

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**March 9, 2011
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 7:01 P.M. by **Mayor Karen Mendonca**.

ROLL CALL

Councilmembers present: Mayor Karen Mendonca, Vice Mayor Michael Metcalf and Councilmembers Ken Chew*, Howard Harpham, and Dave Trotter*
*(Ken Chew arrived at 7:04 P.M. and Dave Trotter arrived at 8:22 P.M.)

Councilmembers absent: None

II. PLEDGE OF ALLEGIANCE

Vice Mayor Metcalf led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

There were no special announcements.

IV. PROCLAMATIONS AND PRESENTATIONS

There were no proclamations and presentations.

V. PUBLIC COMMENTS AND SUGGESTIONS

Kathy Macchi, Moraga, expressed concern with the imminent opening of the Dollar Tree store and questioned how the conditions of approval attached to the permits for the business would be monitored and the ramifications in the event the conditions were not met. She sought the adoption of a Specific Plan for the Rheem Valley Shopping Center that would establish a meaningful retail code reflecting the values and vision of the Town.

Margaret DePriester, Moraga, asked the Town Council to consider the month of March as Moraga Women's History Month, which was celebrated worldwide. She described the background of Women's History and the number of women's organizations that were involved.

Holly Lucas-Alcalay, Moraga, advised that she had requested that the Planning Commission review the language for permitted versus conditional use permits which remained a concern in light of the approval of the Dollar Tree store. She expressed her hope that such an evaluation

would also be considered as part of the adoption of a Specific Plan for the Rheem Valley Shopping Center.

VI. ADOPTION OF THE CONSENT AGENDA

A. Approval of the Consent Items

Consent Agenda Items 5, 6, and 8 were removed from the Consent Agenda.

Town Manager Jill Keimach advised that a new attachment had been made available to the public for Consent Agenda Item 6.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Harpham) to approve Consent Agenda Items 1, 2, 3, 4, 7, and 9. Vote: 4-0-1. Absent: Trotter.

- | | |
|--|----------------|
| 1) Accounts Payable Claims for 2/25/2011 (\$66,210.32) | Approved |
| 2) Approve Minutes from the Town Council Goal Setting Workshop February 9, 2011 | Approved |
| 3) Approve Minutes for Town Council Special Tri-City Joint Meeting February 10, 2011 | Approved |
| 4) Approve Minutes for Town Council Special Interview Meeting February 16, 2011 | Approved |
| 5) <i>Consideration and Approval of "Community Event Signs" for the Community Faire</i> | <i>Removed</i> |
| 6) <i>Adopt Resolution 7-2011, Requesting Technical Assistance for the FY 2010/11 Annual Report for Assessment District 1979-1, Town of Moraga Street Lighting District</i> | <i>Removed</i> |
| 7) Adopt Resolution 5-2011, Establishing an Equivalent Runoff Unit (ERU) Rate for FY 2011/12 as the Annual Assessment for Drainage Maintenance and the National Pollutant Discharge Elimination System (NPDES) Program | Approved |
| 8) <i>Authorize the Town Manager to Enter into Settlement Agreement Between the Town, Preserve Lamorinda Open Space and Rancho Laguna LLC</i> | <i>Removed</i> |
| 9) Authorize Town Manager to Sign Assignment of and Second Amendment to Ground Lease for Mulberry Tree Preschool between Maryann and William McLeod, and Susan E. Allison, and the Town of Moraga | Approved |

VII. ADOPTION OF MEETING AGENDA

A. Consideration of Consent Items Removed for Discussion

Consent Agenda Items 5, 6, and 8 were moved to Item XI. Ordinances, Resolutions and Requests for Action, to be renumbered as Items B, C, and D.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Chew/Metcalf) to adopt the Meeting Agenda, as modified. Vote: 4-0-1. Absent: Trotter.

VIII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Mendonca - Reported that she had served as the Keynote Speaker for the Second Annual Wo/men's Conference and had also participated on a panel at Saint Mary's College; and she would also be representing the Town and offering a Keynote Speech to welcome 40 Fulbright Scholars to Saint Mary's College.

