

**TOWN OF MORAGA  
TOWN COUNCIL REGULAR MEETING**

**February 12, 2014  
MINUTES**

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

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

**I. CALL TO ORDER**

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

**ROLL CALL**

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

Councilmembers absent: None

**II. PLEDGE OF ALLEGIANCE**

**Mayor Ken Chew** led the Pledge of Allegiance.

**III. SPECIAL ANNOUNCEMENTS**

**Mayor Chew** and the entire Town Council congratulated Chief of Police Robert Priebe on becoming a first-time grandfather.

**IV. PROCLAMATIONS AND PRESENTATIONS**

- A. Proclamation Honoring the 2013 Campolindo High School Girls Varsity Water Polo Team
- B. Proclamation Honoring the 2013 Campolindo High School Boys Varsity Water Polo Team
- C. Proclamation Honoring the 2013 Campolindo High School Girls Varsity Cross Country Team
- D. Proclamation Honoring the 2013 Campolindo High School Boys Varsity Cross Country Team
- E. Proclamation Honoring Aidan Goltra, North Coast Section and State Cross Country Champion

**Mayor Chew** read into the record proclamations honoring the 2013 Campolindo High School Girls and Boys Varsity Water Polo Teams; the 2013 Campolindo High School Girls and Boys Varsity Cross Country Teams; and Aidan Goltra, the North Coast Section and State Cross Country Champion.

**Mayor Chew** and the Town Council congratulated all members of the teams present in the audience and declared February 12, 2014 as *2013 Campolindo Girls and Boys Varsity Water Polo Day, Campolindo Girls and Boys Varsity Cross Country Team Day and Aidan Goltra Day.*

#### PUBLIC COMMENTS OPENED

John Walker, Principal, Campolindo High School, thanked the Town Council for honoring the student athletes, congratulated the athletes for balancing academics with athletic achievements, congratulated all coaches for their dedication, and thanked the students' parents for their support.

Kim Everist, Head Coach, Campolindo High School Girls Varsity Water Polo Team, echoed the comments from Principal Walker, and thanked the Council for the honor. She also took the opportunity to congratulate her athletes and recognized the parents' support for the program. She looked forward to continued success for the Girls and Boys Water Polo Teams and for the Campolindo High School athletic programs.

Chuck Woolridge, Head Coach, Campolindo High School Girls and Boys Varsity Cross Country Teams, also thanked the Council for the proclamations and for its support, and the parents and athletes for their dedication.

Grant Sivesand, member of the Campolindo High School Boys Varsity Water Polo Team, expressed his appreciation to the entire Team and commended all of the athletes and coaches for their accomplishments during the 2013 season.

Haley Shipway, Senior Captain for the Campolindo High School Girls Varsity Cross Country Team, expressed her appreciation to the parents and coaches, congratulated her fellow teammates, and thanked the Town Council for the recognition.

Aidan Goltra, North Coast Section and State Cross Country Champion, expressed his appreciation to his coaches, teammates, and the community.

Annika Jensen, Co-Captain, Campolindo High School Girls Varsity Water Polo Team, also expressed her appreciation to her teammates and coaches.

Natalie Seidemann, Co-Captain, Campolindo High School Girls Varsity Water Polo Team, thanked all the athletes' parents, the community for its continued support, and the Town Council for the recognition.

The Town Council again expressed its congratulations to all athletes and wished them well in all their future endeavors.

#### PUBLIC COMMENTS CLOSED

### V. PUBLIC COMMENTS AND SUGGESTIONS

Vince Matulich, Captain and Paramedic for the Moraga-Orinda Fire District (MOFD), representing Local #1230, spoke to his tenure with the MOFD, reported on financial decisions made by the MOFD Board of Directors, the lack of firefighter contracts for the past four years, and the Board's recommendation for a nine and a half percent pay cut to MOFD employees, which he found to be unacceptable. Mr. Matulich asked that the Town Council show its support in the form of a letter to the MOFD Board of Directors stating that the Town of Moraga supported its firefighters.

Mike Rattary, Fire Captain, MOFD, representing Local #1230, echoed the comments from the previous speaker, commented on the many concessions firefighters had taken to save the MOFD money, and also asked that the Town Council show its support in the form of a letter to the MOFD Board of Directors, and encouraged the MOFD Board of Directors to negotiate a reasonable contract with its firefighters.

Vince Wells, President, Local #1230, Fire Captain and Paramedic, also asked the Town Council for its support in the form of a letter or an item placed on the next Town Council agenda to show support for MOFD Firefighters. He suggested there was a lot of misinformation regarding this issue and suggested the salary cuts in the MOFD Board's recommended contract to its members were completely unnecessary with no significant cuts made in other jurisdictions during the recent economic downturn. He added that MOFD firefighters were already on the lower end of the pay scale when compared to others in Contra Costa County.

Evan Edgar, California Compost Coalition, Sacramento, provided the Town Council with written materials on green/food waste and composting through the Coalition, and noted that Lamorinda had a contract with the Contra Costa County Solid Waste Authority (CCCSWA) since 2005 to compost although the State mandate for composting had not been followed.

Janet Brandi Routt, Orinda, Engineer for the MOFD, also spoke to employee contract matters before the MOFD Board of Directors, opposed a recommended nine and a half percent pay cut in addition to existing concessions, referenced the financial decisions made by the MOFD Board, the fact that two MOFD Board members had quit mid-term leading to an unhealthy environment, and asked that the Town Council help the firefighters reclaim the MOFD.

Monica White, California Compost Coalition, also spoke to the fact that the Coalition had reviewed public documents reflecting that the majority of yard waste in Lamorinda was being sent to landfills, and being used with daily cover in a landfill in violation of State law. She read into the record statements from Lamorinda residents regarding the issue, provided a sampling of 300 e-mails sent to the CCCSWA demanding a public investigation into the issue, stated that at no point since 2005 had Republic Services composted anywhere near 100 percent of the waste as contractually obligated for the Lamorinda area. She emphasized that the issue was important and should be fully investigated.

