

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**September 10, 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 7:02 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 Chew led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

There were no special announcements.

IV. PROCLAMATIONS AND PRESENTATIONS

- A. Proclamation Declaring Falls Prevention Awareness Week to be September 21 to 27, 2014

Mayor Chew read into the record a proclamation declaring Falls Prevention Awareness Week to be September 21 to 27, 2014, and called upon Moraga citizens and interested groups to observe the week with appropriate activities to promote awareness of fall prevention.

Joe Sanchez, representing Meals on Wheels, and a Volunteer for the Falls Prevention Program, described the numerous Contra Costa County Meals on Wheels and Falls Prevention programs available to the community. He thanked the Town for the proclamation.

V. PUBLIC COMMENTS

Clayton Watkins, Moraga, provided sketches to the Town Council related to the Moraga Town Center project; stated he planned to attend the September 18, 2014 Planning Commission meeting and would provide copies of the sketches during that meeting; and opposed the development due to the project setbacks, the height of the buildings creating a tunnel effect, and its location within the scenic corridor along Moraga Way. He requested that the setbacks be maintained similar to existing buildings to the west of the project site. He also requested that

the Town install a flashing light at the crosswalk at Sanders Drive and Canyon Road to assist children crossing the road to school.

Steve Huxley, Moraga, echoed the comments of the previous speaker and stated that while not opposed to high density housing, the setbacks and height of the buildings for the Moraga Town Center development should be consistent with the existing buildings in the area. He opposed the development and expressed concern the approval of the development could set a precedent. He asked the Town Council to urge the developer to change the project design to be more consistent in design and character with Moraga's semi-rural environment.

Margaret De Priester, Moraga, expressed concern with the front half of the landscaping area at the Moraga Library and encouraged the Town Council to visit the site.

Town Manager Jill Keimach reported that the Park Foundation had voted the previous night to fund a landscaping project at the Moraga Library to be scheduled for installation in October. She acknowledged the poor condition of the existing landscaping was due primarily to water restrictions as a result of the drought.

Wendell Baker, Moraga, outlined the Moraga iKind Project; reported he had been working with the Superintendent of the Moraga School District (MSD) to expand the project to promote civility and compassion in the community; and stated the iKind Project would also like to work with the Town of Moraga to embrace the project vision and support its mission and goals. He provided flyers to describe the project, acknowledged the Mayor's recommendation to contact the Parks and Recreation Director and encouraged interested persons to contact him.

Eric Andresen advised that his son Ryan Andresen had created a Tolerance Wall at Joaquin Moraga Intermediate School with the iKind Project and expressed his hope the iKind Project would be expanded as a community program.

The following individual did not speak, but offered written comments on a speaker card:

Fred Boettler, Moraga, "City Venture Project on Moraga Way. (1) The current plan gives a walled effect on Country Club Dr. Needs a setback to match the office bldg. (2) No driveway entrance onto Country Club Dr. Too much traffic now let alone when offices fully occupied. (3) Not enough parking. Keep Country Club a boulevard. (4) What is base for figuring height? Existing dirt? Or something else? "

VI. ADOPTION OF THE CONSENT AGENDA

A. Approval of Consent Items

Consent Items 2, 3 and 5 were removed from the Consent Agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

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

1) Accounts Payable Claims for 8/22/14 (\$375,995.69)	Approved
---	----------

- | | | |
|----|--|----------------|
| 2) | <i>Approve Minutes for the Town Council Special Meeting on July 16, 2014</i> | <i>Removed</i> |
| 3) | <i>Approve Minutes for Joint Town Council, Planning Commission Design Review Board, Park and Recreation Commission and Joint Ad-Hoc Facilities Planning Subcommittee Special Meeting Tour on August 26, 2014</i> | <i>Removed</i> |
| 4) | Approve by Motion the Cancellation of the September 24, 2014 Town Council Meeting and Direct Staff to Schedule a Special Meeting if Needed | Approved |
| 5) | <i>Consider Resolution 75-2014 Authorizing the Town Manager to Amend the Design Professional Services Agreement with Omni-Means by \$21,604 for a Total Contract Amount of \$36,081 with a 15% Contingency for a Total Budget Amount Not to Exceed \$41,493 for Completion of the Rheem Boulevard/ St. Mary's Road Roundabout Feasibility Study (CIP 14-604), Extending the Contract Term and Appropriating an Additional Amount of \$24,818 from Measure J County Return to Source Funds (Fund 210) Towards the Project</i> | <i>Removed</i> |
| 6) | Approve by Motion Re-Appointment of Al Dessayer to the Central Contra Costa Transit Authority Board of Directors For a Two-Year Term Effective May 1, 2014 through May 1, 2016 | Approved |
| 7) | Approve by Motion a Fee Waiver for Use of the Moraga Road Marquee by the Moraga Citizens Network for Town Council Candidates Night Events in Perpetuity | Approved |

B. Consideration of Consent Items Removed for Discussion

1. Approve Minutes for the Town Council Special Meeting on July 16, 2014

Councilmember Trotter advised that redline changes had been made to Page 10 of the Town Council minutes of July 16, 2014, with copies provided on the dais and to the public that night and he asked that the Council approve the minutes, as modified.

Mayor Chew requested an amendment to the first paragraph of Page 9 to reflect his comments regarding the use of bullet proof material inside the wood paneling of the dais, and asked staff to revise that paragraph accordingly.

Town Clerk Marty McInturf recommended that the minutes of the July 16, 2014 Town Council meeting be brought back in the redline format allowing staff to re-listen to the audio tapes of the meeting.

2. Approve Minutes for Joint Town Council, Planning Commission, Design Review Board, Park and Recreation Commission and Joint Facilities Planning Subcommittee Special Meeting Tour on August 26, 2014

Mayor Chew had no changes to the minutes but requested a formal report from the Joint Facilities Planning Subcommittee on the efforts of the Subcommittee.

ACTION: It was M/S (Trotter/Chew) to approve the Minutes for the Joint Town Council, Planning Commission, Design Review Board, Park and Recreation Commission, and Joint Facilities Planning Subcommittee Special Meeting Tour on August 26, 2014, as shown. Vote: 5-0.

VII. ADOPTION OF MEETING AGENDA

Councilmember Trotter recommended a modification to the meeting agenda to move Public Hearing Item A to Item B after Ordinances, Resolutions and Requests for Action Item A, with Consent Agenda Item 5 to be considered as Item C.

