council.

**PUBLIC COMMENTS OPENED**

Jill Keimach stated that she looked forward to working with the Council, staff, and the community of Moraga with a focus on economic development, preservation of open space, and establishing neighborhoods. She thanked the Council for the opportunity.

PUBLIC COMMENTS CLOSED

**Councilmember Trotter** personally welcomed Ms. Keimach to the Town of Moraga. He looked forward to working with her. He also commended the work of the subcommittee and its work on the employee agreement with the Town Attorney.

**Councilmember Harpham** echoed the comments and looked forward to working with Ms. Keimach.

**Vice Mayor Mendonca** was confident Ms. Keimach would contribute to the Town. She thanked her for bringing her strengths and community development to the Town.

**ACTION: It was M/S (Trotter/Mendonca) to adopt Resolution No. 76-2010 Appointing Jill Keimach as Town Manager and Approving Employment Agreement, as revised. Vote: 4-0-1. Metcalf absent.**

- B. Adopt Resolution 77-2010 Authorizing the Town Manager To Award the Town of Moraga's Website Design Contract Following Interviews in an Amount not to Exceed \$10,000

Public Works Director/Town Engineer Jill Mercurio reported that a staff web design team consisting of the Parks and Recreation Director, the Town Clerk, and the Public Works Director had sent out Request for Proposals (RFP) to nine firms. Seven responses had been received. Happy Pixel Studio of Moraga had met the budgeting and scheduling requirements. Happy Pixel Studio had conducted web design work for the Town in the past. In order to expedite the process and since a supplemental interview would be held with Happy Pixel Studio in the next week, she asked the Town Council to approve a resolution authorizing the Town Manager to award the Town of Moraga's Website Design Contract following the interview in an amount not to exceed \$10,000.

In response to the Council, Ms. Mercurio explained that the RFP had been specific as to the website design desired by the Town. Happy Pixel Studio had been confident it could meet those requirements. She acknowledged that the budget was limited but she reiterated the confidence that great strides could be made on the website. As to the maintenance of the website, she advised that it would continue to be maintained by staff although there was no dedicated IT person or webmaster. Each Town department placed its own information on the department pages with updates conducted by each department internally.

PUBLIC COMMENTS OPENED

Edy Schwartz, Moraga, President of the Moraga Chamber of Commerce, described the Chamber website as user friendly. She expressed her hope that any designer chosen could be contacted in the event of any issues.

Ellen Beans, Moraga, understood that updating the Town's website had been one of the goal setting items for 2010. She was pleased that the Town Council and staff had been focusing its energy to attain those goals.

PUBLIC COMMENTS CLOSED

**ACTION: It was M/S (Mendonca/Trotter) to adopt Resolution No. 77-2010 Authorizing the Town Manager to Award a Professional Services Contract to Happy Pixel Studio of Moraga. Vote: 5-0.**

C. Authorize the Town Manager to Sign Listing Agreement for Lot 13, Devin Drive

Mr. Segrest explained that Lot 13, Devin Drive had been declared surplus property by the Town Council and had been identified as an opportunity for monetizing during discussions for financing in the acquisition of 331 Rheem Boulevard. The property had been offered to other public agencies as required by State law. No public agencies had responded to the offer of sale and the Town could now place the property for sale on the open market. He asked that the Town Council authorize the Town Manager to sign a listing agreement for Lot 13, Devin Drive.

PUBLIC COMMENTS OPENED

Edy Schwartz, Moraga, President of the Moraga Chamber of Commerce, clarified with staff the identification of the real estate broker involved in the listing agreement. She questioned whether a Moraga broker had been identified to conduct the same services.

Mr. Segrest stated that the broker chosen was experienced in the Lamorinda area and was a primary agent dealing specifically with lots and land.

Dale Walwark, Moraga, suggested that the property should have been sold when the Town had acquired 329 Rheem Boulevard. He expressed concern with the sale of the property at such a time when its value had decreased.

Mr. Segrest clarified that the listing agreement had included a price of \$375,000. In the event the property did not sell during the term of the listing agreement, the price could be revisited. As to whether a higher price could be imposed in the listing agreement, the Town Council could make that change, although the listing price was in excess of the appraised value of the property.