Vice Mayor Metcalf - Reported that the Revenue Enhancement Community Outreach to Neighborhoods (RECON) had met on March 1 with the Consultant Team for the infrastructure program; another meeting had been scheduled for March 10 to discuss the draft survey questions; and a field trip to the City of El Cerrito had been scheduled for March 11 to see what that community had done with its Pavement Management Program. Councilmember Metcalf further reported that SWAT had recently met to consider the Bicycle Pedestrian Strategic Plan and the Safe Routes to School Program as part of Measure J.

Councilmember Harpham - Reported that he had attended a dinner hosted by Assemblywoman Nancy Skinner to honor the Woman of the Year, and that Edy Schwartz had been selected and celebrated as the Woman of the Year from Moraga.

Councilmember Chew – No Report.

Councilmember Trotter - Absent.

- B. Town Manager Update** – Town Manager Keimach reported that there were two Commission vacancies that the Town would be recruiting in the next two weeks for the Audit and Finance Committee and the Traffic and Safety Advisory Committee (TSAC).

IX. DISCUSSION ITEMS

There were no discussion items.

X. PUBLIC HEARINGS

A. Public Hearing and Consideration of Statement of Expenses Associated with Abating the Nuisance and Protests or Objections Raised by the Property Owner or Designated Representative in Consideration of the Property Located at 316 Calle la Montana (APN 255-602-001) per MMC §7.16.100

Kelly Clancy, Administrative Assistant to the Planning Director, presented the staff report for the public hearing and consideration of Statement of Expenses associated with abating the nuisance and protests or objections that may be raised by the property owner or designated representative in consideration of property located at 316 Calle la Montana. She advised that the property owner would be given five days until March 14, 2011 to pay the Town of Moraga \$10,869.29, the cost incurred by the Town to abate the nuisance. If the abatement costs were not paid to the Town, a special assessment would be filed against the property and a Notice of Special Assessment filed with Contra Costa County, the final step in the nuisance abatement process. She recommended that the Town Council confirm the statement of expenses for the property located at 316 Calle la Montana giving the property owner five days to reimburse the Town or the unpaid costs shall become a special assessment against the property.

Ben Winig, Assistant Town Attorney, reported that the property owner and his attorney had been made fully aware of the public hearing via notices from the Town. He stated it was within the Council's discretion to extend the period to abate the nuisance. This was the final step in the nuisance abatement process and if the reimbursement was not paid, the special assessment would be filed against the property becoming a debt on the property tax rolls owed by the property owner. He understood that the property owner had a history of not paying his property taxes as reflected in the staff report. While the Town Council was within its authority to initiate debt collection legal action, he did not recommend such action given the slim chance of reimbursement. He recommended that the Town Council wait until the property was sold.

Ms. Clancy affirmed that she had spoken with the property owner who resided in Kuwait, and she did not require that the public notices be translated. She reported that the Public Works Department had visited the property every two weeks to ensure that the property was being maintained and not being vandalized. The costs incurred by the Town included not only the cost of abatement, but the staff time to secure the property.

Mr. Winig explained that the Town may reinstate the nuisance abatement proceedings if the property continued to be a nuisance where more drastic action may be warranted. He advised that the Statement of Expenses had not included attorneys' fees in the nuisance abatement proceedings since that was not currently allowed under the Moraga Municipal Code (MMC). The MMC could be modified to allow that expense to be reimbursed in the future. He affirmed that the action proposed would be filed as a lien against the property if the costs to the Town were not reimbursed within five days.

Ms. Keimach noted that staff would continue to monitor the property and, if it continued to be a code enforcement issue, it would be brought to the attention of the Town Council. An amendment to add attorneys' fees to the MMC would be considered during a future Council meeting.

PUBLIC COMMENTS OPENED

Barbara Simpson, Moraga, expressed concern that ongoing monitoring of the property by staff would be costly to the Town. She suggested that a fine in addition to the nuisance abatement reimbursement costs be imposed. She expressed concern that the property owner continued to avoid abatement at little cost.

Mr. Winig explained that the Town's responsibility was to abate the nuisance, which had been done. He recognized that such situations were difficult code enforcement issues faced by cities given the difficulty in recouping the monies for expenses incurred. He added that the County would have to determine when to take further action in terms of unpaid property taxes.

