

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**April 23, 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 7:05 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

Katy Foulkes, East Bay Municipal Utility District (EBMUD) Director, led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

There were no special announcements.

IV. PROCLAMATIONS AND PRESENTATIONS

- A.** Status Update of East Bay Municipal Utility District (EBMUD) and the Water Shortage by Director Katy Foulkes

Katy Foulkes, East Bay Municipal Utility District (EBMUD) Director, provided an update on the EBMUD's options and solutions to address the current water shortage given the drought throughout the state. She identified the capacity of the EBMUD's reservoirs; the agency's Fair rating; commended EBMUD ratepayers' conservation efforts with the voluntary 10 percent reduction in water use; requested that ratepayers check their homes for leaks; and advised that EBMUD.com offered more ways to conserve and offered information on potential rebate opportunities. She reviewed the Water Smart Home Survey Kit available to EBMUD ratepayers and offered a copy to each Councilmember. She identified EBMUD projects that had been completed and emphasized the importance of continued water conservation efforts; reported that there would be a rate increase in the next fiscal year with all funds to be used for infrastructure expenses; building of new storage facilities had not been supported by the EBMUD Board, the environmental community and the majority of the EBMUD ratepayers; and reported on discussions with the Contra Costa Water District (CCWD) to store water for emergencies at Los Vaqueros Reservoir.

As to a potential ballot measure for a reservoir in the Bay Area, Ms. Foulkes stated that option had not been discussed since it had not been supported by the EBMUD Board in the past. As to the water received from the Freeport Pumping Station, she noted it would be treated to

ensure good water quality although there may be some difference in taste, which would not impact the Town of Moraga since it received 100 percent of its water from the Mokelumne River.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

- B.** Presentation on Rescue One's Replacement of AEDs in Moraga Patrol Cars by Darrell Lee, Division Chief, Moraga-Orinda Fire District (MOFD)

Darrell Lee, Division Chief, Moraga-Orinda Fire District (MOFD), detailed the background and use of automated external defibrillators (AEDs), and noted that through the latest improvements in science, data, and medical technology, the AEDs were not up to the current standards, leading to the use of the new LIFEPAK 1000 AED system. The new system, with the newest protocols and energy delivery system, would allow every citizen to be notified if someone in a public venue was having a cardiac arrest and where the closest AED was located.

Gordon Nathan, President of the Rescue One Foundation, commended the generous citizen donations through the Rescue One Foundation which had led to the purchase of the LIFEPAK 1000 AEDs. The Rescue One Foundation had donated over \$362,000 in equipment to the MOFD and the Moraga Police Department. He added that additional information on the AEDs would be in the Lamorinda Weekly.

Moraga Chief of Police Robert Priebe thanked the Rescue One Foundation for its generosity to allow the Moraga Police Department (MPD) to better serve the community. He noted that Mr. Lee had been a Police Reserve Officer for the MPD for many years, and Mr. Nathan had also served as a volunteer to the MPD for years. He thanked them both for all of their support.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

- C.** Proclamation Declaring April 2014 as Sexual Assault Awareness Month

Mayor Chew read into the record a proclamation declaring April 2014 as Sexual Assault Awareness Month and presented the proclamation to Pat Murray, Director, Community Violence Solutions.

Pat Murray, Director Community Violence Solutions, thanked the Town Council for the proclamation, and highlighted the background of the numerous programs offered to victims of sexual assault.

PUBLIC COMMENTS OPENED

Chief Priebe commended the phenomenal services offered by Community Violence Solutions and expressed his appreciation for all of the programs provided to the community.

PUBLIC COMMENTS CLOSED

V. PUBLIC COMMENTS AND SUGGESTIONS

Kathleen Conroy Famulener, MOFD Board Director, introduced herself to the Town Council as the representative for District 1 and the MOFD Liaison to the Moraga Town Council.

Scott Bowhay, a member of the Hacienda Foundation, reminded the Town Council and the community of the upcoming Cinco de Mayo Fiesta at the Hacienda de las Flores on Sunday, May 4, 2014, from 2:00 to 6:00 p.m.

VI. ADOPTION OF THE CONSENT AGENDA

A. Approval of the Consent Items

Consent Agenda Item 3 was removed from the agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Arth) to approve Consent Agenda Items 1, 2, 4, 5, 6, 7, and 8. Vote: 5-0.

- | | | |
|----|---|----------------|
| 1) | Accounts Payable Claims for 4/04/14 (\$146,314.44);
4/11/14 (\$123,246.67) | Approved |
| 2) | Approve Revised Minutes for the Town Council Regular Meeting on February 26, 2014 | Approved |
| 3) | <i>Approve Minutes for the Town Council Regular Meeting on March 12, 2014</i> | <i>Removed</i> |
| 4) | Review and Accept First Quarter Update of Town Council Adopted Goals for 2014 | Approved |
| 5) | Approve by Motion the Cancellation of July 23 and August 13, 2014 Town Council Meetings | Approved |
| 6) | Approve by Motion Proclamation for Moraga Citizen of the Year, Cliff Dochterman, to be Presented at the Annual Dinner on Friday, May 2, 2014 | Approved |
| 7) | Consider Resolution 32-2014 Authorizing the Town Manager to Enter into the Contra Costa Transportation Authority Master Cooperative Agreement Number 24SW.02 for Reimbursement of Project Costs for the Canyon Road Bridge Replacement Project (CIP 14-101) and Other Potential Projects Through the "Major Streets: Traffic Flow, Safety, and Capacity Improvements" Funding Category in Measure J | Approved |
| 8) | Consider Resolution 33-2014 Establishing the Rate per Equivalent Runoff Unit (ERU) for FY 2014/15 of \$35 per ERU as the Annual Assessment for Drainage Maintenance and the National Pollutant Discharge Elimination System (NPDES) Program | Approved |

B. Consideration of Consent Items Removed for Discussion

1. Approve Minutes for the Town Council Regular Meeting on March 12, 2014

Councilmember Metcalf requested an amendment to the fourth paragraph on Page 9, as follows:

***Councilmember Metcalf** acknowledged that the Joint Facilities Planning Subcommittee had recently met and discussed the possibility of a gymnasium/community center, a carry-over from the policies in the MCSP which had shown such a facility across from the Commons Park. He encouraged the Hacienda Foundation to attend the next meeting of the Joint Facilities Subcommittee which would be discussing potential concepts.*

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Trotter) to approve the Minutes for the Town Council Regular Meeting on March 12, 2014, as amended. Vote: 5-0.

VII. ADOPTION OF MEETING AGENDA

ACTION: It was M/S (Trotter/Wykle) 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 the Association of Bay Area Governments (ABAG) General Assembly in the City of Oakland on April 16, with a number of awards presented to different cities for public and development projects; and had visited the new Bay Area Rapid Transit System (BART) train model on display at the West Oakland Station on April 18.

Vice Mayor Wykle – Reported that he had participated in a tour of the Moraga Ranch Trail on April 21 from the Sanders Ranch point of view with Planning Commissioner Teresa Onoda.