Michael Caprio, Republic Services, stated that for the past 20 years he had been involved in the management of the solid waste and recyclable collection contract with the CCCSWA, of which the Town of Moraga was a member. He refuted the comments made by the previous speaker and advised that the waste material was being composted pursuant to the existing service contract, taken to a transfer station in South Oakland, and then delivered by transfer trailer to Newby Island in San Jose where it was composted.

Mr. Caprio stated there was a permanent process by which documentation of that process and records was provided to the CCCSWA which had the permission of an independent third party to review the matter. He was confident their findings would corroborate his statements. He added that he had not been contacted by the Coalition requesting information on any reports that were available through the State and online, suggesting it was a direct effort to change the staff recommendation to the CCCSWA on a new contract to begin March 15, 2014, with the CCCSWA Ad Hoc Committee and CCCSWA staff recommending a continuation of Republic Services to provide solid waste and recycling green waste services for another 10 years. He emphasized that Republic Services would continue to provide composting services as part of a new contract, if approved, and he looked forward to continuing to serve the Lamorinda community for the next 10 years and beyond.

## **VI. ADOPTION OF THE CONSENT AGENDA**

**A. Approval of the Consent Items**

Consent Agenda Items 2 and 9 were removed from the agenda.

**PUBLIC COMMENTS OPENED**

There were no comments from the public.

**PUBLIC COMMENTS CLOSED**

**ACTION: It was M/S (Wykle/Arth) to approve Consent Agenda Items 1, 3, 4, 5, 6, 7, and 8.  
Vote: 5-0.**

- |    |   |                |
|----|---|----------------|
| 1) | Accounts Payable Claims for 1/24/14 (\$143,133.60)  | Approved       |
| 2) | <i>Approve Minutes for the Regular and Special Town Council Meetings on January 8, 2014</i>   | <i>Removed</i> |
| 3) | Approve Minutes for the Special Town Council Goal Setting Workshop on January 14, 2014  | Approved       |
| 4) | Consider Resolution 12-2014 Authorizing the Town Manager to Execute a Memorandum of Understanding with the American Red Cross Bay Area Chapter for Preparation and Response to Disasters  | Approved       |
| 5) | Review and Accept Town Council and Community Goals and Objectives for 2014  | Approved       |
| 6) | Approve by Motion Authorization for the Town Manager to Deem Identified Town-owned Vehicle as Surplus   | Approved       |
| 7) | Consider Resolution 13-2014 Awarding a Consultant Services Agreement for Assessment District Engineering Services Related to the Fiscal Year 2014/15 Town of Moraga Street Lighting District 1979-1 to Leptien, Cronin, Cooper, Morris & Poore, Inc. for an Amount Not to Exceed \$10,900   | Approved       |
| 8) | Consider Resolution 14-2014 Ordering Engineering Assistance to Prepare and File an Annual Engineer's Report for Fiscal Year 2014/15, Town of Moraga Street Lighting District 1979-1   | Approved       |
| 9) | <i>Consider Resolution 6-2014 Denying the Appeal and Upholding the Planning Commission Decision, with Modifications to the Conditions of Approval, and Approving a Conditional Use Permit, a Hillside Development Permit, and a Tree Removal Permit, for an Approximate 4,270 Square Foot Single-Family Residence on a Vacant 13,203 Square Foot Hillside Parcel Located at 1800 Donald Drive (APN 255-183-011)</i> | <i>Removed</i> |

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

1. Approve Minutes for the Regular and Special Town Council Meetings on January 8, 2014

**Councilmember Metcalf** requested an amendment to the action shown for Agenda Item XI. Ordinances, Resolutions and Requests for Action, Item C of the Regular Town Council meeting for January 8, 2014, as follows:

**ACTION: It was M/S (Metcalf/Wykle) to receive and file the Audited Financial Reports for the Year Ended June 30, 2013 Including: 1) Comprehensive Annual Financial Report (CAFR); 2) Memorandum on Internal Control (MOIC); and 3) 2012/2013 Appropriation Limit Calculation. Vote: 5-0.**

**ACTION: It was M/S (Metcalf/Wykle) to approve the Minutes for the Regular [as amended] and Special Town Council Meetings on January 8, 2014. Vote: 5-0.**

2. Consider Resolution 6-2014 Denying the Appeal and Upholding the Planning Commission Decision, with Modifications to the Conditions of Approval, and Approving a Conditional Use Permit, a Hillside Development Permit, and a Tree Removal Permit, for an Approximate 4,270 Square Foot Single-Family Residence on a Vacant 13,203 Square Foot Hillside Parcel Located at 1800 Donald Drive (APN 255-183-011)

**Councilmember Trotter** requested the following amendments to Attachment B, a Redline Version of Resolution 6-2014, Denying the Appeal and Upholding the Planning Commission Decision, with Modifications to the Conditions of Approval, and Approving a Conditional Use Permit, a Hillside Development Permit, and a Tree Removal Permit, for an Approximate 4,270 Square Foot Single-Family Residence on a Vacant 13,203 Square Foot Hillside Parcel Located at 1800 Donald Drive (APN 255-183-011), as follows:

Page 4, Part 1: General Findings 2:

2. *The parcel at issue is a legal lot that was created by Contra Costa County prior to the Town's incorporation, and would not conform with current subdivision standards under the Town's General Plan and ordinances. As such, this approval shall not be considered to have any precedent setting effect with respect to any future applications that may come before the Town.*

Town Attorney Karen Murphy commented that the proposed revision added language stating that the project did not conform to the Town's existing standards and the prior language indicated it was not a legal lot.

**Councilmember Trotter** suggested that the original redline version had not captured the initial discussion of the project, which was the reason he had asked for the modification.

Discussing the revision, Planning Director Shawna Brekke-Read stated she was not comfortable with the language *and would not conform with current subdivision standards*, and recommended instead the language: *General Plan policies and Title 14 regarding slope for new lots and new developed lots.*

**Councilmember Trotter** restated his recommended modification to Page 4, Part 1: General Findings 2, to be further modified as follows:

2. The parcel at issue is a legal lot that was created by Contra Costa County prior to the Town's incorporation, and would not conform with the Town's current policies of the General Plan or with Title 14 of the Town's Municipal Code with respect to slope requirements for subdivided lots. As such, this approval shall not be considered to have any precedent setting effect with respect to any future applications that may come before the Town.