PUBLIC COMMENTS CLOSED

The Town Council discussed the Statement of Expenses for the nuisance abatement for the property at 316 Calle la Montana and directed staff to examine what was legally within the Town's purview to collect its expenses and a possible fine, up to and including, the foreclosure of the property. The Council further directed staff to return within six months with proposed language which would allow attorneys' fees to be collected.

ACTION: It was M/S (Metcalf/Harpham) to Adopt Resolution 6-2011, Consideration of Statement of Expenses Associated with Abating the Nuisance at 316 Calle la Montana, APN 255-602-001, and Protests or Objections Raised by the Property Owner or designated representative, as discussed. Vote: 4-0-1. Absent: Trotter.

B. Public Hearing, First Reading and Introduction of an Ordinance Adopting by Reference Title 24: 2010 California Building Code, Part 11, Known as CalGreen

Richard Chamberlain, Senior Planner, reported that the California Building Standards Commission (CBSC) had adopted new mandatory green building standards known as CalGreen in order to develop minimum regulations for green building that would be more uniform statewide. CalGreen had become effective on January 1, 2011 and the County Board of Supervisors had adopted CalGreen on February 15, 2011. The County had made no changes to the standards of regulations. The County currently issued permits for construction in Moraga under CalGreen, which currently applied to low-rise residential (three stories or less), non-residential and commercial, public elementary and secondary schools, community colleges, and hospitals. The next adoption cycle in 2012 was expected to include additions, remodels, and high-rise residential. CalGreen included new standards in five categories for both residential and non-residential commercial, as outlined in detail in the March 9, 2011 staff report.

Mr. Chamberlain recommended that the Town Council waive the first reading and introduce the ordinance, adopting by reference Title 24, Part 11, the CalGreen Building Standards Code. He also recommended the inclusion of a definition of new construction to require compliance with CalGreen when additions or rebuilding of any existing structure exceeded 50 percent of the original structure. If the Council decided to mandate higher green standards under Tier 1 or Tier 2, or to make compliance with the Build It Green (BIG) program mandatory, the draft ordinance would need to be amended and findings required by Health and Safety Code Section 18941.5 would need to be appended to the ordinance. If changes were made to the ordinance after the first reading, a second first reading must be held prior to adoption.

In response to the Council, Mr. Chamberlain advised that Attachment A included the same CalGreen requirements that had been adopted by the County Board of Supervisors with the exception of the definition of new construction. He reiterated that the next adoption cycle in 2012 was expected to include additions, remodels, and high-rise residential. The 50 percent requirement was intended to measure the floor area ratio (FAR) in terms of the enclosed space. He stated that the ordinance had not been presented to the Planning Commission for review.

Ms. Keimach stated that the ordinance could be amended to reflect that the 50 percent compliance related to the square footage. Mr. Winig explained that such a clarification could be adopted as part of the first reading if that was the only change to the ordinance.

Mr. Chamberlain clarified that the guidelines were intended to be voluntary and not mandatory. He outlined in detail the alternatives the Town may consider as reflected in the March 9, 2011 staff report, and noted that BIG and Leadership in Energy and Environmental Design (LEED) programs would always be a step ahead of the CalGreen program and there would always be a higher standard in place.

Ms. Keimach added that based on input from residential developers, the market was ahead of government and there was a market for low energy cost-effective homes. She noted that the voluntary methods were working, referencing the Moraga Barn as an example. The intent was that the regulations would ensure that the building code process would become more efficient. The next building code would likely include 15 percent more efficiencies and energy efficiency.

PUBLIC COMMENTS OPENED

Barbara Simpson, Moraga, questioned how there would be a 20 percent water use reduction as part of the CalGreen program since that component had not been outlined in the regulations. She opposed changing the definition of new construction now since it could be mandatory in the future. She added that the economy was so poor that people would be very cautious about any remodel or rebuild. She preferred to see the Town wait for the implementation of higher standards and encourage a developer to impose the higher standards but not require them by law at this time. In response to the requirement for electronic manuals, she would rather see that information be recorded on paper given the constant change in technology and questioned, given the Town's limited staff, who would monitor the requirement for electronic manuals.

