

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**September 25, 2013
MINUTES**

7:00 P.M. Regular Meeting

Joaquin Moraga Intermediate School Auditorium
1010 Camino Pablo, Moraga, California 94556
Teleconference Location (Chew)
Pot Strandby 302
7130 Juelsminde, Denmark

I. CALL TO ORDER

The regular meeting was called to order at 7:02 P.M. by **Mayor Dave Trotter**.

ROLL CALL

Councilmembers present: Mayor Dave Trotter, Vice Mayor Ken Chew (through teleconferencing), and Councilmembers Phil Arth, Michael Metcalf, and Roger Wykle

Councilmembers absent: None

II. PLEDGE OF ALLEGIANCE

Mayor Trotter led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

There were no special announcements.

IV. PROCLAMATIONS AND PRESENTATIONS

- A.** Proclamation Declaring September 28, 2013 as Arbor Day in the Town of Moraga

Mayor Trotter read a proclamation declaring September 28, 2013 as Arbor Day in the Town of Moraga, and urged all citizens to celebrate Arbor Day and support efforts to protect the Town's trees and woodlands. He announced that a Tree Planting Ceremony in Commons Park would be held on September 28, 2013 during the Pear and Wine Festival. The proclamation was presented to Park and Recreation Commissioners Karen Reed and Bob Giomi.

Karen Reed, Moraga Park and Recreation Commissioner, reminded the audience of the 15th Annual Pear and Wine Festival to be held September 28, 2013 at Commons Park.

Parks and Recreation Director Jay Ingram reported that the Tree Planting Ceremony would be held at 10:30 a.m. at the Commons Park on September 28, when a Chinese Pistachio tree would be planted.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

V. PUBLIC COMMENTS AND SUGGESTIONS

John Bisset, Moraga, reported that he had received information from Preserve Lamorinda Open Space regarding projects that had been approved in the Town of Moraga, and about the Moraga Center Specific Plan (MCSP), which he understood included up to 630 housing units to be located in the center of Town. He opposed such a plan for the Town given its small character, and opposed the negative impacts that could be produced by an increase in housing.

Edy Schwartz, Moraga, reported that the Rheem Theatre was alive and well, had purchased its third and last digital projector, was operating upstairs, and the elevator work was in process. The theatre operators reported that the business was the best it had been in years! with the theatre being used by the community for other activities. A free Sneak Peek had been scheduled for Tuesday, October 15, 2013 at 7:00 p.m. for the 16th Annual Film Festival, scheduled for November 7-10, 2013. She also reported that she had attended the recent Orinda Restaurant Tour, and as a member of Lamorinda Presents, reported on the Orinda Chamber of Commerce President's attendance at Moraga Chamber events. In addition, a Leadership Workshop had been scheduled for Thursday, September 26, 2013 at 7:00 p.m. at Holy Trinity Serbian Orthodox Church, sponsored by Saint Mary's College (SMC) and the Moraga Citizens Network.

Lynda Deschambault, Moraga, Executive Director of the Contra Costa County Climate Leaders Program, noted the upcoming Climate Action Plan (CAP) Task Force meeting on September 30, 2013. She encouraged everyone to complete that effort, allowing the Town to adopt a CAP which would increase funding opportunities for the Town.

Jency James, Consultant with the Contra Costa County Climate Leaders, announced an upcoming workshop on Drought Resilience and Livable Communities to be held on October 3, 2013, in the City of Pittsburg's City Council Chambers, and reported on the topics to be discussed. She suggested the workshop would provide valuable information the Town could consider including in its CAP efforts, and encouraged interested persons to attend.

VI. ADOPTION OF THE CONSENT AGENDA

A. Approval of the Consent Items

Consent Agenda Items 2 and 6 were removed from the agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Assistant Town Attorney Karen Murphy advised that any motions would include a roll call vote given that the Vice Mayor was present through teleconferencing.

**ACTION: It was M/S (Arth/Wykle) to approve Consent Agenda Items 1, 3, 4, 5, 7, 8, and 9.
Roll Call Vote: 5-0.**

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|----|---|----------------|
| 1) | Accounts Payable Claims for: 8/23/13 (\$266,394.33);
9/06/13 (\$221,061.50) | Approved |
| 2) | <i>Approve Minutes for Town Council Regular and Special Meetings on August 28, 2013</i> | <i>Removed</i> |
| 3) | Approve Minutes for Town Council Special Meeting on September 11, 2013 | Approved |
| 4) | Approve by Motion Proclamation Declaring Fall Prevention Awareness Week to be September 22 to 28, 2013 | Approved |
| 5) | Approve by Motion the Cancellation of the November 27 and December 25, 2013 Town Council Meetings and Direct Staff to Schedule a Special Meeting if Needed | Approved |
| 6) | <i>Consider Resolution 65-2013 Authorizing the Town Manager to Amend the Consulting Services Agreement with LSA Associates, Inc. (Richmond) for Biological Monitoring During Construction in an Amount Not to Exceed \$13,000 for a Total Amount of \$25,500 for the Laguna Creek Wall Repair and Bank Stabilization Project (CIP 08-203)</i> | <i>Removed</i> |
| 7) | Consider Resolution 62-2013 Adopting a Defined Contribution Plan for the Town of Moraga Employees | Approved |
| 8) | Consider Resolution 63-2013 Approving and Authorizing the Third Amendment to the Employment Agreement between the Town of Moraga and Jill Keimach, Town Manager | Approved |
| 9) | Consider Resolution 64-2013 Approving Changes to Employer Paid Member Contributions under the California Public Employees' Retirement System (CalPERS) for Town of Moraga Miscellaneous Employees and Rescission of Resolution 41-2013 | Approved |

B. Consideration of Consent Items Removed for Discussion

1. Approve Minutes for Town Council Regular and Special Meetings on August 28, 2013

Mayor Trotter advised that he had submitted redline strikeout changes to the regular minutes of the August 28, 2013 meeting with copies provided on the dais and to the public that night. He asked that the meeting minutes be approved, as amended.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Wykle/Arth) to approve the Minutes for the Town Council Regular (as amended) and Special Meetings on August 28, 2013. Roll Call Vote: 5-0.