**Councilmember Trotter** pointed out the Town Council had struggled while discussing the appeal, resulting in a 3-2 vote. He did not want language in the resolution that would send the wrong message to future Town Councils. He asked that the language as modified be retained.

**Councilmember Metcalf** did not want to hold the project up on this issue nor object to the modified language. He was confident with staff and legal counsel's direction on the interpretation of the language.

**PUBLIC COMMENTS OPENED**

There were no comments from the public.

**PUBLIC COMMENTS CLOSED**

**ACTION: It was M/S (Trotter/Metcalf) to approve Resolution 6-2014 Denying the Appeal and Upholding the Planning Commission Decision, with Modifications to the Conditions of Approval, and Approving a Conditional Use Permit, a Hillside Development Permit, and a Tree Removal Permit, for an Approximate 4,270 Square Foot Single-Family Residence on a Vacant 13,203 Square Foot Hillside Parcel Located at 1800 Donald Drive (APN 255-183-011), as modified. Roll Call Vote: 4-1. Noes: Wykle.**

**VII. ADOPTION OF MEETING AGENDA**

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

**VIII. REPORTS**

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

**Mayor Chew** – Reported that he had attended a luncheon on January 24 with the Saint Mary's College (SMC) Board of Trustees; attended a meeting of the CCCSWA on January 30 to interview the short list of Executive Director candidates, discussed the renewal of the franchise agreement process with the matter to be brought back to the CCCSWA Board at its next meeting scheduled for February 27; attended a Kiwanis Crab Feed on February 1; and attended the Mayors' Conference in the City of San Pablo on February 6.

**Vice Mayor Wykle** - Reported he had attended the Moraga Youth Involvement Committee (MYIC) meeting on February 6 and he detailed the upcoming activities.

**Councilmember Arth** – Reported that he had attended a presentation for the Painted Rock/Roger Poynts development at Terzetto's Restaurant on January 23; the beam signing ceremony at SMC Alioto Recreation Center on January 24; a meeting of the Moraga Chamber of Commerce Board with Jason Evans selected as the Business Person of the Year on February 5; and the Moraga Movers Dinner (at

which time the Planning Director had provided an update on Planning Department activities) on February 10.

**Councilmember Metcalf** - Reported he and Police Chief Priebe had attended a meeting of the East Bay Regional Communications System Authority (EBRCSA) on January 24; two meetings of the Lamorinda Program Management Committee (LPMC) with a discussion of the Lamorinda Action Plan and inter-jurisdictional routes; a meeting of the Contra Costa Transportation Authority (CCTA) with a discussion on a statewide compensation study; a meeting of the Lamorinda School Bus Transportation Agency with a survey done as part of the Southwest Area Transportation Agency's (SWAT) Transportation Demand Management (TDM) program; and a meeting of the Fields and Facilities Ad Hoc Subcommittee on February 10.

**Councilmember Trotter** - Reported that he had attended a meeting of the CCCSWA on January 30 with the next meeting scheduled for February 27; a portion of the Moraga Chamber of Commerce meeting at which time there had been many complaints about the Town's Sign Ordinance on January 31; met with a local resident along with Councilmember Metcalf to discuss forward thinking ideas for the Hacienda on February 7; and the meeting of the Fields and Facilities Ad Hoc Subcommittee meeting on February 10.

**B. Town Manager Update – No report.**

Parks and Recreation Director Jay Ingram provided an update on the Town's 40<sup>th</sup> Anniversary activities, with staff planning to meet with the subcommittee soon to discuss potential concepts.

Town Manager Jill Keimach advised that any updates on the Town's 40<sup>th</sup> Anniversary activities would be placed on future Town Council agendas.

On the issue of a third party review of the compost issue between CCCSWA and Republic Services, **Mayor Chew** stated that he was confident all questions would be answered.

**Councilmember Trotter** advised the proposed new franchise would no longer permit the use of green waste as an alternative; however, the issue would go away regardless as of March 15, 2015.

Ms. Murphy cautioned that the item had not been agendaized and only updates of recent CCCSWA meetings may be reported.

**Councilmember Metcalf** asked that the issue be agendaized for a future agenda to allow for a full Council discussion.

Ms. Keimach advised that an upcoming Town Council meeting would include a presentation from the CCCSWA Director.

**IX. DISCUSSION ITEMS**

There were no discussion items.

**X. PUBLIC HEARINGS**

- A. Consider Introducing and Waiving the First Reading of an Ordinance Approving a Development Agreement between the Town of Moraga and SummerHill Homes for the Camino Ricardo Subdivision (CEQA Status: The Planning Commission Certified the EIR for the Project, Including Components of the Development Agreement on January 7, 2014)

Senior Planner Ellen Clark reported that the Planning Commission had certified the Environmental Impact Report (EIR) for the 26-unit Camino Ricardo project on January 7, 2014, along with a series of entitlement approvals to implement the project. The Planning Commission had also recommended Town Council approval of the Development Agreement (DA) for the project, with the Town Council having been provided a revised draft of the DA in redline strikeout format just prior to the meeting.

Ms. Clark identified the 26-unit Camino Ricardo project located on a 14.25 acre site off of Camino Ricardo within the Moraga Center Specific Plan (MCSP) Area, located on a hilly site and traversed by two creeks, Laguna Creek and Corliss Tributary. The project would consist of clustered units to allow a significant portion of the site to be open space, including a park area. Extensive public review had been provided for the project with ten public study sessions or meetings with the Planning Commission, the Design Review Board (DRB), and the Park and Recreation Commission at which time staff and the developer had received a great deal of input resulting in modifications to the plans.