Clay Serrahn, Moraga, commented that many building codes would address the effects of incremental alterations by setting the effective date. The only concern was whether or not the CalGreen requirements would apply at the 50 percent threshold or start at the increment. As to the requirement for electronic manuals, he suggested that a staff person could achieve LEED certification which would assist in that regard.

Mr. Winig explained, when asked, that the policy statement of encouraging should not appear in the MMC since that was not appropriate statutory language. The 50 percent requirement was ambiguous and should be corrected with the insertion of a square footage component since it was a calculable number. With those changes, he recommended that the CalGreen Standards be adopted as the State had mandated with staff directed to return with more specific statutory amendments for Council consideration.

Ms. Keimach clarified that the CalGreen Building Code was the Uniform Building Code (UBC) that the Town Council adopted approximately every three years. Additional policy questions could be added to the code, with the code sent to the Planning Commission for additional requirements if the Council so chose. The operations manual requirement was already in effect. She reiterated that the County conducted the Town's permit review and plan check and had previously adopted the CalGreen code. Essentially, by adopting the CalGreen program the Town Council would be meeting the agreement with the County. She added that Sections 4 and 5, as shown in Attachment F, were already being done by the Town in a discretionary way.

Mr. Winig reiterated that the resolution before the Council was the same as the resolution adopted by the County other than the name change to CalGreen, the definition of new construction, the electronic format, and the alternatives as listed in the staff report, and that State law was already in effect as of January 1, 2011. He acknowledged that the Town Council could not adopt what the County had adopted and that it would not cause a problem other than through administrative, enforcement, and regulatory issues. He stated that policy direction could be provided verbally to the Planning Commission. He recommended that the Town

Council adopt the baseline policy code and refer to the other issues that had been raised. He did not recommend that the policy statements be included in the MMC.

PUBLIC COMMENTS CLOSED

The Town Council discussed the public hearing item, as identified, and provided the following recommendations and direction to staff:

Vice Mayor Metcalf - Liked the decision that the Town Council had made years ago to make the BIG program a recommendation as opposed to a mandate; expressed concern with the 50 percent requirement in the CalGreen program which had not been defined and which could cause more disputes; stated that the requirement for electronic operations manuals was also a concern and may become obsolete over time; and stated that the manuals would have to be maintained which had not been mandated in the CalGreen program. He sought input from the Planning Commission and the Design Review Board (DRB) as to how to administer the code. He did not support the language revision later recommended by Councilmember Trotter for paragraph 3 of Attachment F.

Councilmember Harpham - Suggested that the definition of "new construction" was flawed and should be made more specific and understandable; did not oppose the requirement for electronic operations manuals given that such formats would likely be required for any operational data system; questioned the State "encouraging" people to do things that were essentially voluntary; and suggested that if the Town did not have expertise regarding the requirement for third party verification as part of the BIG program, it could lose control over a significant part of what government did, which was not a good idea. He recommended that the Town Council introduce the ordinance, as shown in Attachment F, striking the last sentence of the first paragraph under Section 1, striking paragraphs 1 and 2, striking the HOWEVER clause of paragraph 3, and striking paragraphs 4 and 5. Paragraphs 2, 3, 4, and 5 could then be reviewed by the Design Review Board and the Planning Commission. He offered a motion to that effect.

Councilmember Chew - Clarified with staff the intent of paragraph 5 as shown on Page 2 of Attachment F; was not opposed to the ordinance as written; did not object to a Planning Commission review of the document.

Councilmember Trotter - Commented that the Council had imposed enhanced building conditions on the Palos Colorados development; was not opposed to such conditions on a major subdivision although he was not certain that should be imposed on an individual homeowner; stated that paragraph 3 of Attachment F could be clarified whereby the encouragement of BIG standards would apply to major subdivisions and other major projects as opposed to just developers; did not suggest that such language changes be submitted to the DRB or the Planning Commission; agreed that paragraph 1 of Attachment F should be removed for better clarification. **Councilmember Chew** concurred with Councilmember Trotter. **Councilmember Trotter** was not opposed to the inclusion of paragraphs 2, 4, and 5 with some modifications. He recommended that paragraph 3 be amended, as follows:

- 3) *The Tier 1 and Tier 2 residential voluntary measures listed in Appendix A4 and the non-residential voluntary measures listed in Appendix A5 shall not be mandatory in Moraga; however, the Town will encourage builders to meet the Build-It-Green (BIG) program standards as provided for under the Town's Design Guidelines and the Town will require project developers of subdivisions and other major projects to achieve LEED or BIG point totals as specified in the conditions of approval for their projects.*

Mayor Mendonca - Supported the staff report and the staff recommendation; agreed that the issue of 50 percent could be better clarified in paragraph 1 of Attachment F; did not oppose the

inclusion of paragraph 2 or a revision to the language in paragraph 3; was not opposed to the inclusion of paragraphs 4 and 5 given that they were standards already imposed by the Town; and was not certain that additional input was needed by the Planning Commission. She asked the Council to formally adopt at least the basic code to ensure compliance with what was already being used.

Mr. Winig commented that there was nothing legally preventing the Council from making changes to the document as the Council had discussed. In his opinion, he would have added a variety of WHEREAS clauses to state the Council's policies and thoughts and adopt specific statutory language under the findings in Section 1 in order to address specific requirements or direction that could be interpreted from a legal perspective unambiguously. He added that specific amendments on the record could be made, the ordinance could be adopted and the first reading could be waived. He affirmed that he personally had not had the opportunity to review the ordinance.

Ms. Keimach explained that if Tier 1 and Tier 2 were not mandatory, specific findings did not need to be made.

On the discussion, there was concern that legal staff had not had the opportunity to review the ordinance. Based on the discussion and on the fact that the Council was not in agreement, there was a recommendation that staff revisit the ordinance based on the discussion, with the ordinance to be brought back to the Council in April or May.

ACTION: It was M/S (Harpham/Metcalf) to introduce an Ordinance Adopting by Reference Title 24: 2010 California Building Standards Code, Part 11, known as CalGreen as identified in Attachment F, striking the last sentence of the first paragraph under Section 1, striking paragraphs 1 and 2, striking the HOWEVER clause in paragraph 3, and striking paragraphs 4 and 5 where the Town would then be in compliance with the State. Paragraphs 2, 3, 4, and 5 are to be reviewed by the Design Review Board and the Planning Commission. Vote: 2-3 (Ayes: Harpham, Metcalf; Noes: Chew, Trotter, Mendonca). The motion FAILED.

Councilmember Trotter offered a motion to adopt by Reference Title 24: 2010 California Building Standards Code, Part 11, known as CalGreen, to be referred consistent with the direction of Council back to staff for revision with a return to the Council with appropriate revisions along the lines of providing optional and additional regulations for paragraphs 2 through 5 for a future first reading. There was no second to the motion.

Ms. Keimach understood that the Council would like to adopt the CalGreen ordinance, was unclear with the first alternative, that the second alternative must be clarified and that alternatives 3, 4, and 5 were policy statements and not regulations. She noted that the Council may make a motion to adopt the CalGreen standards encouraging major projects and subdivisions using Tier I or Tier 2, which was not mandatory. She sought Council direction on the first alternative.

Councilmember Trotter restated his motion.

Mr. Winig noted that under State law, new construction was 100 percent new building. During the discussion, he suggested that staff return with a new ordinance, with clear options for the Council to consider for action.

Mayor Mendonca reopened the public comment period.

Edy Schwartz, Moraga, commented that when the meeting agenda had been approved public comment had not been permitted. Given the number of volunteers present to address Agenda Item XI. A, she asked that the item be addressed by the Council at this time.

The Town Council agenda was modified at this time to allow the Council to commence with Item XI. Ordinances, Resolutions and Requests for Action, Item A.

ACTION: It was M/S (Metcalf/Chew) to modify the meeting agenda with the Town Council to address Item XI. Ordinances, Resolutions and Requests for Action, Item A. Vote 5-0.