2. Consider Resolution 65-2013 Authorizing the Town Manager to Amend the Consulting Services Agreement with LSA Associates, Inc. (Richmond) for Biological Monitoring During Construction in an Amount Not to Exceed \$13,000 for a Total Amount of \$25,500 for the Laguna Creek Wall Repair and Bank Stabilization Project (CIP 08-203)

Public Works Director/Town Engineer Edric Kwan reported that the Consulting Services Agreement with LSA Associates must be amended to accommodate additional services for an onsite biologist to monitor red-legged frogs, an endangered species that were found on the site as part of the environmental permit requirements. As a result, he requested that the Town Council approve the item authorizing the Town Manager to amend the Consulting Services Agreement with LSA Associates, Inc. for the biological monitoring during construction in an amount not to exceed \$13,000 for a Total Amount of \$25,500 for the Laguna Creek Wall Repair and Bank Stabilization Project. He stated the referenced work had not been anticipated when the Town had entered into the contract with LSA.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Wykle/Metcalf) to adopt Resolution 65-2013 Authorizing the Town Manager to Amend the Consulting Services Agreement with LSA Associates, Inc. (Richmond) for Biological Monitoring During Construction in an Amount Not to Exceed \$13,000 for a Total Amount of \$25,500 for the Laguna Creek Wall Repair and Bank Stabilization Project (CIP 08-203). Roll Call Vote: 5-0.
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VII. ADOPTION OF MEETING AGENDA

ACTION: It was M/S (Wykle/Arth) to adopt the Meeting Agenda, as shown. Roll Call Vote: 5-0.
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VIII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Trotter - Reported that he had attended a new franchise ad hoc subcommittee meeting for the Central Contra Costa Solid Waste Authority (CCCSWA) on September 6; attended the Moraga Library Grand Opening Celebration for additional hours on Sundays on September 8; appeared briefly at the Moraga Liaison Meeting on September 13; and attended the Mayors and Chairs Meeting at Terzetto's on September 20. He also reported on his understanding that the CCCSWA Nexus Study would be completed within the month.

Vice Mayor Chew - No report.

Councilmember Arth - Reported that he had attended the monthly Chamber of Commerce Board meeting on September 4; attended the Moraga Library Grand Opening Celebration for additional hours on Sundays on September 8; and attended a Special Town Council meeting on September 11 at which time Bob Giomi had been appointed to the Park and Recreation Commission.

Councilmember Metcalf - Reported that he had attended Moraga Night Out on September 22 with a discussion on emergency preparedness sponsored by the Citizen Corps Council; and reported that garbage trucks had already caused damage to some recent pavement improvements resulting from turning movements, and asked the Town Engineer to photo document the damage to be forwarded to the CCCSWA.

Councilmember Wykle - Reported that he had attended the Annual League of California Cities Conference on September 18 through 20 and provided an update on the sessions attended and the resolutions voting members had adopted.

- B. **Town Manager Update** – Town Manager Jill Keimach reported the Measure K paving work for the current season had been completed that week, and acknowledged staff had received some e-mail complaints from residents with Public Works staff to perform inspections. The recent rain had raised some issues with the construction repair work at Laguna Creek although the forms were ready for the concrete pour work. She reported that staff was starting to prepare a Nexus Study on development fees; had received an estimate for a contract for some of the Moraga Country Club assessments which would be forwarded to the subcommittee; and the Moraga Chamber of Commerce was setting up its offices at the Hacienda to be located in the La Sala building.

IX. DISCUSSION ITEMS

There were no discussion items.

X. PUBLIC HEARINGS

- A. Consider Resolution___-2013 Denying the Appeal, Upholding the Planning Commission's Decision, and Approving a Conditional Use Permit, a Hillside Development Permit, and a Tree Removal Permit, to Allow Construction of a 4,270.5-square foot Single-Family Residence at 1800 Donald Drive (APN 255-183-011) (*Staff recommends this item be Continued to the Town Council Meeting of November 13, 2013*)

Planning Director Shawna Brekke-Read reported that the item had been appealed to the Town Council, the appellants had requested a continuance from the June 26, 2013 Town Council meeting to this date, and the Town Council had granted the request. Currently, the applicant requested a continuance to November 13, 2013. She asked that the Town Council open the public hearing, take any public testimony, and continue the item to the Town Council meeting of November 13, 2013.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Chew/Arth) to continue Resolution___-2013 Denying the Appeal, Upholding the Planning Commission's Decision, and Approving a Conditional Use Permit, a Hillside Development Permit, and a Tree Removal Permit, to Allow Construction of a 4,270.5-square foot Single-Family Residence at 1800 Donald Drive (APN 255-183-011), to the Town Council Meeting of November 13, 2013. Roll Call Vote: 5-0.

XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

A. Consider Endorsement of Moraga School District's Proposed Parcel Tax, Measure B, on the November 5, 2013 Ballot

Ms. Keimach explained that the Moraga School District (MSD) had appeared before the Town Council to request an endorsement of the MSD's proposed Measure B parcel tax to be considered on the November 5, 2013 ballot. She noted that staff had drafted a proclamation for Town Council consideration although the Council could also consider a motion endorsing the parcel tax measure.

Bruce Burns, MSD Superintendent, reported that the MSD was seeking support from the Town Council and the Moraga community to address an urgent need for the approval of a temporary parcel tax to ensure that existing programs and services were maintained for MSD students. He identified the many impacts and reductions that had already been made to MSD employees, services, and programs. He addressed comments regarding the passage of Proposition 30, reporting that the proposition revenue was currently paying down debt, with schools to benefit from the proposition over the next eight years. Given the MSD's projected deficit in the next year as compared to the operating budget and the possibility of a reduction in more services and activities, the MSD had been forced to seek community support for a parcel tax measure.

Kathy Ranstrom, Vice President of the MSD Governing Board and the Co-Chair of the Measure B Campaign, spoke to her family's experience receiving quality education in Moraga, which needed the passage of Measure B in order for that to continue. She noted that the funds from Measure B, if passed, would be used for Moraga schools only with no money spent on administrative expenses. She commented that further information was available on the MSD and Measure B Campaign websites. She urged the Town Council to support Measure B.

Responding to the Council, Mr. Burns commented that approximately 75 to 78 percent of the MSD operating budget came from property taxes. As to whether the MSD had supported Measure K, he could not recall that the issue had been brought to the MSD Board.

Ms. Ranstrom clarified that MSD did not get to keep all of the property taxes the MSD received because it fell below the revenue limit. The MSD received a set amount from the State, and if the property tax in Moraga increased it would not go to Moraga schools but to the State General Fund to be distributed throughout the State.

PUBLIC COMMENTS OPENED

Denise Duff, Moraga, reported that she had two children who attended a local elementary school. Given the reduction in State funding for Moraga schools and the fact that the MSD had managed its money well and had made necessary reductions, she urged the Town Council to support the effort for Measure B to allow the maintenance of school programs and to ensure the quality of education. In the event Measure B did not pass, she suggested that MSD schools would no longer be a selling point for the community and families would be forced to look at other communities for their children to go to school.