Councilmember Arth – Reported that he had attended a meeting of the MOFD Board on April 16 at which time a tentative agreement between the MOFD and Local #1240 had been approved; and with the Mayor had attended a meeting of the Audit and Finance Committee (AFC) on April 22.

Councilmember Metcalf – Reported that he had attended the Hillside and Ridgeline Steering Committee meeting on April 16, and immediately following, a community workshop.

Councilmember Trotter – Reported that he had attended an initial meeting of the Hillside and Ridgeline Steering Committee on April 10; with another meeting held on April 16 prior to a public workshop; worked on Moraga Beautiful at Rancho

Laguna Park on April 12; and had attended meetings of the Moraga Historical Society Board and the Joaquin Moraga Adobe Fundraising Committee on April 14 and 15.

- B. Town Manager Update – Town Manager Jill Keimach provided an update on the PG&E Pathway Project with over 700 notices sent to neighbors of the pipeline who may be impacted by tree removal, with the Town supporting PG&E's efforts to improve the safety of the pipeline and with PG&E having provided a response, through assistance of Assemblymember Buchanan, that PG&E would not be cutting down any trees until such time as it had met with Moraga officials and residents. She also commended Administrative Assistant Kelly Clancy and advised that April 23 was Administrative Assistants Day.

IX. DISCUSSION ITEMS

There were no discussion items.

X. PUBLIC HEARINGS

- A. Consider an Appeal of the Planning Commission's Decision to Approve the General Development Plan, Vesting Tentative Map, Conditional Use Permit, and Hillside Development Permit for the Hetfield Estates Project, a seven-lot Single-Family Subdivision on a 58.2-Acre Property. An Environmental Impact Report for the project was certified in June 2012.

Mayor Chew asked that the Town Council identify any ex-parté communications for the record.

Councilmember Trotter commented that he had been on site visits on two occasions with the applicant, John Wyro and his engineer; toured the property with Planning Commissioner Teresa Onoda; spoke on the matter with resident Tim Meltzer, a resident of Sanders Drive; and had a telephone conversation with Stan Roth, a member of the Sanders Ranch Homeowner's Association (HOA) Board of Directors.

Councilmember Metcalf reported that after the appeal had been filed he had met with John Wyro, the applicant, and the Planning Director at 329 Rheem Boulevard; shortly after that time he had received an e-mail or telephone call from Planning Commissioner Onoda to meet at the site, but had not responded given concerns Planning Commissioner Onoda may have spoken to other Councilmembers, and was advocating a position on an active matter before the Town Council. He communicated with Dick Olsen, formerly with the MOFD, who had shared his historical perspective on the Emergency Vehicle Access (EVA); Ed Beets, a resident of Teodora Court, to glean his opinion regarding a recent article in the Lamorinda Weekly; had been contacted over the weekend by Joe Mahoney, a resident of Sanders Ranch who had asked for his input on the EVA issue; and had a conversation with Stan Roth, a member of the Sanders Ranch Board HOA on April 22.

Councilmember Arth reported that he had received a telephone call from Planning Commissioner Onoda and had returned her call but declined to meet with her given concerns with the Brown Act.

Vice Mayor Wykle reported that he had nothing further to report beyond what had been identified under the Mayor's and Councilmembers' Reports.

Assistant Town Attorney Karen Murphy advised that if the meetings with Planning Commissioner Onoda had been only briefing meetings and no consensus had been developed, there was not a concern with violations of the Brown Act.

Mayor Chew reported that he had received an invitation to visit the project site by Planning Commissioner Onoda; he had toured the site after having invited the Planning Director and the MOFD Fire Chief to join in; and nothing substantive had been discussed other than to see the terrain of the EVA location in question. He had also received an e-mail from the applicant, John Wyro, inquiring whether he had any questions.

Senior Planner Ellen Clark presented the staff report dated April 23, 2014, for the appeal of the Planning Commission's decision to approve the General Development Plan, Vesting Tentative Map, Conditional Use Permit, and Hillside Development Permit for the Hetfield Estates Project, a seven-lot single-family subdivision on a 58.2-acre property, with an EIR for the project having been certified in June 2012. The decision of the Planning Commission had been appealed by two separate appeals; from Councilmembers Metcalf and Trotter regarding the EVA (Trotter) and the EVA and the proposed project parking (Metcalf). Correspondence received after the preparation of the staff report included a letter from residents Tim Meltzer and Edy Schwartz, copies of which were provided to the Town Council.

Ms. Clark advised that this was a de novo hearing and the Town Council may review the project in its entirety irrespective of the precise details of the appeal. The Town Council must adopt the required findings for the applicable permit if it upheld the Planning Commission's decision. She identified the application background, the Conceptual Development Plan (CDP) approval process and key issues such as project setting and site conditions, project description, proposed parcel characteristics, General Development Plan (GDP) approval, process and key issues, conditions of project approval, a discussion of the appeal, on-street parking, required land use approval, and fiscal impacts, all described in detail in the April 23, 2014 staff report.

Ms. Clark recommended that the Town Council adopt a resolution considering the appeal, upholding the Planning Commission's decision with modifications to the Conditions of Approval, and Approving the General Development Plan, Vesting Tentative Map, Conditional Use Permit, and Hillside Development Permit for Hetfield Estates Project, a seven-lot single-family subdivision.

Ms. Murphy reiterated the staff recommendation, to uphold the Planning Commission's decision with modifications to the Conditions of Approval, stating that this was a de novo hearing, and the Town Council must take action on the entirety of the Planning Commission action.

Ms. Clark clarified that staff recommended that the parking requirement be retained at eight parking spaces, as proposed, and as supported by the Planning Commission, and modify the conditions of approval related to the EVA by requiring dedication of an easement and the construction of a 16-foot wide fire trail, (graded to an acceptable grade for fire trucks to travel over) to access the Moraga Ranch Trail.

Responding to the Council, Ms. Clark advised that the Sanders Ranch HOA had stated it had other priorities and commitments to focus on rather than the fire trail connection to Sanders Ranch Road; the project applicant and engineer had reviewed other locations for the easement connection, had identified a workable site for a future connection that was neither located on the Hetfield Estates property nor mapped on the Sanders Ranch property; clarified that a fire trail turnaround was no longer part of the proposal; the surface of the fire trail was intended to consist of compacted dirt; and identified the existing fire trail network with a portion parallel to the Moraga Ranch Trail with both the mapping from the MOFD and Google Earth maps showing a parallel alignment, merging together all the way to the top of the hill and to the edge of the Sanders Ranch property.