PUBLIC COMMENTS CLOSED

**ACTION: It was M/S (Metcalf/Mendonca) to Authorize the Town Manager to Sign Listing Agreement for Lot 13, Devin Drive. Vote: 5-0.**

D. Provide Direction to Staff Regarding Amendment to Town Council Procedures Regarding the Order of Agenda Items

Mr. Segrest commented that the Town Council had amended its procedures and the order of the Town Council agenda by resolution on June 9, 2010. During the last Town Council meeting, members of the Council had requested a review of the agenda order in regard to the timing for public comment. After considering the concerns, he recommended that *Public Comment* follow *Discussion Items* and be placed just before the *Consent Agenda*, which would allow members of the public to request the removal of Consent Items for discussion. He also recommended that the *Adoption of the Meeting Agenda* be moved to follow the approval of the *Consent Agenda* and prior to consideration of *Items Removed from the Consent Agenda*, which would allow the Town Council to evaluate any items removed from the Consent Agenda. Staff would return with an amended resolution for modification of the Town Council procedures based on the direction provided.

PUBLIC COMMENTS OPENED

Barbara Simpson, Moraga, questioned the type of topics that would be discussed under *Discussion Items*. She questioned whether public comment would be permitted during that agenda item.

Mr. Segrest explained that any *Discussion Item* would include a staff report and information on the item. Public comment would be permitted although it would not be an action item.

Michelle Kenyon, Town Attorney's Office, clarified that *Discussion Items* would involve no action on the part of the Council and would not involve a formal resolution of approval. Differentiation must be made for those items that required action or formal action by the Council on Town Council agendas.

Ellen Beans, Moraga, suggested that *Discussion Items* be placed earlier on the meeting agenda to allow the public the opportunity to provide input. She suggested that placing the item later on the meeting agenda would be problematic since many people may have left the meeting by the time the Council reached that item for discussion.

Edy Schwartz, Moraga, clarified with staff that *Public Comment* would remain near the beginning of the meeting agenda.

#### PUBLIC COMMENTS CLOSED

The Town Council discussed the Town Council Procedures Regarding the Order of Agenda Items and made the following comments and/or recommendations:

- *Discussion Items* to be moved after *Reports and Communications*, to be moved before *Adjournment*;
- *Public Comments and Suggestions* to be moved after *Proclamations and Presentations*; and
- *Adoption of Meeting Agenda* to be moved after *Adoption of Consent Agenda*.

**ACTION: It was M/S (Trotter/Mendonca) to provide direction to staff to revise the Town Council Procedures Regarding the Order of Agenda Items, as discussed. Vote: 5-0.**

- E. Provide Direction to Staff for Subdivision at Rheem Boulevard and St. Mary's Road

Mr. Segrest explained that during the discussion for financing the purchase of 331 Rheem Boulevard for the Town's Corporation Yard, the Town Council had directed staff to pursue the proposed subdivision as a means to defray a portion of the cost to acquire 331 Rheem Boulevard. The potential subdivision of the property had been analyzed and the subdivision of two lots had been pursued. A schematic was presented to the Town Council for review. He noted that during the pursuit of the two lots, it had become clear that it would be a challenge to fit two lots on the site and there may be some improvement costs for the drive to the back lot, utility extension, and possibly an emergency vehicle access to the back lot. A two-lot subdivision would also make the lots close to the trail and could impact views from the trail.

Mr. Segrest advised that staff had also consulted with a local real estate professional on the feasibility of one developable lot as opposed to two lots and the potential marketability and benefit to the Town. The net for two lots versus one lot was basically the same. In his opinion, a one-lot subdivision would be better suited to the constraints of the lot and would be more compatible with the adjacent uses with less impact to the trail. He asked the Town Council to provide direction as to whether a one- or two-lot subdivision should be pursued.

In response to the Council, Mr. Segrest acknowledged that correspondence had been received from Dave Bruzzone. He suggested that the site was not suitable in terms of size for the types of uses Mr. Bruzzone had proposed, such as a community center. He clarified the issue of the Town's development impact fees if the property were removed from the Town's inventory and

Moraga Open Space Ordinance (MOSO) regulations. Also restrictions could be imposed on the land in terms of potential development. At this time, he advised that the Town Council was only being asked to provide input as the landowner, to either submit a one- or two-lot subdivision.

In terms of the planning standpoint, Mr. Segrest suggested that if a private landowner desired to use the property he would likely push for one lot as opposed to two lots. He did not see a significant differential between one or two lots. He noted that the real estate professional staff had consulted had advised that it would be more difficult to market the property as one lot. He acknowledged that a deed restriction could be placed on the size of a potential home on the property, however if too onerous, could impact the value of the lot. The property had not been offered to public agencies since there was no subdivision to offer at this time.

#### PUBLIC COMMENTS OPENED

Barbara Simpson, Moraga, Chair of the Traffic Safety Advisory Committee (TSAC), reported there had been discussions regarding the corner of Rheem Boulevard and St. Mary's Road for a possible roundabout and change in the road configuration in the future. She asked the Town Council consider any changes to the street which may affect the subject property.