PUBLIC COMMENTS CLOSED

Mayor Trotter requested an amendment to the second to last WHEREAS clause of Attachment A, the Proclamation Endorsing MSD Measure B, to read:

WHEREAS, after extensive review of the district's finances and program needs, the Moraga School District Governing Board has placed a temporary parcel tax measure on

the November 5, 2013 ballot in the amount of \$192, per parcel each year, for a term of 6 years, with an exemption for low-income property owners 65 and over; and

Councilmember Metcalf stated that he would support MSD's Measure B, but could not support the proclamation, as written, given that the statements in the proclamation were not known to be fact. The proclamation had not been drafted by Town staff, and had been provided to the Town Council. In his opinion, it was not appropriate to ask the Town Council to prescribe to statements it did not know were true. He recommended the item be turned into a simple resolution to include only the last paragraph of Attachment A.

Councilmember Arth agreed with Councilmember Metcalf's comments.

Councilmember Wykle affirmed with MSD's representatives that a resolution would serve the same purpose. He was not opposed to the approval of a resolution.

Ms. Murphy explained that the Town Council may adopt a motion to endorse Measure B with the same language as contained in the last clause of Attachment A.

Mr. Burns acknowledged the bottom line was support from the Town Council and a resolution supporting Measure B would be acceptable.

Ms. Ranstrom clarified that the language in the proclamation was the same action taken by the MSD Governing Board, and that she knew the information in the proclamation to be true.

Ms. Murphy suggested if the Town Council preferred the approval of a resolution, she recommended the proclamation be revised to read: *A resolution endorsing Moraga School District's Measure B on the November 5, 2013 ballot* (eliminating all the Whereas clauses) and retaining the last resolve clause as is.

ACTION: It was M/S (Metcalf/Arth) to adopt Resolution 66-2013, a resolution endorsing Moraga School District's Measure B on the November 5, 2013 ballot and urging all residents of the community to give this important educational initiative their support. Roll Call Vote: 5-0.

- B. Consider Town Council 2013 Goal to Protect Ridgelines and HillSides from Development Consistent with Moraga Open Space Ordinance (MOSO) by Discussing the Existing Regulations and Policies and Provide Direction to Staff

Ms. Brekke-Read reported that the Town Council had identified as one of its 2013 goals the protection of ridgelines and hillsides from development consistent with MOSO. The item had been brought to the Planning Commission as a discussion item to explain the goal and offer background to the Planning Commission. Input from the public and the Planning Commission had been received at that time. She identified the background of the 1986 approved voter initiative MOSO, which had identified areas of the Town that were zoned MOSO; the initiative also identified protected ridgelines and made some amendments to the General Plan; and the Town Council had then adopted guidelines for the implementation of MOSO, which had been amended four times since 1986. In 2002, the Town Council adopted the General Plan including the MOSO initiative and included the protection of ridgelines in the MOSO areas and the protection of hillsides and the way hillsides must be reviewed. Title 8, the Zoning Ordinance, and a series of regulations, had been adopted in 1980 and amended since that time. The Zoning Ordinance included two areas that addressed hillsides and ridgelines, including the first, the Slope Density Chapter, which required any development on a lot that was 20 percent or greater to obtain a Hillside Development Permit.

Ms. Brekke-Read noted the second area was the Ridgeline Protection Chapter which had been changed through the MOSO Initiative Title 14, the Grading Ordinance was adopted in 2006 and required a graduated level of review depending on the extent of grading and steepness of slopes involved. She also presented a map displaying the topography and areas zoned MOSO; the regulations of MOSO; the four major ridgelines protected in MOSO; and the minor ridgelines and slopes of 20 percent or greater. She also described the background of the MCSP adopted in 2010 after a seven-year effort, which had been done in conjunction with the Housing Element pursuant to State requirements. During that process, the Town identified how it would accommodate housing units. The MCSP would accommodate 600 units of housing, however the area had not been zoned for all of the housing. Since 2010, there had been one formal application for the area for a 26-unit subdivision, and a development proposal with no formal application for a site near Moraga Country Club and the Moraga-Orinda Fire District (MOFD) Fire House for 49 housing units.

Ms. Brekke-Read also highlighted previously approved projects, including the 123 units for Palos Colorados with a Precise Development Plan (PDP) approved in 2010; the Country Club extension for 67 lots with a Final Map approved in 2000; Rancho Laguna II for 27 lots with an approved Conceptual Development Plan (CDP) and the receipt of a Tentative Subdivision Map application for the project; Hetfield Estates for 7 lots with an approved conceptual development plan and a Tentative Map submitted for the project; and Los Encinos which had been approved in the mid-2000's for 10 lots. She reported that since 1990, a total of 110 dwelling units had been constructed. She identified the options/alternatives the Town Council, in concert with the Planning Commission, may consider to improve the certainty and ease of implementing MOSO, and noted that some of the changes may require amendment to the MOSO Guidelines and/or the creation of new zoning districts, such as a Hillside Overlay District, which had been included as one of the 2002 General Plan Implementation Programs. Options and alternatives included amending Title 14 and associated policies and regulations; clarifying and simplifying the way slope is calculated and how regulations are applied; amending the MOSO Guidelines; amending the Slope Density Chapter; or regulating development near a ridge.

In response to the Council, Ms. Brekke-Read identified the map of slopes of 20 percent or greater and ridgelines that had already been identified. She commented that the intent of an Overlay District option would be a set of regulations applied uniformly to all property that had characteristics of hillsides and/or ridgelines. Technical experts and engineers would be required to provide assistance to staff to create the Geographic Information Systems (GIS) information to identify the location of the slopes; an overlay district would add a layer of protection.

Ms. Brekke-Read noted that the Town Council had been presented with an annual General Plan Report earlier in the year which had included over 100 implementation measures. While an overlay district was not done, she acknowledged it was a matter of implementation.

PUBLIC COMMENTS OPENED

Gerri Joyce, Moraga, commented that it appeared as if MOSO was working in Moraga in that she had seen homes built on hillsides and ridgelines in other communities. Based on the total number of homes built since 1990, the Town was likely underdeveloped, an observation supported by the number of empty storefronts in the Town. As a supporter of property rights and understanding that homeowners were subject to certain regulations, she stated those regulations had become more extensive and invasive to property owners, impacting their rights. She sought a more honest process, not the removal of property rights, and in order to preserve open space suggested the land could be purchased.