PUBLIC HEARING OPENED

John Wyro, Orinda, the Applicant representing the property owners, the Gage family, understood from the appeals that there was a need for a better understanding of what the Planning Commission had done, the fire trail situation, and concerns with overflow parking on the Hetfield Estates project. He commented on the background of the EVA and the fact that an EVA easement had not been provided to Sanders Ranch at the time the subdivision was built with recognition that granting such an easement would offer a public benefit to the community. The developer had proposed a fire trail from the end of Hetfield Place to the end of the Moraga Ranch Trail. The Planning Commission had approved the dedication of the easement and the construction of the hiking trail from the end of Hetfield Place up to the Moraga Ranch Trail. After the appeal, the developer had reviewed the issues, had met with Councilmember Trotter on a couple of site visits, and had further conversations with the MOFD to minimize impacts to the property and ensure provisions for the connections when the Sanders Ranch HOA felt or chose it was an appropriate time to pursue those connections. He emphasized the cooperation of the developer and suggested that modifications to Condition 40 represented a workable solution. He stated that whatever the community deemed to be appropriate would be supported and built by the developer.

As to the parking, Mr. Wyro commented that they had been in hearings on the land plan for five years and on the project for nine years, and the staff recommended approval had been approved by the Planning Commission on two occasions, and nothing had changed. Parking could be provided at the end of the cul-de-sac if the community desired it be provided, although he suggested it was not necessary, and three parking spaces would work better than four based on conversations with residents of Sanders Ranch Drive. He provided an alternative sketch to the Town Council, including three parking spaces. He clarified that Condition 24 of the Planning Commission Conditions of Approval required seven parking spaces; four parking spaces on the street bulb-outs and three in the cul-de-sac area.

Ms. Murphy clarified the process for the appeal hearing.

Dick Olsen, Moraga, provided historical background on the EVA to Sanders Ranch, reported that in the early 1980s the former Moraga Fire Protection District had recommended to the Town that an EVA be constructed to the then current MOFD standards prior to occupancy of the homes for the purpose of bringing emergency equipment to the Sanders Ranch within a reasonable travel distance and response time. The EVA was to run from the end of Sanders Drive to Sanders Ranch Road. The Town had adopted that recommendation and had included it as a condition of approval for the development. Later, when the homes were to be occupied and the EVA had not been constructed, the MOFD Fire Marshal had been asked why that had not occurred, suggested it was an oversight, and had been informed the developer of Sanders Ranch had approached the owner of the land at the end of Sanders Drive, to seek an easement over the land to allow an EVA to be constructed directly into Sanders Ranch Road and Teodora Court. He reported that the landowner had requested an exorbitant sum for the property. In response, the developers had approached the Town Planner at the time; it was determined that the EVA could not be achieved and providing sprinklers in every home in the Sanders Ranch was required instead. It had already been stipulated that there would be a guard shack, with the guard to be trained as an EMT given the lengthy response times to reach the area from the nearest fire station. He commented that by the time he had learned the EVA would not be constructed, there was nothing he could do. He was uncertain whether the Sanders Ranch guard was an EMT, able to respond, and he was uncertain there was a communication channel between MOFD dispatchers and the guard.

Mr. Olsen added that a fire trail was not an all-weather trail since it would not be paved, and the October 2013 Fire Code included a precise definition of an EVA. He also clarified that he had

proposed to Mr. Wyro an easement only and suggested the Sanders Ranch HOA should have paid for the easement years ago, which should have been embedded in the cost of the homes and that the cost of emergency fire and emergency medical services for Sanders Ranch should not be the responsibility of the developer of Hetfield Estates.

Stan Roth, Sanders Ranch HOA Boardmember, thanked Councilmembers Metcalf and Trotter for reaching out on this issue, clarified statements related to the EVA and stated that safety was always a priority to the HOA, but the HOA had stated in December it had a number of issues and commitments to address and could not bear the cost of an all-weather surface from Sanders Ranch to Sanders Drive at this time. He asked for clarification of the EVA and stated that the Sanders Ranch HOA supported something for fire trucks although an all-weather surface EVA would not be possible for some time. He also noted that the Sanders Ranch HOA would have to speak to, educate, and have its homeowners vote on this issue which would take time given the other projects under consideration by the HOA. He reiterated the position of the Sanders Ranch HOA that if the existing condition of approval would protect Sanders Ranch from fire, the current trail was okay. If it must be widened to a fire trail, and if the MOFD determined that was preferred, the Sanders Ranch HOA was okay with that. However, if they were required to widen to an EVA and put money aside, Sanders Ranch HOA was more comfortable with placing the funds with a Geologic Hazard Abatement District (GHAD) where it could be optioned into an EVA in the future. Sanders Ranch HOA wanted to preserve its ability in the future to do what was best for the Sanders Ranch development.

Planning Director Shawna Brekke-Read clarified that an alternative condition was that the applicant would place money in a GHAD, which the applicant had proposed as reflected in the revised Condition 40.

In response to Edy Schwartz as to whether the road under discussion would be applicable to emergency vehicles or just a fire engine, Mr. Wyro explained that the fire trail was for four-wheel drive vehicles, and the alternative alignment had been fully designed and engineered so that it could be handed off to the Sanders Ranch HOA, had been reviewed by the project geologist, and was a 'good-to-go' plan that could begin the discussions and meet the grading requirements of the MOFD to accommodate emergency vehicles, including ambulances.

Ms. Schwartz read into the record extensive written comments dated April 22, 2014, copies of which had been provided to the Town Council including copies of photographs of parked vehicles along Hetfield Place and Gloria Court. She expressed support for parking on both sides of the street for the Hetfield Estates development, lowering the size of the lots and the homes, and with an EVA to Sanders Ranch.

Camille Santj, Moraga, stated her home was situated where a parking lot would be located behind Slide 5. She expressed concern with the safety issues, commented that her home had been burglarized three months ago, which raised concerns that a potential parking lot near her home could become an attractive nuisance.

Jane Ellerbeck, Moraga, opposed the proposed parking lot in that few people other than neighbors hiked from that location. She also suggested that the homes be reduced in size so that the street width and the cul-de-sac could be increased as opposed to including a parking lot. She added that she also had safety concerns with the cul-de-sac and suggested that paved areas were perfect places for teenagers to hang out, resulting in an even greater attractive nuisance, and she questioned who would monitor the area.

Malcolm Cooper, Moraga, echoed the concerns of his neighbors and spoke to the problems with loitering and littering in the area which could be exacerbated with a hiking trail and EVA; commented that behind his home was a seasonal pond and he encouraged a minimally-sized

foot path to avoid impacting the pond; and suggested that an EVA not be constructed until the funds were available to allow a usable and workable connection to both ends. In addition, he questioned the ability of emergency vehicles (ambulances) to traverse the EVA in a safe and timely manner to be able to save lives. He urged consideration of a street that would be more compatible with the existing neighborhood, a reduction of the home sizes, and allowing parking on both sides of the streets.

Brent Meyer, Moraga, suggested that the project maps were not clear. He questioned the MOFD assessment that there would be a two and a half minute savings to reach Sanders Ranch even if there was a fully paved EVA up to his front yard. While he understood the Sanders Ranch HOA wanted to keep its options open, he opposed anything paved, and suggested his neighbors who would be adversely impacted would be opposed as well. He pointed out there were no sidewalks at the top of Sanders Ranch Road, and if there were emergency vehicles and ambulances on a fully paved road, there would be issues with children and pets playing in the courts with no sidewalks. He supported the decision of the Planning Commission and noted the appeal reflected a solution in search of a problem.