Ms. Clark acknowledged that although a DA was not often used in Moraga, DAs were well known, with State law establishing statutes for processing such agreements. The DA provided a voluntary agreement between a local agency and a developer to provide mutual benefits to both parties. She clarified that the MCSP encouraged DAs to achieve the types of amenities and improvements foreseen in the MCSP. In this case, the DA would be between the Town of Moraga, the land owner C&C Equities, and the developer SummerHill Homes, and would carry an initial ten-year term which could be extended by the Town for an additional five years at the request of the developer.

The DA would vest the applicant's development rights including vesting of all Town land use and zoning regulations and fees in place at the time of project approvals unless otherwise excluded by the terms of the DA. The DA would address a number of on- and off-site public improvements, including dedication and improvement of public open space area, pedestrian bridges and trails, public 'outlook' point, Camino Ricardo sidewalk, public safety impact fee, contribution for Moraga Road pedestrian improvements, and point of sale designation, as outlined in detail in the staff report.

Responding to the Council, Ms. Clark and Ms. Murphy described the process for how the point of sale designation would work similar to vehicle sales.

Ms. Clark also clarified that the Camino Ricardo sidewalk would be built on land in the public right-of-way down to Moraga Way, and the estimate shown for the maintenance of the open space park was provided by the Parks and Recreation Director based on per acreage maintenance costs. The developer was to provide the finished park improvements on the site. She added that the \$75,000 figure for the cost of the bridge had been discussed by the Planning Commission and had been provided by the developer. Staff had reviewed the costs relative to the cost of the bridge at the Commons which had been more expensive, and found them to be comparable.

Ms. Clark also noted that the details for the bridge location had not yet been identified, and agreed that the riparian crossing was wider when moving further south. The bridge would be constructed of rail cars which have fixed lengths and span only a certain distance. She clarified

Sheet L1.0D, the current alternative for the pedestrian bridge, clarified Exhibit 1, Conditions of Approval for Planning Standard Conditions, particularly Condition 14, and briefly outlined the Planning Commission's discussions with respect to that condition.

## PUBLIC HEARING OPENED

Denise Cunningham, Director of Development, SummerHill Homes, provided a PowerPoint presentation on the Camino Ricardo Subdivision; thanked staff for all of the hard work over the past two years; and thanked the Town Council for its consideration of the project. She outlined the proposed architecture for the project which had been well received by the DRB and which offered a variety of high-quality materials. She reiterated the project was located within the MCSP, was an infill development, and that SummerHill Homes had prepared a Focused Environmental Impact Report (EIR) for the project including multiple public meetings between the developer, the public, the Planning Commission, DRB, and Park and Recreation Commission. She added that the developer had been responsive to comments and a better plan had been developed as a result.

Ms. Cunningham read into the record the policies in the MCSP as related to the use of a DA. She noted that SummerHill Homes was the first development in the MCSP and would offer a number of benefits to the Town. She identified the sidewalk from the property frontage to Moraga Way, identified the pedestrian circulation and connectivity from Camino Ricardo to Moraga Road through a series of trails and bridges, and suggested the improvements were above and beyond what was required of the development. She also identified the overlook area which had been incorporated into the development, a future stub road connection with a seating area and trellis, and noted that if the road connection was constructed the seating area and trellis would remain. She also identified the dedication of a two and a half-acre park space which exceeded the obligation of a community of 26 homes.

Ms. Cunningham advised that the in-lieu fee for the 26-home development would be \$260,000 with the value of the two and half acres at \$2 million, and with the improvements as part of the DA at approximately \$300,000. She reiterated that the developer had worked with staff, the community, Planning and Park and Recreation Commissions, and the DRB on the vision for the park, with many opportunities discussed and with a community desire for a passive park, with two bridges, and a looped trail, all benefitting the Town. She emphasized the significant benefits to the Town and the implementation of policies contained in the MCSP as part of the DA. She requested that the Town Council approve the DA at this time.

In response to the Council, Ms. Cunningham spoke to the intent to preserve the history of the Town and the property as a former orchard through the use of ornamental cherry trees along the frontage as part of the initial design, with the intent to use fruit-bearing pear trees as long as they could find someone in the community to harvest them.

Ms. Keimach clarified that the use of fruiting trees along the frontage was part of the landscaping plan submitted by SummerHill Homes and approved by the Planning Commission.

Ms. Clark affirmed that the landscaping plan had shown the planting of orchard/ornamental fruit trees, including the species and tree types reflected in Plan L1.0.

Ms. Cunningham noted that the final landscaping plan would require DRB review and approval.

Suzanne Jones, Preserve Lamorinda Open Space (PLOS), Moraga, reported that PLOS and SummerHill Homes had successfully worked together during the process and had agreed to creek setbacks, biological mitigation measures, reductions in grading, and the elimination of fill on the open space park area. She thanked SummerHill Homes for being an exemplary

community partner throughout the process and for its willingness to listen and collaborate on the project. However, she noted that SummerHill Homes had indicated it would be willing to build the Laguna Creek bridge now or provide funding to build the bridge at an alternate location in the future. She pointed out that a bridge from the open space area across Laguna Creek to the skate park had not been envisioned in the MCSP and would require the removal of a wide swath of dense riparian understory, tree canopy, and the construction of a flashing light pedestrian crosswalk. She noted that the Planning Commission had unanimously opposed a pedestrian crossing at the skate park and had originally opted to omit the second bridge for the time being and reserve funds for a better connection in the future.

Ms. Jones stated that during a later hearing, staff had asked the Planning Commission to reconsider that position, suggesting rather than a pedestrian crossing, pedestrians may be directed south from the bridge along Moraga Road to cross at the St. Mary's Road intersection. She questioned whether people using the skate park via a bridge across the street would walk down to the intersection and back when they could just dash across the road. That concern had been shared by the Planning Commission which had directed SummerHill Homes to investigate adjusting the bridge on Town-owned property slightly to the south to shorten the walk to the St. Mary's Road intersection. She noted, however, that option may increase environmental impacts. She added that she had provided the Town Council with an aerial photograph of the property making it clear if there was to be a second bridge from the open space park, the sensible place would be the location shown in the MCSP. She urged the Town Council to hold out for a quality location for the bridge and trail and asked that the DA reflect the original vision of the MCSP.