Town Attorney Karen Murphy advised that pursuant to the Council Rules and Procedures, there was a specific order for public hearings, although a public hearing item could be re-agendized as long as the hearing was treated as an actual public hearing when the item was considered.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Wykle) to modify the meeting agenda and move Public Hearing Item A to Item B after Ordinances, Resolutions and Requests for Action Item A, with Consent Agenda Item 5 to be considered as Item C. Vote: 5-0.

VIII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Chew – No report.

Vice Mayor Wykle – No report.

Councilmember Arth – Reported on his attendance at the Moraga Chamber of Commerce Board meeting on September 10.

Councilmember Metcalf – Reported that he had attended a Joint Facilities Planning Subcommittee meeting on September 8, with another session scheduled for September 30 to discuss the Pleasant Hill Recreation and Park District project, when Pleasant Hill City Councilmember Michael Harris would be in attendance.

Councilmember Trotter – Reported that he and Councilmember Metcalf and others had attended a Joint Facilities Planning Subcommittee meeting on September 8.

B. Town Manager Update – Ms. Keimach noted that during the meeting of August 27, the Town Council had given direction to staff not to pursue a local ban on single-use plastic bags pending the outcome of State Legislation. She reported that the State had recently passed a statewide ban and as of January 1, 2015, the State would be phasing in a requirement of grocery stores to sell paper bags for 10 cents or more. She agreed that would offer a good opportunity for the Chamber of Commerce to commence with *Shop Moraga First* usable bags for Moraga residents. She added that the Town Council had been provided with

copies of the latest cost estimate of value engineering for the roof design for the Council Chambers community meeting room at 331 Rheem Boulevard, reporting that the front of the roof design was still as planned but not all the way to the rear, saving the need to place a beam at the back of the building. The Design Review Board (DRB) would be apprised of the latest information as well. Additionally, she reported that the Town's website included new videos created by CGI, highlighting the benefits of the Town of Moraga.

Public Works Director/Town Engineer Edric Kwan updated the Town Council on the staging and phasing for 28 Town-wide street paving projects, with some work having already commenced, some of the base repairs incomplete, and the paving operation to commence on September 16/17.

IX. DISCUSSION ITEMS

There were no discussion items.

X. PUBLIC HEARINGS

- B.** Consider Appeal of Planning Commission's Decision to Approve the Conceptual Development Plan for the Via Moraga Project, an 18-Lot Single Family Subdivision; and
1. Consider Resolution 69-2014 Adopting a Mitigated Negative Declaration (MND); and
 2. Consider Resolution 70-2014 Amending General Plan Policy LU3.3 Regarding Residential Density Permitted in the Rheem Park Specific Plan Area; and
 3. Consider Introducing and Waiving the First Reading of an Ordinance Amending Moraga Municipal Code Chapter 8.48 to add 10-DUA-PD Land Use Classification and Modify Planned Development (PD) Standards, and Amending the Zoning for the Via Moraga Property from Limited Commercial to 10 DUA-Planned Development (10-DUA PD); and
 4. Consider Resolution 71-2014 Considering the Appeal, Upholding the Planning Commission's Decision, with Modifications to the Conditions of Approval, and Approving the Conceptual Development Plan for the Via Moraga Project

Interim Planning Director Ellen Clark gave a PowerPoint presentation of the staff report for an appeal of the Planning Commission's July 21, 2014 decision approving the Conceptual Development Plan (CDP) for the Via Moraga Project, an 18-lot single-family subdivision, along with recommendations for zoning and General Plan Amendments (GPAs). The project had subsequently been appealed by Councilmember Metcalf and a representative for the applicant, Signature Homes. The applicant had filed an appeal requesting reconsideration of the single driveway, and Councilmember Metcalf had appealed the project based on the scenic corridor and the potential for a walled-in effect along Moraga Road.

Ms. Clark explained that the Town Council was being asked to not only consider the two appeals but the adoption of a Mitigated Negative Declaration (MND), GPA, and Zoning Ordinance amendments, approval of the CDP, and upholding the Planning Commission's decision to approve the plan subject to modifications of the conditions of approval. She noted

that the public hearing was a de novo hearing and the Town Council was able to consider the appeal as a new matter with the ability to review the project in its entirety irrespective of the details of the appeal.

Ms. Clark identified the site setting and project description, the proposed GPA and zoning amendments, and the details of the overall site plan. She reported that the project had been reviewed by the Planning Commission and Design Review Board (DRB) over eleven separate study sessions and public hearings on various conceptual versions of the plan, with the applicant having consistently proposed a detached small lot, single-family product pursuant to direction from the majority of DRB and Planning Commission members.

Prior iterations of the project showing the evolution of the different plans were displayed to the Town Council, which had led to the current 18-lot single-family subdivision. The parking had ultimately been reconfigured from perpendicular spaces to parallel spaces allowing the units to be pushed back to allow variation at the frontage, a large landscaped buffer along Moraga Road, some setback of the homes, and stepping of the building massing along Moraga Road. At staff's request, the applicant had agreed to prepare a site plan with a single driveway for Town Council review. Pursuant to the applicant's single-driveway site plan, there would now be a looped driveway with a single access driveway to the north end of the site, farther away from the Rheem Center driveway, providing a larger landscaped setback and buffer from Moraga Road with one fewer unit, for a total of 17 lots.

Ms. Clark identified the requirements for the CDP review, the architectural review and input from the DRB which had a favorable response to the Spanish style architecture, with a palette of building materials to be reviewed in more detail by the DRB at a later date. She again outlined the concerns of the Planning Commission, DRB, and the public regarding the appropriateness of the use at the subject site within a Commercial District and within proximity of residential uses; the implications of General Plan Land Use Policy LU3.3 regarding residential density permitted in the Rheem Park Specific Plan Area; the appropriateness and adequacy of the small lot subdivision product type that had been proposed; appearance of the project within the scenic corridor; the single versus two driveway concepts; and the process for project review.

Ms. Clark advised of staff's recommendation for the Town Council to take the actions, as prescribed in the staff report, including the re-adoption of the Initial Study/MND; approval of the General Plan Amendment; approval of Zoning Amendment text and Map Amendments; and upholding the Planning Commission decision; and approving the Via Moraga CDP with modifications to the conditions of approval, including clean up and text provisions, which had been identified in a redline format in the staff report.