Mike Huston, Moraga, a member of the Sanders Ranch HOA Board, explained that when the project had first been presented five years ago he recalled the HOA had canvassed some of the residents who did not support an all-weather paved road. Based on conversations he had with residents, the opinion was that it be left as is and that a foot path would be supported. He agreed that the route would not be something that could be adequately accessed by fire personnel. As a primary beneficiary of the EVA, he had no use for it. He added that the Sanders Ranch HOA was working on repaving its roads due to past heavy rainy seasons, the homes in the development had fire sprinklers, shake roofs had been replaced with composite roofs, and he understood the area was not a fire hazard. He was willing to take the risk now, as it existed.

Roger Poynts, Moraga, stated as a de novo hearing, the Town Council should consider three issues including the necessity of streetlights which he suggested were unnecessary; current road standards which he found to be too narrow with the generally accepted minimum standards of two travel lanes and one parking lane; and suggested an appropriately sized street and turnaround to handle emergency vehicles should be considered. He also asked that Condition 30 of the Planning Commission Conditions of Approval related to the GHAD include a statement as to whether or not the Town wished to form an Assessment District and then impose that on the homes in the project. He asked that such a statement be included in a resolution so that the public would be aware of the Town Council's opinion. He recognized that nothing would happen with any GHAD absent a Council resolution.

Tim Meltzer, Moraga, advised that he was speaking for himself and residents of Sanders Drive. He supported the creation of a GHAD particularly since Hetfield Estates had been designated as High Risk; and supported a permanent easement for an EVA and a requirement for the developer to deposit sufficient funds into the GHAD to pay for the construction of the EVA with the Sanders Ranch residents to pay for their share of construction and maintenance if and when Sanders Ranch decided it wanted the EVA. Until that time, he suggested there was no need to build a partial EVA in that ample fire roads had existed for years. He expressed concern with the proposal to place three parking spaces just past the end of the new Hetfield Place cul-de-sac on Landslide 5 given the problems at the end of Sanders Drive, and with the potential for similar problems at the end of the cul-de-sac. He suggested those parking spaces should be within the cul-de-sac or moved southerly beyond the seventh home in the subdivision. He also expressed concern with overflow parking on Sanders Drive and suggested the materials and photographs provided by Ms. Schwartz should be taken into consideration when reviewing the parking issues. He also suggested that the actual square footage of the seven Hetfield Estates homes had yet to be determined and recommended a reduction in the identified maximum size

of 4,000 square feet which was in violation of the Town's ordinances and Design Guidelines, as inconsistent with the existing neighborhood.

John Valentine, Moraga, spoke to his experience with high school students and suggested any time opportunities were created for children to gather there would be difficulties, and placing parking spaces in a cul-de-sac area not in a general traffic pattern would create an invitation for children to gather. He suggested that the road be widened and that the parking spaces at the end of the road be eliminated to mitigate most of that attractive nuisance, which would also allow for parking on both sides of the street while allowing continued access to vehicles up and down the road, even if at the expense of the lot sizes.

Mr. Roth explained that when the Sanders Ranch development had been constructed the EVA was part of it, and had it been built it would likely have been paid by the developer. He recognized the many opinions on this issue, the concerns with an EVA to the back of Sanders Ranch given the increase in criminal activity, and concerns with respect to safety. He emphasized that the Sanders Ranch HOA wanted to preserve its options.

Fred Schroeder, Moraga, suggested there had been sufficient testimony to suggest that more time was needed for Sanders Drive and Sanders Ranch residents given that residents were mixed on the issues of potential screening of the views of the development. He commented that he had experienced a fire in his home several years ago and emergency vehicles had no problem accessing his residence.

Mr. Schroeder concurred with Mr. Valentine's comments, concurred that the Sanders Ranch HOA did not have budgeted funds for an EVA, and emphasized that more time was needed to consider the implications. If the developer was intent on moving forward, he encouraged an open meeting with the Sanders Ranch HOA and its residents; suggested if the EVA became an access road the security of Sanders Ranch would be in jeopardy, impacting property values and tax revenue to the Town; and suggested that the Hetfield Estates project had been approved because of the access road, as reflected in the local newspaper and Town website. He again asked for more time to discuss the project before a decision was made.

Larry Beans, Moraga, suggested that widening the street to allow for parking made abundant sense and the homes could be reduced in size, with less cutting and excavation to ensure compatibility with the existing Sanders Drive neighborhood. He referenced the past history of potential development at the end of Hetfield Place where the Bruzzone family had bailed out of a failed excavation and landslide situation, and he expressed concern that slides in the development could become active, and asked who would be responsible for any repairs; the GHAD or the Town.

Mr. Wyro emphasized that the process had been ongoing for nine years with numerous meetings before the Planning Commission, that an EIR had been prepared at the direction of the Town Council since the Planning Commission had acted on a Mitigated Negative Declaration (MND), and with the Town's careful consideration of the project. He emphasized that the project met all Town requirements; created a plan that had evolved to the seven-lot subdivision with 3:1 slopes and with a small envelope to place the homes, was subject to review by the Design Review Board (DRB); that the currently proposed home sizes were more restrictive than the current ordinance allowed based on Floor Area Ratio (FAR) and lot size; there was a positive staff recommendation, and the Planning Commission had approved the project on two separate occasions.

Kathy Leonard, MOFD Fire Marshal, explained that the area was not primarily a High Fire Severity Zone. While she appreciated that the homes in Sanders Ranch had sprinklers and composite roofs, the concern was with the medical response and the time required to get into

Sanders Ranch, and an easement, whether or not developed, allowed options for access. Access to hikers who were injured was also a concern and although there was an existing trail, it would be a benefit to have greater access to that area. She acknowledged a mapping of the existing fire trails on the property as shown in Figure 1 in the April 23, 2014 staff report; identified the fire trail to be bladed out as part of MOFD maintenance; and noted that any more access or easement gained into remote areas for emergency response purposes or wildfire response would be better for the MOFD. As to whether specific trails would work for the MOFD, she noted that it would have to consider how the trails would address slope, grade, and width, and any access point to Sanders Ranch would be considered a benefit to the MOFD.

PUBLIC COMMENTS CLOSED

Councilmember Metcalf explained that he had appealed the Planning Commission's decision based on two issues; parking and the EVA. With respect to parking, there was a desire on the Planning Commission's part to reduce the number of parking spaces to reduce the footprint of the development, pushing parking into the Sanders Drive area, which he found to be a poor planning concept and the basis of his appeal. Since that time, he had conversations with Mr. Wyro and the Planning Department and had learned that the Planning Commission had acted on the advice of the Planning Department; however, based on the current public testimony, the public desired to remove the three parking spaces at the end, widen the street, and reduce the lot sizes. He asked the developer's opinion of that concept.