Gary Howard, Moraga, suggested the empty ridges and hillsides made the Town of Moraga. He noted the Town had hundreds of regulations and rules for development and any developer must

submit an Environmental Impact Report (EIR), obtain approval from the Planning Commission and approval from the Design Review Board (DRB). He cited the SMC Recreation Center, recently approved by the Town but which had not required the approval of an EIR, which project would impact nearby residents. He expressed his hope that such a situation would not occur in the future and that any developer would be required to follow the Town's approval process.

Judie Howard, Moraga, commented that in the past the City of Lafayette had been small and not very pretty. Over time, Lafayette had improved and its community had been made more attractive to businesses; however, once the first building that exceeded the height limit at that time had been permitted, the Lafayette community had exploded. She was appalled at the number of large buildings being built in Lafayette, which would impact already congested roads. She did not want to see the same in Moraga. She also commented on the volume of wildlife and small town ambience she had enjoyed as a resident of Moraga, which had lessened over time, and the beautiful views from Rheem Boulevard onto SMC and St. Mary's Road, which ridgelines would be impacted by future development. She wanted to see the elimination of any existing loopholes in the regulations and sought the preservation of the Town's initial intent for incorporation to protect open space and valuable ridgelines.

The following individuals were not present but offered written comments on speaker/comment cards:

Noris Nehrebecki, Moraga, *I wish to protect our open space lands in Moraga, CA. I would like to preserve our rural beauty of our community. I do believe that we are going to see so many problems by building more homes in Moraga. Please do not build more homes in our community. Sincerely, Mrs. Nehrebecki.*

Peter Nehrebecki, Moraga, *I wish to support the goal of protecting the ridgelines and hillsides from further development. The quality of life would further deteriorate with population increase. Already our roads are over congested and our school is filled to capacity. Thanks for your support. Peter Nehrebecki.*

Roger Poynts, Moraga, suggested that nothing should be changed now, with the exception of exempting single-family homes from the hillside permit processing requirements. He commented that from 1986 to 1989, five different Town Council resolutions had imposed rules that may or may not be enforceable. In the event the rules were changed again, he sought an opinion letter from the Town Attorney to ensure the backing of professional liability insurance. He asked how the Town would pay for any changes to the Zoning Ordinance or the General Plan given the extensive costs for such changes, which funds the Town did not currently have. He asked that the Town Council not proceed until a source of funds to pay for the effort had been identified.

Lynda Deschambault, Moraga, suggested that the 2002 General Plan was clear with an overarching goal of preserving the Town's natural setting and environmental resources including undeveloped ridgelines and significant open space areas. She noted that the Town Council and Planning Commission had held a joint meeting on April 30, 2008, at which time there had been a two-year effort to review the same information the Town was reviewing at the current time. The Town Council at that time had considered Title 14, Grading Ordinance, Ridgeline and Hillside Permits, and what to do about building on slopes over 20 percent. She noted the discussions of that meeting had been reflected in the meeting minutes. While the entire Council had not been in agreement with that direction, there had been a poll conducted which had shown an overwhelming number of residents wanted to protect the Town's open space and ridgelines, which had resulted in a ballot measure.

Ms. Deschambault emphasized that she had been elected at that time to support open space and she wanted to ensure due process, and that the Town Council held public hearings on the issue, to clean up the language that had been started and to ensure it was consistent and clear and there would be no appeals. She wanted to prevent another situation like the Rancho Laguna II project, which she believed was a good example of Councilmembers' failure to protect the Town's ridgelines since they did not have what was needed to ensure that protection.

Malcolm Sproul, Moraga, encouraged the Town Council to implement its 2013 goal of updating the 2002 General Plan to protect hillsides and ridgelines. He suggested the approval of the Rancho Laguna II project had shown that current language was not precise enough to prevent interpretation resulting in the development of a ridgeline, which should be corrected, and which should involve changes to the MOSO Guidelines, the Zoning Ordinance, and related policies to be internally consistent. He asked that the Town Council make the effort to ensure implementation as soon as possible.

Suzanne Jones, Contra Costa County, representing Preserve Lamorinda Open Space, clarified that her comments related only to undeveloped lots. She sought more review on policies related to ridgelines not governed under MOSO, slopes, and high risk lands in MOSO. She commented that she had submitted a letter to the Town Council which had outlined the legislative history of General Plan Policy CD1.5, *Protect ridgelines from development*, as well as the General Plan definition of ridgelines, which had not been applied in accordance with the 2002 Town Council's intent when the policy had been drafted. She commented that the Council had intended that Policy CD1.5 extend protection to non-MOSO ridgelines, although the definition of ridgelines in the final document had inadvertently been adopted in a form that was inconsistent with that intent, and which defined ridgelines to mean only MOSO ridgelines. As a result, Policy CD1.5 had been applied as nothing more than a re-statement of MOSO's protection for MOSO ridgelines.

Ms. Jones stated it was urgent for the Town Council to correct the ambiguity, which staff had offered preliminary suggestions to do. She expressed her hope that staff would have the opportunity to present the ideas in more detail as part of a public review of non-MOSO non-ridgeline policies.

Regarding slopes, Ms. Jones echoed staff's concerns with the average slope calculations both in MOSO and on other hillside land, with slope averages currently able to be taken over an arbitrarily large portion of a parcel. That approach represented a loophole allowing development of areas of land that exceeded slope restrictions. In MOSO lands, she suggested that practice was in contradiction to the language in the ordinance passed by the voters, which language she read into the record at that time.

Ms. Jones also identified the inconsistency between MOSO's original limitations on the development of high risk land and the MOSO Guidelines' subsequent allowance of high risk land to be remediated via massive grading projects. She read into the record the MOSO regulations for high risk lands, which had not mentioned remediation as a means by which to relax the restriction. As a result, the MOSO Guidelines were currently facilitating development that was contrary to the legal requirements of MOSO. She urged the revision of the Guidelines to implement MOSO's limitation on development of steep or unstable slopes.

Ms. Jones found the internal inconsistencies between the General Plan, MOSO, and its Guidelines to be serious defects which needed to be addressed. She stated that the State recommended that cities review their General Plans every ten years, and while no one was asking the Town Council to commit to any changes at the current time, she sought a substantive discussion with the community as to how the General Plan was or was not working. She urged

the Town Council to act on the written and spoken testimony on the issue, and allow the community to have a meaningful role in planning Moraga's ridgelines and hillsides.

Responding to Councilmember Metcalf, Ms. Jones clarified that she was not targeting lands which had already been approved or speaking about projects that had vested rights.