Responding to the Council, Ms. Clark advised that an additional single driveway plan had been submitted to staff by the applicant as a late submittal. She clarified the key issues with the single driveway concept and the traffic options as outlined by the Traffic Consultant, and stated that staff did not support the addition of another traffic signal given the concern with additional traffic signals along Moraga Road. She also clarified that the street width for the project met the Moraga-Orinda Fire District (MOFD) standards for the radius needed for turning movements for emergency vehicles, and the MOFD had reviewed an earlier iteration of the plans with a single driveway and felt it was workable with no safety difference between either that plan or the current iteration for two driveways. She explained that staff had asked the applicant to provide a new site plan with a single driveway since staff was of the opinion it would be difficult for the Town Council to properly consider a single driveway absent an actual plan for review. She suggested the applicant clarify whether he would accept a 17-lot plan with a single driveway.

Ms. Clark further clarified that the two driveway option would be two way with one entrance; the proposed amendment to General Plan Policy LU3.3 related to both the Rheem Park Specific

Plan Area and the Moraga Center Specific Plan Area (MCSP); Lot 12 under the 17-lot plan would be eliminated; Lots 1 and 13 closest to the scenic corridor consisted of varying roof heights [stated by the applicant from the audience to be approximately 25 feet]; the crosswalk had a refuge aisle in the middle and would be a High Visibility Pedestrian Activated Signal similar to what had been installed at Corliss Drive which the applicant had agreed to provide; and staff would have to calculate the distance between the pedestrian crosswalk and the refuge area in the common left turn lane to the closest approach to the driveway to the Rheem Center.

Ms. Murphy reiterated the actions before the Town Council for consideration. Given the legislative changes under consideration, she suggested it would be appropriate for the applicant to make a presentation first.

PUBLIC HEARING OPENED

Tom Quaglia, Project Manager, Signature Homes, introduced Signature Homes President Gary Galindo present in the audience, and explained that this was not an appeal in the hostile sense given the collaborative process. He explained that the developer still liked the two-driveway option but had agreed to show a single-driveway option for consideration. Speaking to the proposed GPAs, he noted the applicant's reliance on the Town's General Plan which had specifically stated the area could contain residential uses at 10 units per acre, which had been used as the basis for the proposed development. He commented that Carroll Ranch had been used as an example in that it enjoyed the same density as the proposed project. The site was currently designated Limited Commercial, with a three-story, 35-foot height limit, minimum 25-foot setbacks along the streetscape, and multiple driveways. Every site had two or three driveways along Moraga Road, and if the project had been built for Limited Commercial it would likely be a specialty retailer or an office, with the traffic generated from those uses much greater than a detached single-family development, which would generate 170 trips per day as shown in the staff report. Rezoning of the property would allow 25-foot building heights and greater than 25-foot setbacks, with longer facades, greater landscaping, and without the signage usually associated with retail uses.

Mr. Quaglia explained that the developer liked the 18-lot, two entry, restricted right in/out plan, which had been previously supported by the Planning Commission and the DRB, while also recognizing that both the Planning Commission and the DRB now preferred a single driveway. He reported that in speaking with the Interim Planning Director, the developer had decided to prepare a plan for a single-driveway concept with 17 lots, eliminating Lot 12 and a single driveway, while preserving the recreational area at the rear, and with a better undulation of the buildings. He also presented another version of the site plan where the recreational area had been brought out to the front to be more visible, retaining the 18 lots with less setback for Lot 12 at 50 feet as opposed to 75 feet. He added that the developer had agreed to install the pedestrian crossing for the purpose of the mid-block stretch of Moraga Road where many businesses and uses needed a logical point for people to cross, although he would have preferred the south area to align with the main pedestrian entry to the shopping center as the more appropriate location. He asked that the Town Council take the actions under consideration which would, in effect, ratify the Rheem Park Specific Plan Area, approve the project approved by both the DRB and the Planning Commission, with the next step the architectural detailing to be reviewed by the DRB and thereafter by the Planning Commission for the approval of a Tentative Map.

Ben Helber, Chair of the Moraga DRB, reported that the DRB had recently approved guidelines in the event of an appeal where the DRB Chair would represent the discussion of the DRB's deliberations. He reported that the DRB had reviewed and recommended approval of the project on May 27, 2014; discussed the CDP and the improvements to the project; discussed a desire for a greater buffer between the public and private spaces and a greater buffer/setback

from Moraga Road; and expressed concern with the project's excessive parking. After deliberations and public comment, the DRB had conditionally approved the project and had directed the applicant to push the project back from Moraga Road, add an additional buffer to mitigate that visual impact, realign the street similar to the capital letter "P" with one point of vehicular ingress/egress to minimize the amount of driveways and to provide a better aesthetic setback from Moraga Road, and asked the applicant to provide a pull-out space for a bus stop similar to the bus stop across the street.

Suzanne Jones, Preserve Lamorinda Open Space (PLOS), expressed concern with the visual impacts of the project and expressed thanks to Councilmember Metcalf for his appeal. She commented that she had attended the May 2014 DRB meeting, at which time and on behalf of PLOS she had expressed concern that the height of the homes in front of the parcel and the relatively small setback from the street would result in an obstruction of the public's view of Rheem Ridge and its hillsides when traveling north on Moraga Road. She disagreed with the staff report that stated the project would not block views of hillsides and ridgelines and was consistent with General Plan Policy CD1.3, in that the story poles that had been installed had shown that was not the case because the story poles extended above the ridgeline from that end of the scenic corridor. She explained that PLOS had no objections to the development of the site but asked the Town Council to ensure that whatever project was built would protect the view of Rheem Ridge and its hillsides at least as well as the two existing buildings on either side of the project site, which protection could be achieved by increasing the project setbacks subject to the revised 17-lot site plan, the elimination of Lot 12, and making the front lots one story which would prevent a walled-in effect along the scenic corridor. Regardless of what project was approved, she asked that the Town Council require a new set of story poles for any revised project in order to conform to the goals that had been set, or require a photographic simulation to demonstrate the preservation of the scenic views.