Mr. Wyro advised that they had evaluated that concept, and when staff and the Commission felt there was adequate parking based on what was being provided, that evaluation had stopped. The street was intended to minimize the footprint of the project on the land, and if moving the street to the south, it would be more difficult for a home and yard given the limited room and given encroachment into the dripline of trees and the creek. Based on work with staff and the Commission, they had reached the solution proposed and whether parking in the cul-de-sac or not, there remained a cul-de-sac. He advised that lighting could be focused to avoid intrusion into other yards. If the road was widened on one side, it would provide another eight feet, although that option had not been studied since it had not been an issue until a couple of weeks ago. He stated that anything could be engineered but the question was the quality of the project, when finished. He added that the project met and exceeded the Town's parking requirements, and that issue had not come up during the Planning Commission hearings.

Ms. Brekke-Read advised that the project would continue to meet the parking requirements of the Moraga Municipal Code (MMC) which required two covered parking spaces per home, and the conditions of approval also required two additional off-street parking spaces per home, even if the four parking spaces at the trailhead were removed. She acknowledged she had briefly reviewed an alternative sketch provided by the applicant this date, which had eliminated the four parking spaces beyond the cul-de-sac with three inside the cul-de-sac, and she commented that option would reduce the footprint and increase visibility with the parking tucked closer to Lot 7, which was something staff could support.

Councilmember Metcalf commented that when the project had been considered by the Town Council in 2009, the subject of the EVA had been prominent, and when eliminated he had concerns about that change. He noted that in 2007, he and the Council had considered the speed bump issue, and he had been impressed with the passion for public safety in Sanders Ranch. Now it appeared it was no longer a priority, leading to the grounds for his appeal. He referenced the testimony from Mr. Roth for the Sanders Ranch HOA to preserve its options, an approach he would like to pursue. He also suggested it would be foolish to turn away a developer willing to build a partial EVA now, which should be done unless there was a good reason not to do so. He was not convinced there wasn't a good reason not to pursue a partial

EVA now. Also, the MOFD had indicated it had everything it needed pursuant to the existing fire trail. He again asked the Fire Marshal to opine on that issue.

Fire Marshal Leonard clarified her comments that access points especially to Sanders Ranch were not as important to the MOFD to consider although having the option was important. While the MOFD had fire trails, an ambulance would not be able to negotiate those trails. The MOFD was primarily concerned with medical responses.

Councilmember Metcalf suggested an eventual EVA was important although it must be a complete EVA, which would depend on how it would fall into the Sanders Ranch HOA queue of projects. He recommended the placement of money into a GHAD with time limits to Sanders Ranch to decide what to do since it was unfair to hold up the developer's money ad infinitum.

Councilmember Trotter suggested that preserving the options would be to take the money, although he agreed with the need to impose a time limit but was uncertain how that would be done through the GHAD. He had no problem with a time limit for Sanders Ranch to make a determination whether it wanted to build and he clarified that the discussions did not relate to a paved EVA but a graded, or rocked, improved fire trail.

Ms. Murphy advised that such direction would involve a different funding mechanism and would not involve a legal requirement for the time and money.

Responding to the Town Manager, Fire Marshal Leonard stated that the MOFD would respond on a graded fire trail with a Type 3, Brush Rigs four-wheel, all-wheel drive, which could negotiate steep terrain, and with paramedics. If speaking of transport, the MOFD would still have to get the patient out, and if a hiker was down as an example, the MOFD would have to arrange to get the ambulance in as far as possible, or an aircraft could be landed nearby to transport the patient out. She affirmed it was also possible if the medical emergency was in Sanders Ranch, that the fire truck could get there with paramedics, stabilize the patient, and an ambulance could spend the other two and a half minutes coming around the other way.

Councilmember Trotter commented that he had been out in the field three times. He stated that the existing fire trail was not very steep but another trail to the south and straight over to the property line to the Moraga Ranch Trail was very steep although he understood it was not too steep for an all wheel drive fire vehicle and probably safe enough if connected to Sanders Ranch going down but not up the road. Given that challenging alignment, he had seen no submitted alternative alignment beyond the property line for the Hetfield Estates property to demonstrate the grades and turning radius for the switchbacks to allow an ordinary vehicle to travel up and down to reach Sanders Ranch.

Mr. Wyro advised they had such a design for some time and that design had been reviewed by their geologist. The alignment of the easement in the Planning Commission approval ended at a point at the property line and from the property line up to Sanders Ranch Road with a design solution with a 20 percent slope. A cost estimate had been provided to the property line, with an Engineer's Estimate of \$75,000 to extend the trail from the property line to Sanders Ranch Road. He also explained in response to Councilmember Trotter that the EVA would link to the Moraga Ranch Trail and within the 30-foot easement would be room to make the continuation up the hill to reach Sanders Ranch Road on property he acknowledged was beyond the purview of this hearing.

Councilmember Trotter supported the dedication of the funds for an EVA, to be held pending the Sanders Ranch HOA decision related to the EVA. Having spoken with Mr. Roth who was not supportive of going straight up to Moraga Ranch Trail since it was too steep, and based on the public testimony at this time and the Sanders Ranch HOA's statement that it wanted to

preserve its options, he asked whether the funds could be retained for some other public benefit.

Ms. Murphy advised that could be discussed with the developer on possible public benefit alternatives which could be provided to the project commensurate with the trail.

Councilmember Trotter asked Councilmember Metcalf whether the Alternative Parking Sketch made sense to him, to which **Councilmember Metcalf** stated he had no problem with the alternative sketch but had responded to the concerns with respect to an attractive nuisance if the parking spaces were installed. While Councilmember Metcalf did not particularly agree there was an attractive nuisance, he recommended consideration of eliminating all parking at the end of the cul-de-sac.

Councilmember Trotter was also inclined to eliminate all of the parking at the end of the cul-de-sac since a turnaround was needed. As to widening the street or reducing the home sizes, he referenced the history of the project and recognized that a CDP had been reviewed and completed in 2012, had not been appealed by the neighbors, and had been approved based on a negotiated compromise prior to the final meeting with the Planning Commission based on a reduction of the total footprint of the property and the reduction of one home. He was inclined to accept that compromise and footprint rather than revisit the footprint in any way, particularly since the home designs would be reviewed during the DRB stage.

Fire Marshal Leonard again clarified the comments she had made earlier with respect to a condition where there was no fully paved EVA into Sanders Ranch and the likelihood the MOFD response to Sanders Ranch from that EVA would be minimal given the unpaved road and delays in response. She noted that the Fire Chief had offered a number of concepts that could be supported ranging from doing nothing to a full EVA. There was a fire access trail now, and an easement offered options, with a paved trail the only road that an ambulance could use to reach Sanders Ranch in the event a medical emergency. She reiterated that the Fire Chief was supportive of any range of available means of access in or out which offered the MOFD more options.