Responding to the Council, Ms. Jones expressed concern with the proposed bridge and a second bridge across Laguna Creek as shown in the MCSP given the impacts for multiple creek crossings, and suggested one bridge could do the job. If the bridge were to go in across from the skate park, there was no incremental benefit to build a second bridge in the MCSP location. She emphasized the special status species in the creek, and preferred that the Town Council defer the construction of the bridge and hold out for a good place as envisioned in the MCSP, or commit to a signal crossing and bridge alignment across from the skate park if that was the will of the Town. She could not see justifying two bridges in close proximity to each other given the potential environmental impacts. When asked, she added that she was not representing any regulatory agency and that she was a resident of unincorporated area.

Britta Harris, Moraga, expressed concern with the unresolved issue of the Laguna Creek Bridge and the associated safety factors noting that the EIR had identified the potential public safety impact connecting the bridge to Moraga Road with a pedestrian crossing having been suggested as a mitigation measure. She noted that a walking trail along Moraga Road from the bridge to St. Mary's Road had been considered but using that bridge to many community events suggested people would be inclined not to use the longer route but take short cuts. If the bridge were installed absent the pedestrian crossing there would be safety issues along Moraga Road. She suggested a trail along Moraga Road would not solve the safety issue and she opposed the approval of a bridge where a safe crossing was an issue. She also suggested that the vision of the MCSP would be better accomplished by banking the cash contribution of \$75,000 and waiting to make a decision until more parcels had been developed and then determine what was or was not working. She otherwise thanked the SummerHill Homes team for its willingness to work with the neighbors.

#### PUBLIC HEARING CLOSED

Ms. Brekke-Read clarified the Planning Commission discussions regarding the Laguna Creek Bridge when some Commissioners had expressed concern with a high visibility pedestrian crosswalk over Moraga Road interrupting the aesthetics. She advised that staff was working

with the consultant for the Livable Moraga Road Project in an effort to accommodate pedestrians and bicyclists on all of Moraga Road and to accommodate safe crossings.

**Mayor Chew** suggested the removal of the Laguna Creek Bridge would impact the desired connectivity for the project.

**Councilmember Metcalf** commented that he had been a member of the MCSP Subcommittee in 2002 and that the diagram in the staff report was from the 2002 MCSP. He noted that the MCSP Subcommittee had spent a lot of time to conceptually determine how to have the circulation work in the area for vehicles and pedestrians. The same discussion conceptually addressed having trails in that area. In the area of the SummerHill Homes development, there was an area northeast that included a crossing over the creek, and the same for the area to the east trending northwest. In no way was that where a specific bridge location had been designated. He suggested that based on the land use identified as part of the MCSP process, the triangular area could hold possibly three to five homes, and someone could place homes in that area. He noted the developer desired to move the bridge farther to a narrower portion of the creek on the north end of the property, and leave the park area more undisturbed.

**Councilmember Metcalf** suggested it made sense to place a crosswalk to the skate park area. He was not concerned with the aesthetics, noting that there was a crosswalk at Corliss Drive. As to placing the \$75,000 in the bank, he was not confident it would ever get used to build a bridge. He suggested if a bridge were placed on the southern side of the project site it may cause the re-opening of the EIR which he interpreted as a threat and could jeopardize the project. He suggested the placement of the bridge on the north side could be achieved, was defensible, and he would rather not build homes in that area, donate the land to the Town for public enjoyment, and do what was necessary to make that work. He supported moving forward with the DA.

**Vice Mayor Wykle** suggested that until such time as the pedestrian walkway was designed, there would be a safety issue at the crossing because cars wouldn't stop. He asked the Police Chief to opine on that element of the project design.

Chief Priebe stated that he had been pleased with the overall compliance related to the Town's crosswalks and suggested the community, drivers, and pedestrians had adjusted, although education was still needed. The safety of Corliss Drive was also measurably better than it had been in the past. He commented that he had seen plans for a proposal for a crosswalk further down which would empty into the parking lot and that a location by the skate park made sense given the connectivity of the bridge. He was not supportive of placing more pedestrian traffic in a parking lot and thought the northern crossing made more sense.

**Councilmember Trotter** advised that he had also worked with Councilmember Metcalf on the MCSP and commented that there had been difficulty negotiating the terms of the MCSP with the Bruzzone family. He noted that Richard Chi had no intention of developing in the triangular area due to the riparian crossing issues that were problematic from a regulatory agency standpoint, and Mr. Chi wanted an agreement to transfer his density to the remainder of the property, which was why this was proposed as an open space area. He added that the MCSP Subcommittee had not only looked at the Chi property but the entire area with future connectivity in mind. A proposal for a crossing in the southern area was preferable from an environmental standpoint given the absence of the understory vegetation. He noted they had tiered off the MCSP in the EIR and planned for the future crossing at the southern end.

**Councilmember Metcalf** stated that the Town had no way of knowing whether the Bruzzone family would do anything with their parcel of land and he could not recall any discussion with the Bruzzone family about bridge crossings during the MCSP process. With respect to the bridge

issues, the Town Council had been tasked with planning for the future even if the plan was not realized for five or ten years. He suggested they should consider the potential use of the Bruzzone property since that land was situated to provide another connection recreationally to the Commons and the proposed park of the SummerHill Homes development.

**Councilmember Trotter** suggested a connection to Moraga Road in the near future. He suggested the Town Council should also have a dialogue with SummerHill Homes for different terms, including having SummerHill Homes build the bridge in the northerly location, and requiring half the cost of a second bridge, \$37,500, be placed into a fund to someday pay for an additional bridge crossing which would require some cooperation from the southerly property owner. He otherwise suggested there were many benefits to the DA, and that it made sense although there were some things that had been left out of the discussion possibly since the Planning Commission had to deal with the DA late in the evening.

**Councilmember Trotter** stated he could also foresee the need for funding for future yearly maintenance of the open space park, and suggested a \$30,000 amount. He suggested the DA had significant value to SummerHill Homes including contractually vested rights and transferring to the Town acres of property upon which the developer would otherwise have to pay property taxes, and the Homeowner's Association (HOA) would pay to maintain.