Steve Woehleke, Moraga, a member of the Moraga Planning Commission but speaking as a private citizen, spoke to the applicant's comparison of the development to Carroll Ranch, and while he did not dispute the consistency of the density, he stated the homes in Carroll Ranch were duplexes with a mixture of single and two stories ranging in size from 1,300 to 2,100 square feet with sideyard separations at 20 feet or more as compared to the dimensions for the detached development for Via Moraga. As to the access point to the project, he suggested there were other options that could be considered, such as no access point off of Moraga Road. As an example, he noted that Luxor Court, a 25-unit apartment complex on Moraga Road, had no access points on Moraga Road. That development was adjacent to the HomeGoods Store and the main entry to the development was on the driveway to HomeGoods with an Emergency Vehicle Access (EVA) on Ascot Drive. He suggested that both sides of the driveways to Via Moraga could be considered as access points, either as an EVA or as the main entrance.

Claire Roth, Moraga, expressed concern with the setbacks and circulation for the project and suggested the revised 17-lot plan represented an improvement to the setbacks and circulation. She asked that the Town Council take into consideration the desire of the community to remain a semi-rural environment. She also understood the pedestrian activated crosswalk would be similar to the crosswalk on Moraga Road at Corliss Drive which was only two lanes wide with minimal pedestrian traffic. She suggested that the proposed crosswalk for Via Moraga would impact the existing traffic flow, and she emphasized her concern that approval of the project would set a new standard for zoning in the area. She urged the Town Council to require that the project conform to the General Plan.

Dale Walwark, Moraga, sought greater setbacks along Moraga Road consistent with the existing buildings along Moraga Road, and greater landscaping. As to the potential demands for a future traffic signal and the pedestrian activated crosswalk, he suggested that issue should have been resolved prior to this time. He sought more detail on the potential traffic impacts along Moraga Road and the turning movements into the Rheem Center, and expressed concern

that the cumulative impacts of existing and future projects and the potential impacts to existing infrastructure were not being considered.

Scott Bowhay, Moraga, commented that he had attended a Planning Commission hearing approximately three years ago and suggested there was a lack of communication between the Town and the public regarding the project. He noted that the DRB and Planning Commission page on the Town's website had not posted any meeting minutes for the entire year, and he encouraged greater outreach to the public since it raised questions with respect to the Brown Act. He sought more vetting with the public.

Ms. Clark clarified that the minutes from the DRB and Planning Commission meetings had been prepared and approved by the respective bodies, but may not be current on the Town's website since they were not posted until approved.

Mr. Bowhay urged the posting of draft minutes at the least.

Christine Kuckuk, Chair of the Moraga Planning Commission, reported on the Planning Commission's deliberations and reiterated the new requirement for the Chairs of the DRB and the Planning Commission to appear before the Town Council in the event of an appeal. She stated that eleven separate meetings had been held on the project before the DRB and the Planning Commission, she had attended each of those meetings, and she had yet to see either body reach a consensus on the project. She acknowledged the strong opinions about the site which was located within the scenic corridor and explained that the Planning Commission's discussions included concerns with the small lot, single-family type product; the homes were not consistent with other homes in Moraga; and there was a desire for less density although conversely there had also been support for higher density. Primary concerns with the project included impacts to the scenic corridor, the need to avoid a walled-in effect with the two driveways, and concerns with the visual impacts of two driveways offering views of cars parked along the project streets visible from Moraga Road not in keeping with the Commercial District. She personally wanted to see some privacy for the residents of the project from those traveling along Moraga Road.

Ms. Kuckuk emphasized that the Planning Commission had conditioned project approval for a single driveway given the preliminary traffic safety reports, and MOFD not requiring two driveways. As the Planning Commission representative to the Livable Moraga Road Project, she was aware that each driveway represented additional points of contact with bicyclists and pedestrians regardless of the width of the driveway. The single driveway at the north point of the lot was a better mitigation for turning conflicts between the project and the driveway at the Rheem Center, and she suggested that issues identified in the Environmental Impact Report (EIR) regarding turning conflicts could be entirely mitigated by the single driveway configuration, which would have fewer visual impacts as two driveways.

Steve Huxley, Moraga, expressed concern the development would not be compatible with the neighborhood, and would likely house children who would attempt to cross the street to the Rheem Center, creating a future safety and traffic hazard.

Ferenc Kovak, Moraga, commented on the lack of publicity for the project until recently. He questioned whether the roadway into the project would accommodate vehicles parked on both sides of the street and emergency vehicle access; noted that Carroll Ranch had trees, a creek, and an adequate setback from the scenic corridor; understood based on the size of the homes that the density would be greater than 10 units to the acre; and asked for clarification of the calculations.

REBUTTAL:

Councilmember Metcalf advised that his appeal related to the potential for a walled-in effect. He cited past community concerns when Starbuck's had been proposed where there had also been a concern with a walled-in effect; cited the office building at 533 Moraga Road, which had been at one time a lot closer to the road although the Planning Commission at that time had directed the building be moved back into the hillside which had required additional excavation; thanked the applicant for the new drawing and while he did not find the two-driveway entrance to be that bad, agreed with some of the comments from Planning Commission Chair Kuckuk that there would be views to the back of the development that would be unattractive. He supported the single driveway entrance since it would break up the walled-in effect. He also agreed with the elimination of Lot 12 and stated that his basis for an appeal had vanished with the submittal of the applicant's drawing for the 17-lot development and a single driveway.

Mr. Quaglia referenced what he identified as Revised Site Plan, no Lot 12, 17 units, which was something the applicant could live with and which consisted of a 75-foot setback for Lot 11, a greater setback than required by the DRB with greater landscaping. He commented that given the current zoning, there could be a retail center or an office use on the site, which would result in a longer façade, closer to the road, and less of a setback. Also, with a retail use the building would likely be at the back with parking at the front.

Mr. Quaglia reiterated that the project would include a landscaped streetscape, two-story buildings 25 feet in height, with the DRB requesting that the buildings be more vertical to mimic the verticality of the existing buildings along Moraga Road, although the conclusion was to keep the design as is and leave the second story, with the buildings to have an arched or square feature keeping up with the streetscape of the existing buildings right and left of the project site. The two homes along Moraga Road would have a 30-foot setback down to a single-story level with regards to the archway to match the building. He also clarified the reference to Carroll Ranch had been related to the zoning and General Plan only in that the development standards for Carroll Ranch were less than for typical single family residential developments.