Edy Schwartz, Moraga, emphasized the importance of the Town Council's decision on the matter, particularly for future generations for a community with natural hillsides and ridgelines. She commented on the effort to have the younger generation become more involved, noted they did not attend Town meetings and did not know the details of hillside and ridgeline regulations, just as they had not known the realities of the Town's failing roads. However, through a massive educational effort, the population had voted for Measure K, the Local Sales Tax measure. She suggested that the majority of the population was not aware of the Town's measures, regulations, and consequences. She sought development in a responsible and sustainable way, understanding of the regulations and their impacts to residents' lives, and asked that no decision be made before the greater and larger public had been informed and had the opportunity to be heard on the issue. She noted that as a resident of Hetfield Place, she had experienced months of tractor movement daily to address a serious slide underneath a neighbor's home, and after a year the hillside was beautiful, green, and with lots of cows. She pointed out that the small details would make a tremendous difference for the community.

Stan Nielsen, Orinda, Boardmember of the Moraga Park Foundation, referenced written information he had submitted to the Town Council, on a proposal he offered for an exception to the requirements of the Moraga Municipal Code (MMC) Slope Density chapter. The proposal requested an exception from the requirements of that section of the MMC for homeowners on previously approved hillside lots. He spoke to the punitive aspect of ordinances which often impacted homeowners, stated that many Moraga homeowners considered a 20 percent slope a flat lot, and were already subject to an extensive regulatory experience any time a building permit was required. He added that Moraga homeowners would like to be released from the unintended consequences of past regulations and not be victims of those regulations.

Denise Duff, Moraga, Boardmember of the Moraga Citizens Network, expressed her appreciation to the Town Council for its consideration of the current regulations of ridgelines and hillsides. Before the Town expended any staff time and monies on the effort, she wanted to see what people would like Moraga to look like in the future and why existing codes were no longer effective. She pointed out that many residents had not lived in Moraga in 1986 when the MOSO Initiative had been approved, or were aware of MOSO. While many wanted to maintain the natural hillsides and semi-rural environment, she sought a balance with business, with broader engagement with Town residents to understand how MOSO and the Town's regulations may allow or limit development. She emphasized the need for the Town Council to educate the public on the existing MOSO Guidelines, encourage public participation in the process, and engage in future discussions of ridgeline and hillside development. She also asked for consideration of alternative days and times of public meetings.

Joan Marable, Moraga, expressed concern with developers who did not want to follow the Town's rules and regulations, suggested the authors of the General Plan were wise to protect ridgelines and wildlife, questioned the Planning Commission for giving developers hope that building may occur on the Town's ridgelines, and as a participant in the public hearings for the Palos Colorados project, knew that the Lamorinda community had opposed development on the ridgelines and impacts to existing wildlife and habitat. She noted that neighboring communities had strict regulations about building on ridgelines and questioned why Moraga did not.

Bill Vaughn, Moraga, commented that a former Town Council had seen the distortion of the language of ridgelines during the last development hearings for a project along Rheem

Boulevard. He pointed out that, according to Town Council meeting minutes, ridgelines were a defined term. He too urged the resolution of the loophole, as reflected by the Rancho Laguna II hearings, and emphasized the need for a document that accurately expressed all of the values that the public had articulated.

Dave Bruzzone, Moraga, reported that he had submitted e-mails and provided correspondence to the Town Council. He emphasized the importance of the issue; wanted it explained that residents would not lose hillsides; key ridges and open spaces would be thoroughly protected; suggested the deficiencies apparent from the Rancho Laguna II project would not exist on the major ridges owned by the Bruzzone family; and identified a 1,000 foot wide strip where any type of development was prohibited. He expressed concern with alarmist statements that were not factual and pointed out that the Town Council was unable to make any changes to MOSO or to the MOSO Guidelines without a voter initiative.

Mr. Bruzzone commented that the key and minor ridges had been identified and the significant open spaces to be preserved had also been identified and constituted a substantial portion of the Town. He described Moraga as one of the few communities that could attract buyers to high value single-family homes. If the Town Council were to consider changes to impair the ability to provide high end single-family housing, the Town's schools and downtown could suffer. He spoke to the effort by regional, state and federal agencies to funnel high density housing into downtowns which would restrict high end single-family homes; pointed out that what had happened with Rancho Laguna II was not a similar situation to the Bruzzone properties; and asked that the Town Council not change the rules mid-stream and penalize the Bruzzones again.

Ivan Cazares, Moraga, asked that the Town Council take advantage of the open spaces and views which were an asset and the reason his family had moved to the community.

Hollie Lucas-Alcalay, Moraga, former member of the Economic Development Action Committee (EDAC), referenced the discussions of the Rheem Valley Shopping Center and what the community wanted to see in its retail shopping centers. She stated that increasing the Town's population by adding large developments to solve the retail problem was not supported by the community.

PUBLIC COMMENTS CLOSED

In response to the Council, Ms. Brekke-Read clarified it was within the purview of the Town Council to change the MOSO Guidelines. Any changes to the regulations would require environmental review and be subject to the California Environmental Quality Act (CEQA). The Town Council was asked to provide direction to staff on the proposed options/alternatives or any other alternative direction the Town Council desired to give to staff.

Councilmember Metcalf recalled that the former Planning Director had stated the Town was not being well served by its General Plan and MMC since there were too many inconsistencies. He cited General Plan Policy CD1.5, which included policy language regarding ridgelines, although the language allowed for loopholes. He sought a better way to clarify the intent of that policy. He also suggested the Slope Density Chapter was in need of revision since it was ambiguous and confusing; found hillside overlays to be a sensible solution, which was why it had been included as an Implementation Program in the General Plan; recognized that staff had not proceeded with that effort given the Town's very limited staff; and recommended that consultants be engaged to provide assistance to staff and that the funds for that effort could come from the Palos Colorados Developer Fees.

Councilmember Metcalf also spoke to the past 2008 Measure K Open Space Initiative and suggested the initiative had failed substantially since it had tried to do too much. He stated that the public had offered good suggestions that could be considered along with the assistance of a consultant, and through public hearings allow the opportunity for a great deal of dialogue. He suggested that such an effort could be done in a year's time to ensure that the same issue was not revisited year after year. Ms. Keimach confirmed the Measure K Open Space Initiative had failed by a 55.96% no vote.

Vice Mayor Chew asked staff of the anticipated scheduling timeframe, to which Ms. Brekke-Read suggested the Town contract with consultants to provide assistance, which could take at least a couple of months to contract for the work, with staff having discussed a one-year process after a consultant was on board. She was uncertain of the potential costs.

Ms. Keimach explained that retaining a consultant would involve a Request for Proposal (RFP) process for Council consideration, and during that process the Council would have a better idea of the potential costs.