Vice Mayor Wykle stated he had been a member of the Planning Commission when the project had been approved, and he clarified the project had not been approved unanimously. He suggested that the project should be able to move forward. In terms of the parking, he clarified with Mr. Wyro from the audience that parking restrictions could be addressed in the project CC&R's as part of the PDP phase. He again clarified with the Planning Director the total number of parking spaces, with the Tentative Map showing eight parking spaces, the Conditions of Approval showing a minimum of seven parking spaces, and the Planning Director's support for the Alternative Parking Sketch as presented by the applicant this date. He also understood the Sanders Ranch HOA wanted to keep its options open and that in a perfect world the EVA should have been built and funded by the Sanders Ranch developer and incorporated into the home prices. He suggested the Town was fortunate that the developer for Hetfield Estates was supportive of funds for the public benefit, and he liked the idea that those monies, if unused, could still be used for a public benefit absent an EVA. He otherwise sought more discussion on the parking issue.

Councilmember Arth suggested retaining the funds for the EVA and hoped that the Sanders Ranch HOA would possibly build the EVA in the future. He supported the elimination of the four parking spaces beyond the bulb out with some parking spaces in the bulb out which would be close enough to Lot 7, and wanted to avoid an attractive nuisance. In his opinion, the best solution would be to have no parking spaces in the bulb out.

Mayor Chew re-opened public comment at this time.

Mr. Roth clarified the discussion related to an EVA easement, and not an EVA, which would involve a paved road at a cost of several million dollars to pave all the way down to Sanders Drive, which the Town may not impose on the Sanders Ranch HOA. He pointed out the cost estimate of \$75,000 was just to connect to a dirt road, and explained that unless there was a paved EVA, no emergency medical vehicles would come into Sanders Ranch on that road. He had spoken to the MOFD Fire Chief and there was agreement given the switchbacks and bumpy drive that the MOFD would not send a truck the back way into Sanders Ranch. In speaking with Councilmember Trotter, he had reiterated that the Sanders Ranch HOA wanted to preserve its options, with Councilmember Trotter having suggested the GHAD as the way to put the money aside until it was needed. He suggested the placement of a sunset on the money was not an option but a mandate, and requested a long-term option, reiterating that unless the easement was paved it was useless as an EVA and was only an easement. He emphasized that the Sanders Ranch HOA did not want anything now, wanted to preserve its options, and wanted to have time to speak with its members.

Mr. Schroeder refuted comments that money be taken for the EVA in the hope that the Sanders Ranch HOA would positively respond. He suggested that had the original developer assessed the few original homeowners for the EVA, no one would have bought into the development. In addition, the Fire Marshal had testified there were access roads already and the slope was not that steep. He suggested that any of those access roads could be considered for improvement. He also suggested that the response time would not be improved if emergency vehicles traveled up the hill since they were not familiar with the road, with no guarantee that emergency vehicles would travel faster than they would down Camino Pablo and Sanders Ranch Road. He opposed taxing or assessing Sanders Ranch residents a fee for a set-aside fund, with a sunset that if not used could be placed for some other public benefit. He sought more time before a decision was made by the Town Council.

Tim Tandrow, President, Sanders Ranch HOA, questioned the adequacy of the Town's outreach on this matter in that all of the documents under consideration by the Planning Commission and the Town Council had not been provided to the Sanders Ranch HOA. He asked that the HOA be allowed more time to prepare to respond to the appeal. As to the recommendation for a sunset on set-aside monies, he sought more time to address the HOA and its residents in order to obtain a vote on the matter.

Gordon Nathan clarified the discussion of access on the EVA and explained that summer access with an all-wheel drive vehicle was one thing but winter access during wet weather was quite another. He also clarified that if the easement was allowed it would need to be wide enough to accommodate a full EVA.

Mr. Wyro clarified that the width of the easement would be 30 feet, as set by the MOFD. The developer had proposed to build an eight-foot wide dirt trail to connect the end of Hetfield Place to the end of the Moraga Ranch Trail. He noted if that trail, required as part of the Planning Commission approval was not provided, the developer would contribute the amount of money it would take to expand the hiking trail to a fire trail, with no discussion at any time with staff or the Planning Commission for an EVA road. The money under discussion was in the range of \$10,000 subject to review by the Town Engineer or a third party review.

Mayor Chew closed public comment at this time.

Councilmember Trotter recognized the applicant's attempt to secure GDP approval and noted that the issues taking time related to the Sanders Ranch property. He was not convinced that 100 percent of Sanders Ranch residents did not want secondary access given individual testimony, and acknowledged that the Sanders Ranch HOA wanted the opportunity to conduct

outreach to develop a consensus and keep their options open. He recommended accepting the funds for an unpaved EVA to the property line, determine the exact monetary figure to be peer reviewed, and allow the Sanders Ranch HOA a defined period of time, suggesting that ten years from the PDP approval was a reasonable period of time for Sanders Ranch HOA to make up its mind. If that did not occur, there could be a discussion of repurposing the funds.

Councilmember Trotter liked the Alternative Parking Sketch, as presented this date, which had staff support. He otherwise questioned whether streetlights were needed for the development and reported that streetlights had been eliminated from the Rancho Laguna II project by the Planning Commission in response to concerns with light pollution.

Mayor Chew agreed that the project should not be delayed further given that it had been ongoing for nine years. He suggested the concerns had been discussed numerous times and that a consensus could be reached by the Sanders Ranch HOA in two, not ten years.

Councilmember Arth understood that the Sanders Ranch HOA could not address this issue now prior to resolution of other major issues before the HOA. He supported allowing the Sanders Ranch HOA more than two years to come to a decision, and he liked the idea of ten years.

Councilmember Metcalf suggested that ten years may be acceptable; emphasized that if the EVA was not built, to use the funds for other purposes would be inappropriate, which he could not support; was uncertain of the costs for an EVA, which would have to be addressed between staff and the developer; and did not want to consider repurposing the funds. He recommended that the questions related to repurposing be considered separately by the Town Council.

Vice Mayor Wykle suggested that ten years was a reasonable option for Sanders Ranch to make a connection to the EVA, and supported repurposing the funds for public benefit. If a decision was not made in ten years, the easement would remain in place regardless.

Mayor Chew questioned what would happen after ten years if the Sanders Ranch HOA made no decision on the EVA. As to the parking, he understood the Town Council consensus was not to widen the street and eliminate the seven off-street parking spaces, but to accept the Alternative Parking Sketch presented this date. While he also understood there was Council consensus to allow the Sanders Ranch HOA to make a decision in ten years, he disagreed and suggested that a decision could be made sooner. He also agreed to discuss the repurposing issue separately.

Councilmember Trotter concurred that the repurposing option should be discussed and voted upon separately.

Ms. Murphy stated that due to some of the changes under discussion and the open issue of funding, staff would have to redraft the conditions of approval based on consensus, if there was consensus for ten years, the parking plan, the repurposing option in terms of the other public benefit that could be provided, and streetlights. She commented that at this time a formal motion was not required other than a consensus from the Town Council to provide direction to staff in terms of what should return. She suggested the Council continue the discussions to reach consensus on the issues, and end the discussion with a motion to continue the item.