Mr. Quaglia spoke to the location of the crosswalk, clarified that it had been identified on an aerial he had of the project site, but at the request of staff was not shown on the plan since staff wanted to be able to conduct final work. He also clarified that the location had been chosen since there were two driveways. He suggested the crosswalk regardless of its location should not be for the development but should be mid-block, and he would rather see it align with the main pedestrian entry to the Rheem Center for safety reasons.

Councilmember Metcalf recommended that the Council not discuss the location of the crosswalk at this time although he sought assurance that a crosswalk would be provided.

Mr. Quaglia advised that no design for the crosswalk had been created, staff was to determine the final location, and the crosswalk would be provided by the developer regardless of its location in proximity to the project site.

Responding to the Council, Ms. Clark explained how the Town had conducted traffic analyses, and analyzed cumulative traffic impacts, which had been done pursuant to the EIR for the Moraga Center Specific Plan (MCSP), and which had taken a broad look at Moraga specific and regional traffic, impacts of the traffic as a result of the MCSP, other planned projects in the approval process and those in the foreseeable future, which was routine for the analysis of cumulative traffic impacts. She advised that the cumulative traffic analysis would be adjusted as they moved forward, including the assumptions of broader assessments to ensure compliance.

Ms. Clark reiterated that any project that was moving forward and in process in 2010, including Palos Colorado and Hetfield Estates, had been included in the cumulative analysis, and acknowledged that the build out of those projects would take some time.

Mr. Walwark referenced past history when Blockbuster had originally been proposed for a large building in the scenic corridor of the MCSP, which the Town had opposed. Blockbuster had later occupied a space in the Rheem Center, ultimately went out of business, and the space was now occupied by the Dollar Tree.

PUBLIC HEARING CLOSED

Councilmember Metcalf understood the project had been ongoing for the past three and a half years and had been well scrutinized, and he commended Signature Homes for working collaboratively to design a proposal on a difficult lot. With the demolition of the bowling alley years ago he was tired of seeing an empty lot, and while he would have preferred a hotel on the site, that had not been supported by the property owner. He cited past efforts for the creation of a Rheem Park Specific Plan when the Town Council had ultimately decided not to proceed with a specific plan for that area. He suggested the project was okay, his concerns with a walled-in effect had been mitigated, and he suggested the views toward Rheem Ridge were primarily the back side of Chalda Way. He would rather see attractive buildings on the property and suggested the homes would achieve that, although he would have liked to have seen more affordable housing units. At this time, he was prepared to approve the project.

Vice Mayor Wykle spoke to the difficulty of the parcel, its current zoning designation, and the vacant office and retail spaces, with the reality that single-family homes would sell. He was not prepared to approve the project at this time given that the development would be around for decades, and suggested it would be worth the time for the Town Council to ensure the project complied with the General Plan. He agreed there were views of Rheem Ridge, suggested it was a great step forward with a 75-foot setback, although there were no accurate renderings of how the project would appear. He agreed that a photograph rendering was also important as well as the installation of story poles. Not wanting to dictate the location of the pedestrian crosswalk, he wanted to know how it would work, where the refuge location would be located, whether it would impact turning lanes, and if that would solve the pedestrian issues.

Councilmember Arth initially liked the two-driveway concept, acknowledged the comments of the Planning Commission Chair as to the single- or two-driveway concept, and recognized the staff comments that regardless of a single- or two-driveway entrance it would make no difference to the MOFD. He liked the 17-unit project as shown on the latest revised plan which staggered the depth of the buildings preventing a walled-in effect, was not concerned with the location of the crosswalk, and trusted staff to resolve that issue. He was prepared to approve the project based on the 17-unit drawing.

Councilmember Trotter agreed with the 17-lot project and agreed that the recreation area be placed away from the scenic corridor at the back. He suggested there were issues with the scenic corridor and the Rheem Ridge visual impacts, particularly for Lots 1 and 13, suggesting the applicant had not done everything possible to lower the rooflines or downsize the homes for those lots to further reduce a walled-in effect. He suggested another iteration of the 17-lot project reflecting his comments was worthwhile since the height of the buildings immediately adjacent to Moraga Road would be reduced and the visual impacts would be mitigated. On that basis, he was inclined to recommend the applicant return with a revised design.

Mayor Chew affirmed with Ms. Clark that the project complied with the General Plan; suggested the project would not impact views of the Rheem Ridge or the painted rock; cited the office building which was approximately the same height, and as such had no concerns with the

project height. He commented that the entire area was zoned Commercial and suggested that the project represented a better use than the development of another office building or mixed use. He added that the traffic impacts had been adequately studied. He also disagreed that there had been a lack of public awareness since the project had been reviewed since 2011, with many discussions between the Planning Commission and the DRB. In terms of the design, he suggested that all improvements had been taken into account and he recognized the efforts of the developer to make the project better and to improve an empty lot. He did not want to re-hash the entire project and suggested another rendering was not necessary.

Vice Mayor Wykle agreed that the development would be better than a vacant lot but reiterated his concerns. He commented that when the story poles had been installed the views of the ridgelines had been obscured, and he supported the submittal of photo simulations and an accurate rendering of the proposal prior to making a decision.

Councilmember Trotter also reiterated his comments and clarified that he was not suggesting a re-hash of the proposal but minor modifications, as earlier requested to lower the building height and reduce the massing of Lots 1 and 13.

Councilmember Metcalf acknowledged the concerns and the request for improved street scenes and photo renderings, but suggested it was not needed. The proposed buildings would be lower than the clock tower at AAAAA-Rent-A-Space, and he did not want to see the developer be required to present something that represented a marginal improvement to provide more comfort for the Council. As to the crosswalk, he pointed out that the project was only at the CDP stage and must still go through the Tentative Map, Precise Development Plan (PDP), and Final Map processes. He found that the project was appropriate conceptually, enough to proceed, and did not see the need for the applicant to bear the expense of preparing another rendering.

Ms. Murphy reiterated the four separate actions for Town Council consideration.

ACTION: It was M/S (Arth/Metcalf) to approve Resolution 69-2014, Adopting an Initial Study and Mitigated Negative Declaration and Adoption of a Mitigation Monitoring Plan for the Via Moraga Project, a Residential Development (APN 256-070-002). Vote: 3-0-2. Noes: Trotter, Wykle.

ACTION: It was M/S (Arth/Metcalf) to approve Resolution 70-2014, Amending General Plan Policy LU3.3 Regarding Residential Density Permitted in the Rheem Park Specific Plan Area. Vote: 4-0-1. Noes: Wykle.