XI. ORDINANCES, RESOLUTIONS AND REQUEST FOR ACTION

- A. Update and Discussion of Economic Development Team Goals, Activities, and Outcomes for 2011 and Consideration and Approval of a Charter for the Creation of an Economic Development Action Committee**

Reneé Zeimer introduced the Moraga Economic Development Team and updated the Town Council on the Economic Development Team Goals, Activities, and Outcomes for 2011. She explained that the Team was an outgrowth of the Revenue Enhancement Committee (REC), which had focused on three major areas of financial concern including the General Fund, infrastructure replacement needs, and economic development. The position of an Economic Development Director had been identified as a goal of the REC and the Team had later been formed to serve that function on a voluntary basis. The Team was constituted by the Town Council in October 2010 to encourage shopping in Moraga, to assist in the retention of existing businesses and attract new businesses, and to promote the overall economic health of the community. Since that time, the Team had been guided by extensive research and recommendations prepared by the REC, which had been better defined during the January 8, 2011 Town Council Goal Setting Session.

The Economic Development Team had been charged with two goals for 2011 including the creation of a Town-wide commercial ordinance that would streamline community-supported retail, office, and other commercial businesses through the creation of a community survey and outreach. The Town Council would be asked to assist in those efforts through the creation of a charter for an Economic Development Action Committee. The other goal was for the Economic Development Team to assist in the revitalization of the Rheem Valley Shopping Center and adjacent commercial areas with the Economic Development Action Committee envisioned to assist in that area by attracting new businesses to the center and by creating strategies for the shopping center's revitalization.

Mary Coe identified the results of two community surveys that had been conducted. One of the surveys had been conducted from January 8 to February 28, 2011 with 449 respondents; the age, demographics, questions asked in the survey, and the responses received were identified. A second survey had been conducted for a one-week period with a total of 89 Saint Mary's College students.

Matt LaBel described the Saint Mary's College Moraga Initiative project (Moraga Deals), which had been launched on February 6, 2011, and which had found a disconnect between Saint Mary's College students and Moraga businesses. The goal of the Initiative was to create targeted, effective, and affordable business promotions for Moraga businesses to reach out to Saint Mary's College students through the use of targeted incentives and discounts to keep students in the area. The project had been posted on Facebook and other social media and involved the participation of over 20 Moraga Chamber of Commerce businesses. He identified the feedback from the social media, the preparation of a professionally designed webpage providing information on the shopping centers and businesses in the Town, and described a

pilot program which cost \$40 for a two-month trial period and which would end on April 3. He explained the fee program once the pilot program ended and further explained that the effort had been produced through student volunteers to encourage patronage of Moraga businesses.

Rich Larsen spoke to the Economic Development Team's outreach efforts and reported that the Team intended to prepare a survey and meet face-to-face with all retail establishments in Moraga and most of the office users to learn more about everyone's needs; the Team had already prepared survey questions and would be posting those questions with the major focus of helping existing businesses and bringing new businesses to Moraga; the Team would be meeting with two stakeholder groups who already owned property in Moraga and landowners of vacant land that had the potential to be developed into retail or office uses; and would engage business development partners comprised of retail and commercial brokers along with the Chamber of Commerce to motivate the local community to assist in business development ideas. He identified the major focus and vision for the Rheem Valley Shopping Center and Rheem area. He added that the Team would continue to partner with Saint Mary's College.

Ms. Zeimer identified the next steps in the process including the creation of a new Economic Development Action Committee and an implementation group to help begin the work on the implementation steps. A survey would be distributed to property owners/tenants and brokers with an examination of successful retail/commercial ordinances, and a community wide visioning meeting would be held potentially at the Rheem Valley Shopping Center, to be hosted by Kimco Realty. The Team would work with property owners to improve the Rheem Valley Shopping Center visually and financially and assist with the efforts to market Moraga in a variety of ways and help Saint Mary's College students market the Moraga Deals program.

The Town Council thanked and commended the Economic Development Team for its presentation, its hard work, and its continued efforts for the Town of Moraga.

Mr. Larsen clarified that although the focus of the Team had been on the Rheem Valley Shopping Center, the Moraga Center Specific Plan (MCSP) had not been discounted. The Team would assist in all projects envisioned for the Town. He affirmed that the property owners of the Moraga Center would be invited to attend the Team's visioning meetings.