Vice Mayor Wykle suggested that the CC&R's include a restriction requiring one vehicle in the driveway, given the concern with guest parking and overflow parking in the neighborhood.

On the issue of repurposing, **Councilmember Metcalf** did not support repurposing and suggested it related to a confiscation of private money, and the money, including interest, should be returned in ten years.

Ms. Keimach advised that if the proposal was to place monies into a GHAD and if the GHAD had a mitigation fund, she questioned whether a GHAD may spend money on anything but hazard mitigation, and staff could return with a determination to answer that part of the question. In addition, Planning Commission Condition 40 had addressed an EVA that the developer would construct, although the public testimony had discussed a fire trail versus an EVA, which was dramatically different in terms of cost. If the Council wanted staff to work with the developer staff needed specific direction in terms of an EVA or a fire trail and the size of each; the cost; who would bear the cost of cost overruns, the GHAD, the Town or Sanders Ranch; all details which must be addressed and placed in the condition.

Councilmember Trotter asked for a condition that the money be held by the Town for the ten-year period as opposed to being placed in the GHAD.

Ms. Murphy advised that staff would have to come back with modified conditions and over that time period staff may consider the issue of cost overruns and various alternatives.

Mayor Chew stated he was leaning towards supporting Councilmember Metcalf's opinion on repurposing. If placed in the GHAD it would stay within the GHAD, although after ten years the money would go away and no longer be available.

Councilmember Trotter noted the real cost of the EVA was not on the Hetfield Estates property, the route of the EVA was unknown, and since it would be coming off the top of Sanders Ranch, the issues would come closer into focus.

[Vice Mayor Wykle and Councilmember Arth made comments at this point in the meeting that were inaudible.]

ACTION: It was M/S (Wykle/Trotter) to Extend the Town Council Meeting to 11:30 P.M. Vote: 5-0.

Ms. Keimach commented on the remaining agenda items where consultants and staff were present. If the Town Council was not going to consider those items, she asked that those involved be allowed to leave.

Councilmember Trotter suggested that Items B and C under XI. Ordinances, Resolutions and Requests for Action, be continued to allow the Council to complete its discussions on the subject topic.

Mayor Chew suggested that the Council complete and not continue the remaining agenda items.

On the discussion of light poles proposed for the Hetfield Estates project, the Town Council's consensus was to eliminate the light poles and eliminate Condition 76, with staff to review any other conditions related to lighting.

The Town Council discussed continuing the item based on the discussion and direction to staff, with the project to be continued to a Special Meeting of the Town Council scheduled for May 21, 2014, while also recognizing that Councilmember Metcalf would be out of town and unable to be present at that time.

ACTION: It was M/S (Wykle/Trotter) to continue to a Date Certain and to a Special Meeting of the Town Council on May 21, 2014, an Appeal of the Planning Commission's Decision to Approve the General Development Plan, Vesting Tentative Map, Conditional Use Permit, and Hillside Development Permit for the Hetfield Estates Project, a seven-lot Single-Family Subdivision on a 58.2-Acre Property; an Environmental Impact Report for the project was certified in June 2012; subject to the direction provided to staff, as discussed. Vote: 5-0.

XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

- A.** Receive Presentation and Consider Resolution 34-2014 Accepting the Recommendation to Restore the Natural Channel Based on the Hydraulic Study of Laguna Creek, Prepared by WRECO (Walnut Creek) for the Laguna Creek Hydraulic System on the Hacienda de las Flores Grounds (2100 Donald Drive)

Senior Civil Engineer Laurie Suggang presented the staff report dated April 23, 2014, and recommended that the Town Council accept a resolution accepting the recommendation to restore the natural channel based on the Hydraulic Study of Laguna Creek, prepared by WRECO (Walnut Creek) for the Laguna Creek Hydraulic System on the Hacienda de las Flores grounds (2100 Donald Drive.).

Grant Wilcox, WRECO, presented a PowerPoint presentation on the Hacienda de las Flores, identified the history of flooding in the area, the location of the Pavilion, and the general layout of the site, along with the new Laguna Creek repairs and existing culvert alignment. He walked through two recommended alternatives which had the most merit; Alternatives 5 and 10. Alternative 5 would replace the existing eight foot diameter pipe with a 14 x 12 foot box culvert, to be located in the same alignment as the existing pipe, and relocate the existing storage shed currently located adjacent to the north side of the Pavilion lawn area wall which would prevent overtopping of storm water at the inlet face of the pipe for the 100-year or smaller intensity storm events. Alternative 10 would restore the natural channel, remove the existing eight foot diameter pipe, remove the existing inlet headwall, potential removal of existing retaining wall, and restore the channel by recreating an open channel that meanders like a natural stream, reestablishing the waterway in its old channel, where feasible, or in a new channel threaded between the existing structure and the parking lot, relocate the existing sewer line, and install a natural bottom arch culvert acting as a bridge from the Moraga Road access to the Hacienda building. This alternative also would construct the channel to provide sufficient capacity to convey the 100-year storm event, prevent flooding to the Pavilion building, provide a natural amenity to the public with educational opportunities, improve aesthetics from Moraga Road, reduce future maintenance and replacement costs associated with a piped system, and improve the potential for California Red-Legged Frog habitat by creating an aquatic system.

Examples of projects in other communities including the City of Berkeley illustrated the creation of a park-like atmosphere. The entire Laguna Creek Watershed was displayed to illustrate the entire watershed flows all the way through San Leandro Reservoir, Lake Chabot, and through San Leandro to the Bay, with the subject project open to mitigation funding, and with the benefits of an open creek providing habitat for species such as the Red-Legged Frog. While this option was more expensive than some of the other options, it offered a better opportunity for funding and public enhancement.

Mr. Wilcox identified the Bay Area Integrated Regional Water Management Plan (IRWMP) grant opportunity that would best fit the project, and which would involve the habitat enhancement, water quality improvement, and qualify for that grant opportunity. To be able to proceed with the grant opportunity with IRWMP, there would have to be a 25 percent match, with the grant to

fund up to 50 percent of the project with the potential to have the entire project funded if considered a mitigation for another larger agency doing a project requiring off-site mitigation.

Responding to the Council, Mr. Wilcox advised that he had contacted Caltrans to advise that the Town had a potential site that Caltrans may be interested, and if the site was listed on the IRWMP it would increase the exposure to other agencies within the watershed. He advised the creek restoration would cost close to one million dollars, and clarified that nothing would be done to the retaining wall which had recently been improved other than some removal of the pipe, rip rap, non-native ivy, and the headwall in the culvert which would be required if the flooding problem was to be solved.

Mr. Wilcox explained in terms of bank stabilization that the 2:1 slope was considered to be stable; described how the rip rap rock could be covered with smaller rock and soils to sustain plant material pursuant to the Fish Passage Guidelines; described the work as bio-engineered with natural vegetation; and noted that the Regional Water Quality Control Board (RWQCB) had done a great deal of work and research on bank stabilization and maintenance finding that the natural stream was the best way to slow the water down to be as stable as some of the hard structures. He explained that the current system would handle a storm event between two to five years and that a less than five-year storm event had flooded the Pavilion. He was unaware of any recent flooding.