Councilmember Arth offered a motion to introduce and waive the First Reading of an Ordinance Amending Moraga Municipal Code Chapter 8.48 to add 10-DUA PD Land Use Classification and Modify Planned Development (PD) Standards, and Amending the Zoning for the Via Moraga property from Limited Commercial to 10 DUA-Planned Development (10-DUA PD). **Councilmember Metcalf** seconded the motion.

On the motion, **Councilmember Trotter** asked that the amendment to MMC Section 8.48.040 be made clear that the 10-PD designation would bear a postscript that it would only apply to the Rheem Park Specific Plan Area, a defined area in the General Plan. He clarified his understanding that the rezoning action would be limited to the Via Moraga project, with a signal in the designation language in Section 8.48.040 Section 2. A (6) 10-PD, that it was a Rheem Park Specific Plan restricted classification.

Ms. Murphy advised that the zoning classification would be added to the MMC and would apply to whatever areas were rezoned to it; the creation of the zoning classifications in Sections 2 and

3 of the ordinance; and Section 4 of the ordinance rezones the parcel to PD-10 and amends the zoning map to PD-10. She clarified that other parcels would have to be rezoned and the 10-PD would only apply to the Rheem Park (RP) Specific Plan Area.

As the maker of the motion, **Councilmember Arth** accepted that amendment.

Ms. Clark recommended that the Table under Section 8.48.040, Section 2. (B) could be amended to include a 10-PD-RP with an asterisk footnote noting that it applied to the properties within the Rheem Park (RP) Specific Plan area only.

Ms. Murphy advised that Section 8.48.040 A (6) would be modified to read "10-PD, as to the Rheem Park Specific Plan Area, as defined in the General Plan (RP)," with the table to show "10-PD-RP."

ACTION: It was M/S (Arth/Metcalf) to Introduce and Waive the First Reading of an Ordinance Amending Moraga Municipal Code Chapter 8.48 to add 10-DUA PD Land Use Classification and Modify Planned Development (PD) Standards, and Amending the Zoning for the Via Moraga property from Limited Commercial to 10 DUA-Planned Development (10-DUA PD), with amendments to Section 8.48.040 A(6) to read "10-PD, as to the Rheem Park Specific Plan Area, as defined in the General Plan (RP)," and the Table under Section 8.48.040 2(B) to show "10-PD-RP." Roll Call Vote: 4-0-1. Noes: Wykle.

ACTION: It was M/S (Arth/Metcalf) to adopt Resolution 71-2014 Considering an Appeal, Upholding the Planning Commission's Decision, with Modifications to the Conditions of Approval, and Approving the Conceptual Development Plan for the Via Moraga Project. Vote: 3-0-2. Noes: Trotter, Wykle.

Mayor Chew declared a recess at 9:53 P.M. The Town Council meeting reconvened at 10:01 P.M. with **Mayor Chew, Vice Mayor Wykle, and Councilmembers Arth, Metcalf, and Trotter** present.

XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

- A. Review and Consider Authorizing Submittal of the Draft 2015-2023 Housing Element to the State Department of Housing and Community Development for their Required 60-Day Review**

Associate Planner Brian Horn introduced the Housing Element Consultant Ted Holzem with Mintier Harnish.

Ted Holzem, Mintier Harnish, Housing Element Planning Consultants, offered a brief presentation on the highlights of the Housing Element document, the key findings, Regional Housing Needs Allocation (RHNA), and the draft goals and policies as part of the Housing Element Update. He noted that there was little being changed in the document with updated demographic information, and existing conditions information which had little or no effect on the policies. He identified the outreach efforts to the public on the Housing Element Update, summarized the key findings from the community workshops and stakeholders, identified State law requirements with a list of additional policies that had been added to the Housing Element pursuant to State law, and walked through the recommendations from the Planning Commission.

Mr. Holzem clarified that the RHNA was not a mandate to build housing and did not compel the Town to actually build any type of housing itself although it required the Town to provide the regulatory environment, the zoning, to allow that housing to be built in the private sector, and

there would be no penalty to the Town if the units were not constructed. He added that there was enough land zoned in the Town to accommodate the 229-unit RHNA.

Mr. Holzem asked for direction from the Town Council as to the submittal of the Draft 2015-2023 Housing Element to the State Department of Housing and Community Development (HCD), and advised that the document would be brought back to the Planning Commission and the Town Council after the 60-day review period. He also identified the work schedule with an anticipated Town Council adoption date by January 31, 2015.

In response to **Councilmember Metcalf's** question related to the Planning Commission's comments that the Housing Element was biased towards a greater density, Planning Commission Chair Kuckuk explained that the Planning Commission had discussed a notation in the draft document of how staff should always attempt to get an applicant to develop at the high end of the density range as opposed to allowing an applicant to come in with a project that they believed was viable and met the Town's requirement, to avoid a look of bias.

Councilmember Trotter stated that he would have liked to have been provided a redline strikeout version of the Draft 2015-2023 Housing Element since he found that the changes represented a major overhaul of the document. Speaking to the policies in the Housing Element, he commented that the way the Town had dealt with affordable housing in the past, and included in the 2010 Housing Element, had been to include provisions that provided for default densities on a sufficient number of acres, at least 20 units to the acre under State law, which would meet the affordable housing need although the current document contained no language in that regard.

Mr. Holzem advised that the language had been embedded in the analysis to identify sufficient sites. He referred to a chart with a State default density standard of 20 units to the acre to identify the sites within the Lower and Moderate Income categories. The units identified for potential development in the Lower and Moderate Incomes would fall within that default density range.

Town Manager Jill Keimach referenced Page 5-63 and the footnote at the bottom of that page which related to the default density standard of 20 units to the acre pursuant to State law.

Councilmember Trotter noted that the reference was to the City of Windsor. He asked that the footnote be revised to read the "Town of Moraga."

Ms. Keimach suggested that another revision at a staff level would update pending projects and there were a few other changes that would have to be made; she recommended doing one more revision at the staff level and concurrent with HCD's review the document would be revised again and returned for Council consideration.

In response to **Councilmember Trotter's** concerns with the new program language and the unfunded mandates that created burdens on the General Fund and whether that language was required by State law, Mr. Holzem described the challenges between providing what was mandated and what the HCD, as a reviewing agency, expected a community to do. He stated that some of the language could be removed but might have to be added back in at the request of HCD.