Councilmember Arth stated he struggled with the rights of property owners which was very important and should be respected. He also suggested that homeowners did not own their view. He recognized that scenic ridgelines and open spaces were desirable, that the Town needed more commerce to drive its shopping centers, and that the Town needed the revenue the new homes and more commerce would bring. He noted that the 2013/2014 budget had anticipated \$7 million in revenue with a surplus of only \$9,000, and that the Moraga Library had only expanded its hours on Sundays after the use of Town Manager discretionary funds. He agreed there were inconsistencies between MOSO and the other regulations and there was a need for conformance, although the options were limited since MOSO could only be amended through a voter initiative. If money was an issue, he preferred to see staff initially deal with slopes and grading. If Palos Colorados funds were to be used, he suggested funding the entire effort, and if a motion was made to that effect he would support it.

Mayor Trotter thanked everyone for their comments and acknowledged the diverse set of views. He commented that based on the correspondence that had been received before the meeting, it was apparent there were problems with the current land use regulations. He cited the Rancho Laguna II project and General Plan Policy CD1.5, the language of which was intended to protect ridgeline development and extend to non-MOSO areas of the Town, and agreed that language needed to be strengthened to be consistent with other strong language in the 2002 General Plan.

Mayor Trotter stated the use of Palos Colorados funds as recommended by Councilmember Metcalf made sense, and agreed that everything should be consistent with MOSO for those lands within MOSO, although for lands outside of MOSO the Town had the power under State law and Town ordinances to reasonably regulate the use of the property within reason. He was loathe to use Palos Colorados monies for non-recreational purposes but suggested there was a nexus because of the history of the project. He commented that in the 1990's when he had been the Chair of the Planning Commission, hearings had been conducted on Palos Colorados where some of the open space area was MOSO land and some non-MOSO land. A question had been raised at that time as to how to calculate the regulations where development on MOSO lands was restricted on slopes in excess of 20 percent. The Planning Commission at that time had told the developer that the only way to avoid the types of manipulations that were being complained about now was to look at the MOSO zoned areas, building envelopes, and pre-graded slopes, and determine the slope average based upon the development envelope as opposed to an area-wide approach. He thought a precedent had been set at that time, although that was only for one project. Since that time, other things had occurred which suggested the issue needed to be addressed so that when considering slope average it should

be linked to the area of actual development and not to an area-wide approach. He suggested that all of the issues, including General Plan Amendments (GPAs), an integrated approach with GPAs, and Policy CD1.5 being one of them, needed some targeting along with some of the other ordinances. He suggested that a one-year timeframe for the effort made sense, suggested that looking at the three items that had been put forward by Preserve Lamorinda Open Space was sensible and logical, and should be evaluated to resolve the issues in a way that made more sense.

Councilmember Wykle commented on the number of hours he had spent as a Planning Commissioner considering high risk areas, with MOSO stipulating one unit per 20 acres and the MOSO Guidelines supporting that, although if the slope was re-engineered it could be re-classified where it was no longer high risk. He understood the conversation started in 2006, as confirmed by staff and as outlined in the staff report, and he agreed with the need to clarify the matter now to save future Town Councils, Planning Commissions, and DRBs time and money by constantly revisiting the issue. He also was reluctant to spend Palos Colorados funds but was of the opinion the Town would reap those savings in years to come.

Vice Mayor Chew also recalled the past discussions on the issue over the years and agreed with the need to clarify MOSO and the MMC to prevent lawsuits, and in recognition of the challenges before the Planning Commission and the Town Council. He agreed with the need to resolve the issue once and for all, hopefully within the next year and wanted to see a focus on the process as to how to approach the matter, and to ensure public comment. He was hopeful something could be resolved in working with the Planning Commission and the Town Council. In terms of the financial impacts, he was open to the use of Palos Colorados funds to provide consultant assistance to Town staff.

Councilmember Metcalf offered a motion to direct staff to take all comments into consideration including written correspondence; to retain the services of professional talent to think through the package, what it would look like; to consider a reasonable process; and return in a timely manner with a proposal or RFP for Council consideration. He also wanted to see an estimate of cost and the potential formation of a steering committee. He expressed his opposition to a large committee which typically did not work well, and recommended Council and Planning Commission guidance with an extensive public outreach program.

Ms. Keimach affirmed the direction for an outline of the scope of work for an RFP and hopefully a draft RFP, with a discussion of a steering committee and process to be included in the scope. She recommended the steering committee be comprised of a series of experts.

Mayor Trotter commented that GPAs generally involved a steering committee with Council and Planning Commission participation. He recommended a model similar to that used for the General Plan Update in 2002, suggested the motion include the three points outlined by Ms. Jones, and asked the Council whether the suggestion that the Council also consider relaxing the Hillside Development Permit requirements for existing developed residential lots should be included in the motion.

By consensus, the Town Council also agreed to consider the relaxation of the Hillside Development Permit requirements for existing developed residential lots.

Vice Mayor Chew agreed that a steering committee would be helpful, had been used for other Town projects, and would be beneficial if well balanced with different expertise from the Town. He did not see that a moderately sized committee would be a problem.

Ms. Murphy advised that no formal action was being taken. A motion was not required other than a consensus on what would be brought back to Council for formal action in a month's time.

Mayor Trotter declared a recess at 9:49 p.m. The meeting reconvened at 9:55 p.m. with Councilmembers Arth, Metcalf and Wykle present. Vice Mayor Chew was no longer present through teleconference.

Councilmember Wykle recused himself from the next agenda item due to a potential conflict of interest since he resided within 500 feet of the project site. He stepped down from the dais at that time.

Ms. Murphy affirmed that a unanimous affirmative vote on the resolution would be required of the three remaining Councilmembers for action to be taken on the next item.

- C. Consider Resolution 67-2013 Implementing the 199 Calle La Mesa/ 677 Moraga Road Storm Drainage Repair Project ("Project") in Coordination with the City of Lafayette, with the Town and the City of Lafayette to Share Equally in the Cost of the Project by Authorizing the Town Manager to:
- 1) Approve and Authorize the Execution of a Memorandum of Understanding with the City of Lafayette in a Form Approved by the Town Manager in Consultation with the Town Attorney Regarding the Project;
 - 2) Appropriate up to \$98,301.37 from the Town's Fund 510-NPDES Towards the Project;
 - 3) Amend the On-Call Design Consultant Services Agreement to Complete the Engineering Design with Cal Engineering & Geology (Walnut Creek) for an Increased Amount of \$31,000; and
 - 4) Amend the Contract Services Agreement with Siteworks Construction, Inc., (Lafayette) for Construction as the Lowest Bidder of the Town's On-Call Excavation Contractors to Complete the Repair for Both Moraga and Lafayette in an Amount Not to Exceed \$133,132.82 plus a Town-Administered Contingency of 15% for Contract Change Orders

Mr. Kwan reported that a storm drain system bridging the private properties of 199 Calle la Mesa in Moraga and 677 Moraga Road in Lafayette had failed. Repairing the storm drain system would prevent further costly damage from upcoming winter storms. A variety of actions were provided for Council to consider in order for the project to proceed. Since the time that the Town was noticed about the storm drain system failure, Town Senior Civil Engineer, Laurie Suggang, had been diligent in managing the engineering and coordination with Lafayette and would be presenting the item to Council.