Ron Carter, Dirt Brokers, Inc., Walnut Creek, explained that in 2009 he had first viewed the property and at that time his recommendation had been for two lots for the reasons discussed. He noted that 2008 and 2009 had not been good for selling vacant lots. In 2010, no vacant lots had been sold in Moraga. He commented that potential property owners had not been interested in building higher-end market homes and were of the opinion that while values had adjusted they did not like the existing inventory. Sales in the \$800,000 to million dollar range had been located in the City of Lafayette. He commented that the lots he had sold in 2010 were located on flat parcels and that it was more expensive to build on slopes. He suggested that the subject lot could accommodate a horse property or an orchard, if permitted under MOSO.

Mr. Carter agreed that two lots would be better than one, although it depended upon the market. He did not see that the real estate market would be much different in 2011. In response to comments from the Council, he acknowledged that additional engineering may be required by the Town. He suggested that constraints on developing the property included the trail, oak trees, and Parcel 2 where a flat pad may not be feasible, and that a single parcel positioned closer to the oak trees while using the flat area would allow Parcel 2 to be used for an outbuilding or small corral. All of those issues would have to be reviewed further and may impact the value of the property. He acknowledged that road noise and the trail could also be issues for prospective buyers.

#### PUBLIC COMMENTS CLOSED

The Town Council provided direction to staff for the subdivision at Rheem Boulevard and St. Mary's Road and made the following comments and/or recommendations:

- **Councilmember Trotter** - Suggested that a two-lot subdivision made more sense for the Town. He reported that he had spoken with a local spec home builder who was of the opinion he would pay more for two lots than one given the current market where the size of homes desired was not estate-sized homes which cost more to build and were more difficult to sell, but homes in the range of 3,000 to 3,500 square feet which would easily fit on the two lots consistent with MOSO and Floor Area Ratio (FAR) requirements. With the flexibility to build two homes rather than one, the price may be more in the range of \$800,000 which was better for the Town. He recommended that staff pursue a two-lot subdivision which would not rule out a future property owner requesting a merger of the lots into one if so desired and which

would help the Town pay down its debt for 331 Rheem Boulevard. He also suggested that the preliminary plan had been over engineered in that an emergency vehicle access (EVA) may not be necessary, which would make Parcel 2 more accessible. He expressed the willingness to contact the spec home builder he had spoken with to extend an invitation to speak to the Town Council.

- **Councilmember Harpham** - Pointed out that the local real estate professional staff had consulted on the property had a difference of opinion as to the value of the property as opposed to the spec home builder Councilmember Trotter had spoken to, which opinion had been stated in writing. He sought an opinion in writing from the spec home builder and would not be opposed to a delay on taking action on the item to obtain that information. He suggested that more information would be helpful in making a decision. He asked that the Planning Director and person(s) knowledgeable of the issue be present at the time a decision was made by the Town Council.
- **Councilmember Metcalf** – While acknowledging the advice from staff, suggested that Councilmember's Trotter's comments should be taken into consideration. He did not see that there was a time constraint on the item. He agreed that the Town should maximize the value of its surplus properties. He suggested that the Planning Commission should confer as to whether or not two lots were feasible on the merits. If not, one lot only could be considered which may be more publicly acceptable. He suggested that it would be irresponsible for the Town not to make the effort to get as much as possible for the property consistent with the Town's rules. If a two-lot configuration was feasible, consistent with the Town's rules, and marketable, that should be pursued. If two lots were infeasible, he asked staff to convince the Town Council of that infeasibility.
- **Vice Mayor Mendonca** - Recognized that Moraga residents preferred open space and trails. She understood that the Town, as the landowner, may impose restrictions on the property. She supported the imposition of restrictions in the event of the development of one home in order to maximize the semi-rural environment and trail space while also minimizing the impacts of one large home. She sought further information to address how two homes on the lot would be in keeping with what the Town would encourage a private property owner to build on this same property.
- **Mayor Chew** - Agreed that the Town should not eliminate the possibility for a two-lot subdivision. He pointed out that the Planning Commission and the Design Review Board would be involved in the process in terms of potential designs for either a one- or two-lot subdivision and as a result, he was not sure that deed restrictions needed to be imposed.

Mr. Segrest acknowledged the direction from the Town Council. He suggested it was likely the issue would return to the Town Council after the first of the year.

### **XIII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS**

The Town Council requested that the item just discussed be returned to the Town Council sometime in January 2011.

### **XIV. ADJOURNMENT**

**ACTION: It was M/S (Trotter/Mendonca) to adjourn the meeting *In Honor and In Memory of Tim McInerney* at 9:58 P.M. Vote: 5-0.**

Respectfully submitted by:

  
Marty C. McInturf, Town Clerk

Approved by the Town Council:

  
Ken Chew, Mayor