Ms. Keimach recognized that SummerHill Homes had been very responsive to the Town and the community. She commented that when staff started negotiating the DA there had been a longer list of issues including the maintenance of the open space park, although SummerHill Homes had identified what it could and could not do, with the need to prioritize what was best for the community. The proposed DA was a result of having to prioritize what was good for the community. She asked that SummerHill Homes be given the opportunity to respond to Councilmember Trotter's recommendation. She wanted to make sure the project was viable for the developer and for the Town without negatively affecting the quality of the project.

Ms. Cunningham stated the proposed DA provided a huge benefit to the Town and the developer had acknowledged the benefit of vesting rights in the project. She expressed her appreciation for the Town Manager's comments given the limited funds the developer had for improvements to the property. If there were any material changes proposed to the DA, she requested a continuance to allow for developer review. She noted that the crosswalk would cost an additional \$25,000 to install, and she pointed out the lack of a nexus for the two bridges already being installed. She commented that there were no funds available that had not already been negotiated.

**Councilmember Trotter** supported a continuance as recommended by the developer.

**Councilmember Metcalf** noted the DA concerned items the developer was not required to provide and that the developer was willing to provide attractive amenities such as installing two bridges, the trail, and the crosswalk, and there was only so much that could be done. He recognized that staff had worked with the developer for the past two years, and that the DA involved a lot of effort from staff and the developer. He did not want to continue the item, suggested it would be a waste of time, and preferred to see the DA advance with the project to break ground in the summer.

**Councilmember Arth** supported Councilmember Metcalf's comments and was supportive of moving on with the DA.

**Mayor Chew** referenced Page 14 of the DA, Section 5.11 Moraga Road Trail and Access Improvements (b), and understood that section would have to be modified, to which Ms. Murphy advised that with the agreement as drafted, the Developer shall design the bridge or provide

funding, and the alternative for \$75,000 would have to be removed if the Council followed Councilmember Trotter's recommendation to construct the Laguna Creek Bridge.

Ms. Brekke-Read advised that the Planning Commission conditions of approval, as reflected in Exhibit 1, made reference to the \$75,000 in-lieu payment.

Ms. Murphy affirmed the Planning Commission had approved the project with the condition that the bridge would be moved further to the south provided there were no additional environmental impacts, and the bridge location would come back to the Planning Commission, the action from which would be appealable to the Town Council.

Ms. Keimach acknowledged the concerns raised by the Planning Director, noting if the DA was modified as discussed there would be two inconsistent directions (one from the Planning Commission that had been approved and not appealed, and the DA). She suggested that the Town Council could approve the DA and give direction back to the Planning Commission that the Town Council's expectation was to have the bridge as opposed to having two conflicting legal documents.

**Councilmember Trotter** indicated that the concerns had been discussed in the staff report. He otherwise suggested the project had received unprecedented basis by having the Conceptual (CDP) and General Development Plans (GDP) approved at one time. He agreed with the desire to get the project going but noted that the Town Council had not taken similar action on a project of this size. He suggested there was an opportunity to negotiate a better DA with greater public benefits than the one put forward at this time. If the matter must go back to the Planning Commission, he sought a simultaneous dialogue between the developer and staff along the lines he had recommended.

Ms. Keimach clarified that the Planning Commission approval was contingent upon the Town Council approving the DA, and separate from that it included a requirement that the developer look at the environmental impacts of the bridge location. The Planning Commission had requested that the bridge be pushed as far south as possible without further impacting the environment and keeping within the parameters of the environmental document. This decision was separate from a decision on the DA. The Town Council did not have to wait for the Planning Commission to approve the final improvement plans.

Ms. Murphy added that the Planning Commission approvals had not been appealed and the only item that would come back would be the one condition regarding the bridge location, which was why the DA had been drafted to provide for alternatives allowing the project to move forward while the bridge issue was being addressed. She understood that the direction from the Town Council was to modify the DA to clarify the location of the bridge but noted that staff would have to address the Planning Commission approvals. She noted the condition before the Planning Commission was that the developer could propose an alternate bridge location which would come back before the Planning Commission.

Ms. Murphy stated that a crosswalk or an alternative was an EIR mitigation measure. She again reiterated the Planning Commission direction to move the bridge as far south as possible to provide an alternative location or design for the crossing, which was why the DA had been drafted with the alternatives. She affirmed the Town Council may direct that the bridge be located in the northern location and that the developer be asked to provide the connection to a crosswalk which could be in the immediate vicinity of the skate park. If that was the Town Council direction, she would then work with the Planning Director to determine how to proceed.

In response to the Vice Mayor, Ms. Keimach again outlined the discussions of the Planning Commission regarding the bridge, the location for a safe crosswalk, the efforts of the Livable

Moraga Road Project, and the intention for a safe crossing if the crosswalk was not provided at some location immediately near the skate park. A trail could be designed with a split rail fence similar to the other side of the street or have the trail lead people down to the intersection at St. Mary's Road/Moraga Road which connected to the Lafayette-Moraga Regional Trail. That decision could be deferred to a later date and tied to the Livable Moraga Road Project.

**Mayor Chew** expressed a preference for the bridge to be located at the northern location. Given that the cost for the bridge and crossing was unknown, he suggested the Town Council had the authority to amend the DA. He preferred that a decision on the DA move forward at this time and agreed there was a need for a safe crossing at the St. Mary's Road/Moraga Road intersection.

Ms. Murphy recommended the following modifications to the DA:

- Page 14, the first paragraph of Section 5.11 Moraga Road Trail and Access Improvements of the DA be revised to read:

*Developer shall design and construct, at its expense, the Moraga Road Trail and Access Improvements, as defined below.*

- Page 14, the first sentence of Section 5.11 Moraga Road Trail and Access Improvements (a) be revised to read:

(a) *Developer shall design and construct, at its expense, the following improvements on Town-owned property to connect the Open Space Park/Area to Moraga Road and the existing Moraga Commons Park:*

Ms. Murphy noted that the northerly location of the bridge would have to be drafted in Section 5.11 Moraga Road Trail and Access Improvements (a). She also recommended the elimination of Section 5.11 Moraga Road Trail and Access Improvements (b) as shown on Page 14.