PUBLIC COMMENTS OPENED

Seth Freeman, Moraga, commented on the Via Moraga proposal which was very dense, and from a practical standpoint, questioned where land was cheap enough for Moderate or Low Income housing unless zoning was changed to allow three or four-story residential units.

Mr. Holzem identified Areas 5 and 14 of the Housing Element as the potential sites for Moderate and Low Income housing. He clarified what would actually be constructed and what had been zoned were two different things; the mandate was to provide the capacity to meet those densities and what was ultimately constructed may not be affordable to moderate or low income households, which was not in conflict with the State mandate. He acknowledged that other jurisdictions had experienced difficulty in providing affordable housing although Moraga's Housing Element did identify the needs, with the policies and programs attempting to alleviate some of the burdens of constructing lower and moderate income households.

Ms. Keimach also acknowledged the Real Estate economics where the Town could not ask the market to provide below market rate affordable housing, and some Councils had the choice of requiring a development to reduce the size of homes or require Very Low, or Moderate-Income deed-restricted units. She noted that there were five units in the Luxor Apartment building in Moraga that were required to be Low Income, and although that created an administrative headache for the Town it provided housing for those on a fixed income the ability to remain and age in the community. She added that there was the opportunity in the MCSP for the senior housing projects where the Council may require ten percent of the units to be deeded as below market rate to accommodate the needs of seniors, which could be a policy question in the future.

Ms. Keimach further acknowledged that there were some "granny units" that were market rate, somewhat affordable, and not deed restricted in the Town. She explained that only the deed restricted units were tracked in the Town.

Mayor Chew noted that the Final Map for Palos Colorados also included secondary units.

PUBLIC COMMENTS CLOSED

Councilmember Trotter walked through the Draft 2015-2023 Housing Element page by page and offered the following comments and/or direction to staff:

- Requested a redline strikeout version of the Draft Housing Element against the current version, although Interim Planning Director Clark explained that since a significant amount of text had been deleted or modified which would create a document difficult to read in the redline strikeout format, only the changes had been highlighted;
- Requested a redline strikeout version of the changes made to the policies in the Housing Element;
- Requested the elimination of the reference to co-op housing under H2 Housing Mix and Affordability, Policy H2.1 on Page 5-11;
- Expressed concern that the parking requirement under H4 Governmental Constraints, Policy H4.3, Parking Requirements on Page 5-26, would shift the parking burden to the street, and as such requested the elimination of that policy;
- Clarified that the policy under IP-H15, Maintain Adequate Staffing on Page 5-17, was not a State law requirement and questioned whether it should be retained; and expressed the same concern for IP-H17, Parking Study on the same page;
- Clarified that the policy under H5 Special Housing Needs, H5.7, Homeless Prevention on Page 5-18, was not required by the State and could be eliminated from the Housing

Element, although if it was an issue with the HCD staff could refer to Policies H5.8 and H5.9;

- Clarified with the Housing Consultant that the policy under H5.10 on Page 5-18, should remain although recognized it was a hot button topic;
- Clarified with the Housing Consultant that the policies IP-H18 Defer Fees for Special Needs, and IP-H19 Publicize Senior Housing Resources on Page 5-19, had responded to specific issues that had been identified although requested the elimination of Policy IP-H18;
- Clarified with the Housing Consultant that while not required, the policy under IP-H22 Countywide Homeless Survey on Page 5-20, should be preserved and would likely involve an interview with Town staff; and
- Clarified with the Housing Consultant that the policy under H6 Fair Housing, Policy H6.3, Fair Housing Referrals on Page 5-21, should be preserved in the event of landlord/tenant complaints where staff should have information available to respond.

In response to concerns with the Housing Element policy for solar-ready homes, Ms. Clark advised that H7, Efficiency and Conservation, Policy H7.3 Energy Efficiency in New Construction, was a policy that had been included since the Council had endorsed it as a recommendation from the Climate Action Plan Task Force, and since it was part of the Climate Action Plan (CAP). She also identified the Cal Green Building and Energy Star Standards.

Speaking to H2 Housing Mix and Affordability Page 5-10, **Councilmember Trotter** requested that the default density footnote on Page 5-63 be inserted at the bottom of Page 5-10 and that the footnote reference the Town of Moraga, not the Town of Windsor.

Mr. Holzem recommended that the footnote be inserted into H1 Anticipated Housing Needs, Policy H1.2, Sufficient Land for a Range of Housing Types or Policy H1.3 Existing Residentially Zoned Land, since the default density related to a range of different housing types.

Ms. Keimach recommended that the Town Council consider the following motion and direction to staff: *Based on the amendments at this time, staff would make the changes, update other sections in the Draft Housing Element, and direct staff to submit the Draft 2015-2023 Housing Element to the HCD, with the revised document and HCD comments to come back to the Town Council in January.*

Mr. Holzem explained that they were in negotiations with the HCD to resolve their issues and bring back the document as resolved. He noted the document would include comments from the Town Council and the Planning Commission unless modified by the Town Council. The document would not come back to the Town Council until after HCD review.

Councilmember Trotter reiterated his recommendations for the elimination of some policies.

Mr. Holzem stated if the direction from the Town Council was to modify the document, as proposed by Councilmember Trotter, the draft would be revised prior to HCD review, which would be publicly available. Pursuant to the schedule, the deadline for adoption of the Draft Housing Element was January 31, 2015, with the document to be presented to the Town Council on January 28, 2015. He added that there was little leeway in the schedule, unless a special meeting was scheduled.

Ms. Keimach suggested if the direction from the Town Council was to modify the Draft Housing Element, based on this conversation, and have authority for submittal to the HCD, within that 60-day review period staff could bring back the changes since the HCD would be reviewing the document, and there could be negotiations with the HCD if there were any issues.

Ms. Murphy asked for a motion to authorize the submittal of the Housing Element, to include the recommended changes from the current discussion.

ACTION: It was M/S (Trotter/Metcalf) to authorize the submittal of the Draft 2015-2023 Housing Element to the State Department of Housing and Community Development for their Required 60-Day Review, with the changes recommended at this time. Vote: 5-0.