Ms. Zeimer also clarified the working relationship between the Team and the Moraga Chamber of Commerce. She emphasized that the Team would like the Council to be involved as much as possible and assist in the recruitment of an advisory implementation group.

PUBLIC COMMENTS OPENED

Fred Schroeder, Moraga, commented that he was a member of the REC. He commended the hard work of the well qualified Economic Development Team including its efforts to connect with Saint Mary's College. He reiterated the support of the REC in those efforts.

Barbara Simpson, Moraga, stated she liked the idea and the composition of the proposed Economic Development Action Committee, although she would like to see more members-at-large be considered. She looked forward to the visioning meetings that had been planned. She sought greater efforts to ensure that Moraga residents shopped in Moraga.

Edy Schwartz, President of the Moraga Chamber of Commerce, thanked the members of the Economic Development Team, members of the Town Council, and the REC for the changes that had occurred in the community. She noted that she spoke with Economic Development Team members weekly and acknowledged the efforts to better market Moraga businesses. She reported that the March 25 Chamber meeting would include a presentation from the Economic Development Team. She saw Saint Mary's College's efforts to encourage its students to

patronize local businesses through the social media as a process to change a mindset that had been ingrained for some time.

Bruce Burrows, The Burrows Co., Orinda, commented that he was a member of the Orinda Downtown Revitalization Report. He described his background in retail development, complimented the efforts of the Economic Development Team, and spoke to the Town's two commercial shopping centers, which were older and built at a time when the demographics in Moraga were much different. He emphasized the need to engage retail brokers to fill the centers and to also look beyond the Town of Moraga. He encouraged the Economic Development Team to not only meet with Kimco Realty but with experienced retail brokers and the owners of the other retail centers in the Town.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Chew/Trotter) to continue the Town Council meeting to 11:00 P.M. Vote: 5-0.

The Town Council discussed the presentation from the Economic Development Team and considered the approval of a Charter for the Creation of an Economic Development Action Committee, offering the following comments and/or recommendations:

- The Economic Development Action Committee would be an Ad Hoc Committee with the selection of the individual members left to the committee itself; and
- Councilmembers Harpham and Chew were selected by the Economic Development Team to serve as the two Councilmembers on the Economic Development Action Committee.

The following revisions were made to Exhibit B, Moraga Economic Development Action Committee;

Page 1, Number of Members: Revise to read "Up to 13";
Page 1, Property Owner: Revise to read "Up to 2"; and
Page 1, Member-at-large; Revise to read "Up to 4".

ACTION: It was M/S (Trotter/Chew) to approve a Charter for the Creation of an Economic Development Action Committee, with the modifications as shown. Vote: 5-0.

The Town Council returned to Agenda Item X. Public Hearings, at this time.

- C. Public Hearing, Second Reading and Adoption of Ordinance 231 Amending Chapter 3.04 Purchasing System and Chapter 3.06 Uniform Construction Cost Accounting Act Procedures of the Town of Moraga Municipal Code

Emily Boyd, Interim Administrative Services Director, reported that the Town Council had reviewed the amendments to the purchase ordinance on January 12, 2011, and had provided direction to staff. Staff returned to the Town Council on January 26 for the first reading of the ordinance after implementing the Council's direction. The Council was now being asked to consider the second reading. Staff recommended adoption by a roll call vote.

PUBLIC HEARING OPENED

There were no comments from the public.

PUBLIC HEARING CLOSED

ACTION: It was M/S (Chew/Harpham) to adopt Ordinance 231, Amending by deletion and replacement, Chapter 3.04 Purchasing System and Chapter 3.06 Uniform Construction Cost Accounting Act Procedures of the Town of Moraga Municipal Code. Roll Call Vote: 5-0.

The Town Council returned to Item XI. Ordinances, Resolutions and Requests for Action.

B. Consideration and Approval of "Community Event Signs" for the Community Faire

Town Councilmembers Metcalf and Trotter recommended that the item be considered as a resolution to better memorialize what the Town was deciding to do, which would be retained in the resolution books, rather than the minutes. The Town Council requested a future resolution on temporary community event signs for the Moraga Community Faire signs.