**Vice Mayor Wykle** suggested that the crosswalk, wherever located, should be placed in the right location. Responding to Councilmember Trotter's recommended revisions to the DA, he was not opposed to further negotiation, suggested that SummerHill Homes had done a great job, and stated they were only speaking of a bridge at this time.

Ms. Murphy suggested if the Town Council wished to move forward with the bridge at the northerly crossing, the entire first paragraph of Section 5.11 Moraga Road Trail and Access Improvements could be deleted, but include the modifications she had earlier identified for Section 5.11 (a), along with further modification to Section 5.11 Moraga Road Trail and Access Improvements (a) (i) to read:

*a pedestrian bridge and trail across Laguna Creek connecting the Open Space/Park Area to Moraga Road in the location shown in the original plan submittal; and*

Ms. Murphy reiterated that such modification to Section 5.11 Moraga Road Trail and Access Improvements (a) (i) would be subject to Planning Department verification.

Ms. Brekke-Read suggested that Section 5.11 Moraga Road Trail and Access Improvements (a) (i) be further modified to read:

*a pedestrian bridge and trail across Laguna Creek connecting the Open Space/Park Area to Moraga Road in the location as shown on the Vesting Tentative Map; and*

Ms. Murphy noted it would be at the discretion of the Town Council whether it wanted to add language related to the crosswalk to indicate a crosswalk across Moraga Road. She again recommended the elimination of subparagraph (b).

On the issue of the crosswalk, Ms. Brekke-Read advised of the intention for a high visibility crosswalk design.

Ms. Cunningham stated the EIR had evaluated the crossing in the location shown on the Tentative Map, and recommended a flashing crosswalk across from the skate park, to be installed by SummerHill Homes at the time of the bridge installation with the developer reimbursed by future development to pay its fair share towards the cost of the crosswalk.

**Councilmember Trotter** commented on the numerous changes and concepts to one section of the DA. He sought a continuance and dialogue between the attorneys for SummerHill Homes and the Town to confirm the changes. He did not support the approval of the DA at this meeting based on the changes. He recognized he did not have the Council support for the other modifications he had asked to be made to the DA.

Although he did not want to delay the DA, **Councilmember Metcalf** agreed with the concerns raised by Councilmember Trotter regarding the proposed changes to the DA. He did not want any mistakes made to the DA, did not want to place the Town Attorney in an uncomfortable position, while also recognizing SummerHill Homes must agree to the revisions. He agreed there was a need for dialogue between the respective attorneys.

Ms. Murphy affirmed that a continuance would allow staff the opportunity to review the modifications in the entirety of the DA to ensure there were no inconsistencies. She clarified this was the first reading of the ordinance which allowed for minor changes although the changes the Council wanted to see were significant.

**Vice Mayor Wykle** favored a continuance as discussed and clarified with the Planning Director that a meeting had been held today between staff and the consultant regarding the Livable Moraga Road Project, with a discussion of concepts and designs. Prior to a commitment to a crosswalk at the north crossing, he wanted assurance the crosswalk would be located in the right place through the work of the Livable Moraga Road Project. He clarified with the Planning Director the intent for SummerHill Homes to start grading this summer and start construction of the homes next summer.

**Mayor Chew** pointed out that the Livable Moraga Road Project was a lengthy process and he did not want to necessarily tie the crosswalk to that process.

Ms. Keimach asked for a consensus from the Town Council as to whether to identify the crosswalk at a specific location since it would impact the language in the DA.

**Councilmember Metcalf** understood the final location would be as shown on the Vesting Tentative Map, to which Ms. Keimach noted that the Vesting Tentative Map showed the bridge and not the crosswalk. **Councilmember Metcalf** saw no risk in stating the crosswalk would be located in the vicinity of the skate park given that slight adjustments could be made in the future.

**Mayor Chew** understood the Town Council's consensus that the bridge be located in the northerly location as shown on the Vesting Tentative Map with the crosswalk to be placed in the vicinity of the skate park/bridge.

Ms. Murphy advised that if the direction of the Town Council was to continue the DA it would be brought back again for a first reading, subject to any proposed modifications. Ms. Keimach suggested the item could be continued to a date certain of February 26, 2014.

**Vice Mayor Wykle** acknowledged the Town Council's consensus although he continued to have serious safety concerns with the crosswalk.

**Councilmember Trotter** reluctantly approved of the location for the bridge since it was the lesser environmental location, superior to the Planning Commission alternative and analysis, and suggested there was a better location for the bridge but was not particularly concerned with the crosswalk being in the vicinity of the bridge. He suggested the Town Council was missing an opportunity to make a request of the developer for half of the cost for a future bridge.

**ACTION: It was M/S (Metcalf/Arth) to continue the Introduction and Waiving the First Reading of an Ordinance Approving a Development Agreement between the Town of Moraga and SummerHill Homes for the Camino Ricardo Subdivision (CEQA Status: The Planning Commission Certified the EIR for the Project, Including Components of the Development Agreement on January 7, 2014); to a date certain of February 26, 2014; with staff directed to identify the location of the bridge to be consistent with that shown in the Vesting Tentative Map; and a high visibility crosswalk in the vicinity of the skate park. Vote: 4-1. Noes: Wykle.**

**Mayor Chew** declared a recess at 10:17 p.m. The Town Council meeting reconvened at 10:24 p.m. with all Councilmembers present.