Ms. Succang advised that staff had not reached out to the Hacienda Foundation regarding the project although the Parks and Recreation Director had indicated that the Hacienda Foundation had seen the staff report.

ACTION: It was M/S (Trotter/Wykle) to Extend the Town Council Meeting to 11:45 P.M. Vote: 5-0.

PUBLIC COMMENTS OPENED

Scott Bowhay, representing the Hacienda Foundation, explained that the condition of the creek had been brought to the attention of the Hacienda Foundation at the end of last year; and the staff report had been forwarded to the Hacienda Foundation from the Parks and Recreation Director and had been forwarded to him this date. He preferred to naturalize the creek and suggested that the Town could maximize the educational and recreational aspects although the President of the Hacienda Foundation had suggested that if the creek was naturalized they may lose the possibility of a bridge across the creek in that the Hacienda Foundation was focused on moving the main entrance of the Hacienda to Moraga Road. He commented that the Hacienda Foundation would like a presentation and a discussion on the project to make it part of the Hacienda Foundation Strategic Plan and to be engaged in the process. He reiterated his support to naturalize the creek.

Mr. Wilcox explained that the road coming down from the parking lot would be maintained, and as part of Alternative 10, they would install a natural bottom arch culvert acting as a bridge from the Moraga Road access to the Hacienda building.

PUBLIC COMMENTS CLOSED

Councilmember Trotter offered a motion to adopt Resolution 34-2014 Accepting the Recommendation to Restore the Natural Channel Based on the Hydraulic Study of Laguna Creek, Prepared by WRECO (Walnut Creek) (Alternative 10) for the Laguna Creek Hydraulic System on the Hacienda de las Flores Grounds (2100 Donald Drive); with staff instructed to get the project in shovel ready form for the Town of Moraga to qualify for grants at the earliest opportunity.

Vice Mayor Wykle seconded the motion.

On the motion, Ms. Sucgang identified the next steps in the process with two potential grants WRECO had been asked to start preliminary work in anticipation of Town Council acceptance of the subject resolution by preparing a concept paper for the IRWMP Committee, a required step prior to submitting an application for a grant to the Department of Water Resources (DWR), with the deadline for submission of the concept paper April 30, 2014; concurrently WRECO would finalize its preliminary work on preparing an initial proposal for the EPA San Francisco Bay Water Quality Improvement Fund, with a deadline of submission also on April 30, 2014; and other potential grant opportunities with the DWR's Urban Streams Restoration Program, Federal Emergency Management Agency (FEMA) Flood Mitigation Assistance Program, and FEMA Pre-Disaster Mitigation Grant Programs. There were no current call-for-projects announced for these other potential grant opportunities but staff and WRECO would be ready to apply once the announcements were made.

Mr. Bowhay advised that he would keep the Hacienda Foundation apprised of the Town Council action.

Mayor Chew clarified that Mr. Bowhay had received copies of the staff report and attachments, although he would also like a copy of the presentation from WRECO, copies of which were also to be provided to the Town Council.

ACTION: It was M/S (Trotter/Wykle) to adopt Resolution 34-2014 Accepting the Recommendation to Restore the Natural Channel Based on the Hydraulic Study of Laguna Creek, Prepared by WRECO (Walnut Creek) (Alternative 10) for the Laguna Creek Hydraulic System on the Hacienda de las Flores Grounds (2100 Donald Drive); and with staff directed to consider getting the project in shovel ready form for the Town of Moraga to qualify for the pursuit of grants at the earliest opportunity. Vote 5-0.

- B. Consider Introducing and Waiving the First Reading of an Ordinance Repealing and Replacing Moraga Municipal Code Title 7 Health and Safety, Chapter 7.16 Nuisance Abatement; and an Ordinance adding Title 1 General Provision, Chapter 1.28 Administrative Penalties

This item was continued to a future meeting of the Town Council.

- C. Review HR29 (*which Resolves that the California State Assembly Opposes Outsourcing of Public Services and Assets, urges Local Officials to Become Familiar with the Provisions of the Taxpayer Empowerment Agenda and Intends to Introduce and Advocate for Responsible Outsourcing Legislation*) and Direct Staff to Submit a Letter of Opposition to Assemblymember Joan Buchanan, Assemblymember Gomez, and Assembly Speaker Perez, to Joan Buchanan State Assemblymember, 16th District

Ms. Keimach presented the staff report dated April 23, 2014, with a copy of the draft letter in response to HR29 included in the staff report as Attachment B. She asked that the Town Council review the draft letter, and submit it to Assemblymember Buchanan, Assemblymember Gomez, and Assembly Speaker Perez. She advised that she had spoken with Assemblymember Buchanan's staff to report that the letter was forthcoming, and indicated she understood the Town's point of view and asked for specifics on the services the Town had contracted out.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

The Town Council reviewed the Draft Letter and made the following recommended modifications:

- Revise the first sentence of the first paragraph as shown on Page 1 of the letter to read:

The Town of Moraga reviewed HR 29 and by way of this letter the Moraga Town Council opposes in the strongest possible terms your support of HR29 and any similar legislation that may arise as a result of this resolution;

- Revise the first sentence of the last paragraph as shown on Page 3 of the letter to read:

On behalf of the Moraga Town Council, we urge you not to support or advocate for any future State or federal legislation that limits our authority and ability to choose the best way of providing services to our community.

- Revise those having been copied the letter to also include *Moraga Town Councilmembers;*
- Revise the first page of the letter to be addressed to: *Dear Assemblywoman Buchanan* and not to read Dear Legislators; and
- The Town Manager advised that HR29 had already been approved, the legislation would be monitored by every city and the League of California Cities, and another letter could be sent in the future as needed; with staff cautioning that Assemblymember Buchanan would be termed out and was needed to assist with the Town's concerns with the PG&E Pathway Project.

ACTION: It was M/S (Trotter/Arth) to Extend the Town Council Meeting to 12:00 A.M. Vote: 5-0.

ACTION: It was M/S (Trotter/Wykle) to Direct Staff to Submit a Letter of Opposition to HR29 to Assemblymember Buchanan, Assemblymember Gomez, and Assembly Speaker Perez, to Joan Buchanan, State Assemblymember, 16th District, as modified. Vote: 5-0.

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

There were no Council requests for future agenda items.

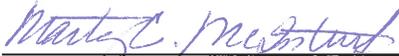
XIII. COMMUNICATIONS

There were no communications.

XIV. ADJOURNMENT

ACTION: It was M/S (Wykle/Arth) to adjourn the meeting at 11:46 P.M. Vote: 5-0.

Respectfully submitted by:



Marty C. McInturf, Town Clerk

Approved by the Town Council:



Ken Chew, Mayor