Ms. Keimach stated that in discussions with the Town Attorney, the Town Attorney stated that a resolution was not necessary for short-term direction. Resolutions were most effective for land use decisions. For this authorization for community event signs, it was recommended that the Town Council amend the MMC in the future to give staff authority to grant approval given Council guidance, as opposed to adopting a resolution. In this case, it was recommended that the motion be amended to allow the approval of the banners for 2011 only, with no delegation, and have staff return in 2012 with a second request for the annual request for the banners.

Mr. Winig explained that the MMC included a provision for community event signs and that future posting of community event signs could not be delegated by the Council at this time given the language in the MMC. The item needed Council approval each and every time unless the MMC was amended to allow that Council authority.

PUBLIC HEARING OPENED

There were no comments from the public.

PUBLIC HEARING CLOSED

ACTION: It was M/S (Trotter/Harpham) to approve the Community Event Signs for the Community Faire, to be displayed from April 22 to May 16, 2011 for this year only. Vote: 5-0.

C. Adopt Resolution 7-2011, Requesting Technical Assistance for the FY 2010/11 Annual Report for Assessment District 1979-1, Town of Moraga Street Lighting District

With respect to the Annual Report for Assessment District 1979-1, the Town Council suggested that the \$10,400 figure should have been included in the staff report and clarified with staff that the figure was a not-to-exceed number. Concerns were expressed as to whether or not the Town may be overpaying for the work to be done given a report that was essentially the same year after year. The Council requested that charges for 2010 be provided for services rendered.

Ms. Keimach clarified that the financial information fluctuated year after year. She also understood that the budget had included some of the RECON work that had been done. Staff was of the opinion that the proposal was good and staff was pleased with the consultant's work with no feeling of being overcharged for that work. As to whether or not competitive bids should

be pursued for the work given that the Town had one firm doing the work for many years, she suggested that bringing in someone new would likely be more expensive than a firm which had the historical background and data.

John Sherbert, staff consultant, clarified the rate schedule in the report.

PUBLIC HEARING OPENED

There were no comments from the public.

PUBLIC HEARING CLOSED

ACTION: It was M/S (Trotter/Harpham) to adopt Resolution 7-2011, Requesting Technical Assistance for the FY 2010/11 Annual Report for Assessment District 1979-1, Town of Moraga Street Lighting District. Vote: 5-0.

ACTION: It was M/S (Trotter/Harpham) to continue the Town Council meeting to 11:10 P.M. Vote: 5-0.

- D. Authorize the Town Manager to Enter into Settlement Agreement between the Town, Preserve Lamorinda Open Space and Rancho Laguna LLC

Vice Mayor Metcalf and **Councilmember Chew** recused themselves from the item since they resided within 500 feet of the Rancho Laguna project and stepped down from the dais at this time.

PUBLIC HEARING OPENED

Barbara Simpson, Moraga, spoke to Pages 2 and 3 of Attachment A and asked for clarification on the reference to a tolling agreement. She questioned the vote of two people representing the entire Town in order to approve a project the size of the Rancho Laguna II development, which could impact the entire Town of Moraga.

Mr. Winig explained that a tolling agreement was a document in which two parties agreed to stop the running of any statute of limitations in which one could file a lawsuit or claim.

PUBLIC HEARING CLOSED

ACTION: It was M/S (Harpham/Mendonca) to authorize the Town Manager to Enter into Settlement Agreement between the Town, Preserve Lamorinda Open Space and Rancho Laguna LLC. Vote: 3-0-2. Recused: Chew and Metcalf.

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

There were no Council requests for future agenda items.

XIII. COMMUNICATIONS

- A. Letter from Contra Costa Mayors' Conference Indicating Continued Opposition to Governor's Proposed Elimination of Redevelopment Agencies - Adverse Impacts dated February 28, 2011

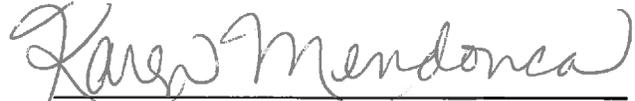
XIV. ADJOURNMENT

ACTION: It was M/S (Harpham/Trotter) to adjourn the meeting at 11:05 P.M. Vote: 5-0.

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Karen Mendonca, Mayor