## **XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION**

- A.** Consider Resolution 15-2014 Authorizing the Town Manager to Execute a Contract with Silicon Connections LLC to Design, Purchase, Install, and Provide Training for a Complete Audio Visual and Technology System for an Amount Not to Exceed \$165,000 and a Five-Year Annual Service Contract Not to Exceed \$8,000 Annually (or \$40,000) for the Town of Moraga Community Meeting Room and Council Chambers

Ms. Keimach explained that in 2006 the Town Council had identified a goal to increase transparency and televise Council meetings. Since that time, it had been a continuing goal with staff requesting proposals in April 2011 and with two proposals received primarily for service contracts. She described the lessons learned during that process about the entire technology process, with staff having asked specifically for an evaluation of the community meeting room at 331 Rheem Boulevard. She described the two proposals as quite different. At this time, she recommended that the Town Council authorize the Town Manager to execute a contract with Silicon Connections LLC to design, purchase, install, and provide training for a Complete Audio Visual and Technology System for an amount not to exceed \$165,000 and a Five-Year Annual Service Contract not to exceed \$8,000 annually (or \$40,000) for the Town of Moraga Community Meeting Room and Council Chambers. She identified the audio visual and technology equipment proposed to be located in the community meeting room, as detailed in the staff report. She commented that staff had worked hard to obtain as many responses as possible but only two responses had been received since the Town had asked for something different to address the Town's specific needs.

Mark Dahlen, Silicon Connections, described the system that had been designed specifically to avoid any direct tie into Silicon Connections or any specific provider but to consist of an industry standard system with a control panel to be programmed allowing for any other company to make any changes if necessary. He explained that the system had been designed in that way

to allow staff the efficiencies and function desired. The system would be modular, and if outdated in the future, components could easily be replaced. He clarified the contract would not include upgrades to the equipment in the future but would include the software contract for the main piece of equipment switching the cameras. He also described the teleconferencing capabilities with the other side required to be compatible with the subject system, with the system designed to televise Council meetings, and with the cameras able to be integrated with a teleconference system subject to additional equipment. The system, as proposed, would also be able to accommodate Skype.

Responding to the Council, Mr. Dahlen stated he had not specifically designed systems for Council Chambers, but was familiar with this level of scope of work for corporate board rooms and communication facilities which had integrated audio visual systems with Information Technology (IT) environments. He had experience in making the system integrate where it would be easy to control, and where Silicon Connections could remotely control the entire system if needed for repairs. Silicon Connections also had a programmer on staff who was very skilled at integrating the various components. He reviewed the proposed equipment design and efficiencies with the Council, with the system allowing for public and private access, and with connection to Town servers.

Mr. Dahlen added that the meeting videos would be stored on the computers at 331 Rheem Boulevard and Contra Costa Television (CCTV) where they would be broadcast to the cable channel; the web access would be stored on the web server; and Councilmembers would have the ability to use high speed Wi-Fi with access available to the public.

Ms. Keimach clarified the contract did not include software for annotation with staff to conduct more research on that element and the web access was an interim measure until such time as the Town had the time and funds to do more. She expressed her hope that improvements would be made to the system each year. She added that the equipment would be a heavy energy user and while the generator at 331 Rheem Boulevard had been identified as a concern, Mr. Dahlen had done calculations as part of the proposal and had found that the generator would cover that eventuality.

As to the costs to the Town, **Councilmember Arth** noted that with the proposal the Town would receive better Wi-Fi and all of the efficiencies identified, which could not compare to the rental fees for the use of the Joaquin Moraga Intermediate School Auditorium.

Town Clerk Marty McInturf advised that the Town spent approximately \$5,000 annually for the use of the Joaquin Moraga Intermediate School Auditorium for Council meetings which did not include any staff time for set up or take down.

Mr. Dahlen also stated that if the 331 Rheem Boulevard community meeting room was required to be made into an Emergency Operations Center (EOC), the control panel could have an EOC button, with monitors to come on with specific displays able to be selected for news and information with guest internet access available to anyone, with plug in stations in the walls in the room, and with the system supported by an uninterrupted power supply which would operate in the event of a power outage. He noted that the \$8,000 annual fee for the service contract would include the Comcast Internet subscription and TV service. The Internet connectivity to the building was the largest cost component; the TV subscription was minimal.

Ms. Keimach reported that Mr. Dahlen had met with the electrical contractor to walk the building and once the request had been approved by the Town Council, Silicon Connections would have the ability to purchase the equipment and work directly inside the building.

As to the potential use of the Rheem Theatre for crowd overflow or alternative location, Mr. Dahlen identified the equipment that would allow for the projection of the audio and video of the Town meetings with the core of the system in place at 331 Rheem Boulevard.

**ACTION: It was M/S (Metcalf/Wykle) to extend the Town Council meeting to 11:15 P.M. Vote 5-0.**

**PUBLIC COMMENTS OPENED**

There were no comments from the public.

**PUBLIC COMMENTS CLOSED**

**ACTION: It was M/S (Metcalf/Arth) to approve Resolution 15-2014 Authorizing the Town Manager to Execute a Contract with Silicon Connections LLC to Design, Purchase, Install, and Provide Training for a Complete Audio Visual and Technology System for an Amount Not to Exceed \$165,000 and a Five-Year Annual Service Contract Not to Exceed \$8,000 Annually (or \$40,000) for the Town of Moraga Community Meeting Room and Council Chambers. Vote 5-0.**

**XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS**

**Vice Mayor Wykle** referenced the discourse of the local firefighters and encouraged another meeting between the Town Council and the MOFD Board.

**Councilmember Metcalf** recommended that the Council liaisons meet with the MOFD Board as opposed to a joint meeting between the Town Council and the MOFD Board.

**Councilmember Trotter** stated he was not interested in having the Town Council send a letter to the MOFD on this issue.

As to a presentation from the CCCSWA Director as staff had earlier reported, which had been scheduled for the next meeting of the Town Council, Ms. Keimach expressed the willingness to speak with the CCCSWA Director further to determine the preferred date for a presentation.

**XIII. COMMUNICATIONS**

There were no communications.

**XIV. ADJOURNMENT**

**ACTION: It was M/S (Wykle/Arth) to adjourn the meeting at 11:03 P.M. Vote: 5-0.**

Respectfully submitted by:

  
Marty C. McInturf, Town Clerk

Approved by the Town Council:

  
Ken Chew, Mayor