Senior Civil Engineer Laurie Suggang presented an overview of the project, noted that the property owner of 199 Calle La Mesa had notified the Public Works Department of the failure within the easement on his property, and since that time staff had been working with City of Lafayette Public Works staff and the Lafayette City Engineer to determine how to repair the failure in the system. She asked the Town Council to adopt the resolution to allow the work to be completed prior to the rainy season. She added that the project engineer was also present to answer any inquiries.

In response to the Council, Ms. Keimach explained that staff had learned of the issue recently through the property owner of 199 Calle La Mesa. Before that time, Lafayette had taken the issue to the Lafayette Parks and Recreation Commission to resolve. The question between the City of Lafayette and the Town of Moraga was how much of the failure was a response from Moraga water going through the easement and down through Lafayette, and how much related to the continual removal of debris on the Lafayette side that undermined the Town's spillway. The discussion between the two jurisdictions was whether there was equal responsibility, one city more than the other, and it had been agreed that the repair costs be shared equally.

Ms. Sucgang stated that engineers from the City of Lafayette and the Town of Moraga had value engineered the project in collaboration with Cal Engineering & Geology, and based on input from a few contractors had resulted in a good estimate of costs, which was also the reason staff requested authorization for a Town-administered contingency of 15% for contract change orders. She stated the plans and specifications would be detailed enough for the contractors to provide bids to the Town. Four bidders had been invited to bid on the project, two bids had been received, and the Engineer's Estimate was in the middle of the two bids received.

Ms. Keimach acknowledged the project could have cost overruns. She reported that the Lafayette City Council had allocated up to \$80,000 for the project and the Lafayette City Manager had verbally agreed to equally share any cost overruns. She referenced the Memorandum of Understanding (MOU) Section 2.2 (b) which included language that regardless of the unknown costs, Lafayette and Moraga both agreed to pay 50 percent of all project costs.

Ms. Murphy explained that Attachment D, Memorandum of Understanding Regarding 199 Calle La Mesa/677 Moraga Road Storm Drainage Repair, could be clarified with Page 2, Section 2, Responsibilities of the Jurisdictions, 2.2 (b) revised to read: *Reimburse Moraga for half of all Project Costs and any additional unforeseen costs agreed upon in good faith between the City of Lafayette and the Town of Moraga, within 30 days of receiving the financial accounting described in Section 2.1 (e)*. She stated the City of Lafayette was still reviewing the MOU and the resolution contained language approving and authorizing the execution of the MOU with the City of Lafayette in a form approved by the Town Manager in consultation with the Town Attorney, which would be forwarded to Lafayette.

Ms. Keimach commented that the MOU had been discussed at length and a revised MOU had been sent to Lafayette.

Ms. Sucgang explained that the easiest way to access the site would be through the City of Lafayette property located at 677 Moraga Road, where there was an easement located on the homeowner's driveway, where heavy equipment could be brought all the way up to the site.

PUBLIC COMMENTS OPENED

Richard Severy, 199 Calle La Mesa, Moraga, outlined the history of the storm drain collapse which had been discovered in December 2012. He reported that the City of Lafayette had previously been aware of minor problems, but when the issue had been brought to the attention of the Moraga Town Manager she had mobilized the right people. He expressed his gratitude to all Town staff, especially Laurie Sucgang, who were involved in the project, identified access to the site, and stated that the contractor had started work earlier with a substantial amount of work already done on the Lafayette side. He urged the Town Council to approve the resolution to ensure the work was completed in a timely manner. He added that while the sink hole was not visible from his property given heavy vegetation, it was visible from Moraga Road.

PUBLIC COMMENTS CLOSED

Mayor Trotter sought direction to staff to tighten the language in the MOU to ensure that project costs were defined in a way that Lafayette paid for 50 percent of all project costs. He commended Town staff, the Town Manager, and Public Works staff for finding documents in the City of Lafayette's files, increasing the Town's ability to work out an amicable solution for what could have been a difficult problem.

Ms. Murphy affirmed the direction to clarify the language in the MOU of the approved contingencies, and address unforeseen costs that may be in addition to project costs to ensure they were equally shared. She was confident the City of Lafayette would agree to the changes. She recommended the following revision to Attachment A, Resolution Implementing the 199 Calle La Mesa/ 677 Moraga Road Storm Drainage Repair Project in coordination with the City of Lafayette:

- Revise paragraph 1 of the operative provisions clause to read:
 - 1) *Approve and Authorize the Execution of a Memorandum of Understanding with the City of Lafayette in a Form Approved by the Town Manager in Consultation with the Town Attorney Regarding the Project, provided however that such Memorandum of Understanding clearly provide that all hard project costs and unforeseen contingencies be equally shared between the jurisdictions.*

Ms. Keimach recommended the Town Council approve the MOU, contingent upon the City of Lafayette paying 50 percent of all costs.

On the discussion, **Mayor Trotter** recommended language amending the description contained in the resolution to include language whereby the Town Council would: *Implement the 199 Calle La Mesa/677 Moraga Road Storm Drainage Repair Project ("Project") in Coordination with the City of Lafayette, with the Town and City of Lafayette to Share Equally in the Cost of the Project with direction to the Town Attorney and Town Manager to make appropriate modifications to the MOU to achieve that standard by Authorizing the Town Manager to:*

ACTION: It was M/S (Trotter/Metcalf) to adopt Resolution 67-2013 Implementing the 199 Calle La Mesa/677 Moraga Road Storm Drainage Repair Project ("Project") in Coordination with the City of Lafayette, with the Town and the City of Lafayette to Share Equally in the Cost of the Project with direction to the Town Attorney and Town Manager to make appropriate modifications to the MOU to achieve that standard by Authorizing the Town Manager to:

- 1) **Approve and Authorize the Execution of a Memorandum of Understanding with the City of Lafayette in a Form Approved by the Town Manager in Consultation with the Town Attorney Regarding the Project, provided however that such Memorandum of Understanding clearly provide that all hard project costs and unforeseen contingencies be equally shared between the jurisdictions;**
- 2) **Appropriate up to \$98,301.37 from the Town's Fund 510-NPDES Towards the Project;**
- 3) **Amend the On-Call Design Consultant Services Agreement to Complete the Engineering Design with Cal Engineering & Geology (Walnut Creek) for an Increased Amount of \$31,000; and**
- 4) **Amend the Contract Services Agreement with Siteworks Construction, Inc., (Lafayette) for Construction as the Lowest Bidder of the Town's On-Call Excavation Contractors to Complete the Repair for Both Moraga and Lafayette in an Amount Not to Exceed \$133,132.82 plus a Town-Administered Contingency of 15% for Contract Change Orders, the cost of which is to be shared equally between the Town of Moraga and the City of Lafayette.**

Vote: 3-0-2. Absent: Chew, Wykle (recused).

Councilmember Wykle returned to the dais at this time.

- D. Consider Resolution 68-2013 Authorizing the Town Manager to Sign a Contract Amendment with Hauge Brueck Associates (HBA) in the Amount Not to Exceed \$130,000 and Authorizing the Town Manager to Sign a Contract with Fehr & Peers in the Amount Not to Exceed \$55,000 to Complete Work Necessary to Respond to Comments on the Draft Environmental Impact Report (EIR) for Bollinger Valley Applications

Ms. Brekke-Read reported that the Town had released the Draft Environmental Impact Report (DEIR) with a 60-day public review period for Bollinger Valley and that 700 comments had been received. The budget for the EIR had been based on 50 unique comments. The budget amendment was necessary given the volume of comments and the need for additional studies, including geotechnical and visual simulations. She advised that the Bruzzone family had not agreed to pay for or submitted funds as yet for this work, although staff continued to work with the Bruzzone family and would like the contracts ready for that time when the Bruzzone family was in agreement to pay.

In response to the Council, Ms. Brekke-Read clarified that staff was asking all of the consultants to come up with phased programming and budgeting to allow the Bruzzone family to provide the Town with funds in phases. If that did not occur, the work would not get done, and the project would not move forward and could not go back to a public hearing.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Arth/Metcalf) to adopt Resolution 68-2013 Authorizing the Town Manager to Sign a Contract Amendment with Hauge Brueck Associates (HBA) in the Amount Not to Exceed \$130,000 and Authorizing the Town Manager to Sign a Contract with Fehr & Peers in the Amount Not to Exceed \$55,000 to Complete Work Necessary to Respond to Comments on the Draft Environmental Impact Report (EIR) for Bollinger Valley Applications. Vote: 4-0-1. Absent: Chew.

- E. Consider Resolution 69-2013 Authorizing the Town Manager to Award a Professional Services Contract to Nichols Consulting Engineers (Richmond) in the Amount Not to Exceed \$200,000 for Pavement Management and Design Services for the 2014 Pavement Repair Project (CIP 08-106)

Mr. Kwan reported that with the current pavement project nearing completion, the Town was gearing toward next year's project to focus on overlays using cost effective treatments. An RFP had been sent out to a short list of contractors, and four responses had been received. Nichols Consulting had been deemed the most experienced and qualified. He asked the Town Council to authorize the Town Manager to award a Professional Services Contract to Nichols Consulting Engineers (Richmond) in the amount not to exceed \$200,000 for Pavement Management and Design Services for the 2014 Pavement Repair Project (CIP 08-106).

Responding to the Council, Ms. Keimach advised that the Town's sales tax consultant had suggested the Town may exceed estimates, although the Town had yet to receive the funds since it took time for collection. While staff was concerned, staff remained in contact with both the State and the consultant.

Mr. Kwan added that, if needed, streets could be removed from the project to reduce costs. He also noted that the proposals received from the RFPs had been opened after evaluation and staff would begin from that process. Of the four proposals, Nichols Consulting had been tied for second or third, with the costs varying from approximately \$140,000 to \$230,000, with Nichols Consulting at \$200,000 after negotiations. He affirmed that the rates were competitive, below the industry standard, and the lowest rates he had seen.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Wykle/Metcalf) to adopt Resolution 69-2013 Authorizing the Town Manager to Award a Professional Services Contract to Nichols Consulting Engineers (Richmond) in the Amount Not to Exceed \$200,000 for Pavement Management and Design Services for the 2014 Pavement Repair Project (CIP 08-106). Vote: 4-0-1. Absent: Chew.

- F. Consider Adopting and Waiving Second Reading of Ordinance No. 241, Amending Section 2.20.090, Appointment and Duties of Design Review Administrator, of Title 2, and Amending Section 8.08.070, Design Review Administrator, and Chapter 8.72, Design Review, of Title 8, of the Moraga Municipal Code to Clarify and Streamline the Design Review Process

Ms. Brekke-Read welcomed any questions from the Town Council on the item.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Arth) to adopt and Waive Second Reading of Ordinance No. 241, Amending Section 2.20.090, Appointment and Duties of Design Review Administrator, of Title 2, and Amending Section 8.08.070, Design Review Administrator, and Chapter 8.72, Design Review, of Title 8, of the Moraga Municipal Code to Clarify and Streamline the Design Review Process. Roll Call Vote: 4-0-1. Absent: Chew.

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

There were no Council requests for future agenda items.

XIII. COMMUNICATIONS

- A. Letter of Condolence to Lonjina Treat from the Moraga Town Council dated September 5, 2013
- B. Acknowledgement of Support of a Resolution for the U.S. Conference of Mayors "America Fast Forward Transportation Bonds" dated August 28, 2013

The Town Council acknowledged receipt of the communication items, with **Mayor Trotter** reporting that he had personally delivered the Letter of Condolence to Lonjina Treat from the Town Council during a memorial service held in the Town on September 9; and that he had

signed the Acknowledgement of Support of a Resolution for the U.S. Conference of Mayors "America Fast Forward Transportation Bonds" dated August 28, 2013, sponsored by a large group of Mayors in the U.S. Conference of Mayors requesting that Congress support the America Fast Forward Transportation Bond Program, which would create a new class of federal tax credit bonds that may help local governments attract private investment in their transportation systems.

XIV. ADJOURNMENT

ACTION: It was M/S (Arth/Wykle) to adjourn the meeting at 10:37 P.M. Vote: 4-0-1. Absent: Chew.

Respectfully submitted by:



Marty C. McInturf, Town Clerk

Approved by the Town Council:



Dave Trotter, Mayor