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

B. Consider Adopting and Waiving the Second Reading of Ordinance No. 249 Adding Title 1 General Provisions, Chapter 1.28 Administrative Penalties; and Consider:

1. Resolution 72-2014 Authorizing Administrative Citations Penalty Amounts; and
2. Resolution 73-2014 Authorizing Updates to the Town of Moraga's Master Fee Schedule **OR**

Consider Introducing and Waiving the First Reading of an Alternative Ordinance Adding Title 1 General Provisions, Chapter 1.28 Administrative Penalties

Associate Planner Ella Samonsky presented the staff report dated September 10, 2014, for consideration of adopting and waiving the second reading of Ordinance No. 249 Adding Title 1 General Provisions, Chapter 1.28 Administrative Penalties, and consideration of two separate ordinances to authorize Administrative Citations Penalty Amounts, and authorize updates to the Town of Moraga's Master Fee Schedule. The Town Council had discussed the item on June 11, 2014, and had discussed the inclusion of a provision requiring a warning notice prior to the issuance of a citation. The Town Council had decided to continue the item and had directed staff to come back with an alternative version of the ordinance which included required noticing. She identified the details of the measures contained in both ordinances and recommended that the Town Council adopt and waive the second reading of Ordinance No. 249 Adding Title 1 General Provisions, Chapter 1.28 Administrative Penalties; and adopt Resolution 72-2014 Authorizing Administrative Citations Penalty Amounts, and Resolution 73-2014 Authorizing Updates to the Town of Moraga's Master Fee Schedule.

Ms. Keimach affirmed the staff recommendation to waive the second reading, as detailed by staff; noting in some instances that immediate enforcement was needed; it was oftentimes difficult to track a courtesy notice; and the Town was light handed with enforcement with a tendency, when possible, to speak with residents to abate any issues although staff would like ability to enforce when needed.

PUBLIC HEARING OPENED

There were no comments from the public.

PUBLIC HEARING CLOSED

Councilmember Trotter explained that he would support the staff recommendation given that internally there would be a policy to not run rough shod over the populace, given issues in the past where that had occurred, and since the new ordinance could always be revisited in the future.

Mayor Chew expressed concern with the accusation that staff had acted improperly in the past.

ACTION: It was M/S (Wykle/Metcalf) to adopt and Waive the Second Reading of Ordinance No. 249 Adding Title General Provisions, Chapter 1.28 Administrative Penalties. Roll Call Vote: 5-0.

ACTION: It was M/S (Wykle/Metcalf) to adopt Resolution 72-2014 Authorizing Administrative Citations Penalty Amounts; and Resolution 73-2014 Authorizing Updates to the Town of Moraga's Master Fee Schedule. Vote: 5-0.

C. Consider Resolution 74-2014 Amending the Salary Schedule of the Chief of Police Classification

Ms. Keimach presented the staff report dated September 10, 2014, to amend the salary schedule for the Chief of Police Classification, reporting that the Chief of Police had been with the Town for over 30 years and during that time had been promoted to Chief. The Police Chief salary had not been market tested as other Department Head positions had been resulting in some internal and external inequities that needed to be reviewed pursuant to Attachment C to the staff report, Published Base Salaries of Contra Costa and Alameda County Cities. She recommended that the Town Council adopt a resolution to amend the salary schedule to amend the classification of the Chief of Police, with no funding augmentation requested, and noted that there were four vacancies in the Moraga Police Department which was more than sufficient to cover the amendment to the salary schedule for this fiscal year.

Ms. Keimach walked through the details of Table 1, Chief of Police Salary Schedule, Current and Proposed, as shown on Page 2 of the staff report, and identified the long-term impacts of the Public Employees Retirement System (PERS) disabilities and insurance rates as related to the figures in Table 1.

PUBLIC COMMENTS OPENED

Seth Freeman, Moraga, provided the Town Clerk with a handout of a quick analysis he had prepared prior to the meeting. He opposed the staff recommendation to amend the salary schedule of the Chief of Police classification at this time. While he appreciated the logic in amending the salary schedule, he suggested that parity was something that had pushed the City of Detroit into bankruptcy, and although the request did not involve a budget increase, it was only possible due to the vacancies in the Police Department. He commented that his analysis had shown that the five-year increase in the salary of the Chief of Police equated to a large increase, and although the Police Chief was suffering through a wage compression suggested that was not unusual, with new hires oftentimes paid more than long-time employees. Speaking to Attachment C, Published Base Salaries of Contra Costa and Alameda County Cities, he pointed out that Moraga had nothing in common with the City of Albany. He compared the Chief of Police budgets for Albany and Moraga and suggested that accountability and changing the salary mid-stream as well as the long term impacts on the Town's liability for an increase in pension should be taken into account.

Dave Schnayer, Moraga, understood the issue was not about the person but the position, and although the crime statistics were different between Moraga and Albany, suggested that was a testament to what the Chief of Police had been able to do for Moraga. He pointed out that those

in the private sector were rewarded and the same should be done for those in the public sector, noting that the Chief of Police had a staff that had never been full, and the Chief was out on the beat, protecting the community on a daily basis. He appealed to the Town Council as to whether an eleven percent increase was sufficient. He wanted to see more people have a 30-year commitment to the community for stability and public safety, and supported paying those persons what they were worth.

PUBLIC COMMENTS CLOSED

The Town Council supported the staff recommendation, was of the opinion the amendment to the Chief of Police classification salary schedule would likely be a five- to ten-year impact, with the Council acknowledging the efforts of the current Chief of Police and his long-term commitment to the community.

Ms. Keimach explained that the Town had a CalPERS requirement for pensions; the Town was at the lowest level; with the pension depending on the last three consecutive years of salary. The current Chief of Police would have to work another three years to realize the full benefit. She added that the Chief of Police also worked behind the scenes on issues that people were not aware of, he was great with staff, was great for the Town, and more than deserved the staff recommendation.

ACTION: It was M/S (Metcalf/Trotter) to adopt Resolution 74-2014, Amending the Salary Schedule for the Town of Moraga Amending the Classification of Police Chief Effective Fiscal Year 2014/15. Vote: 5-0.

ACTION: It was M/S (Wykle/Trotter) to Extend Town Council Meeting to 11:40 P.M. Vote: 5-0.

- D. Consider Resolution 75-2014 Authorizing the Town Manager to Amend the Design Professional Services Agreement with Omni-Means by \$21,604 for a Total Contract Amount of \$36,081 with a 15% Contingency for a Total Budget Amount Not to Exceed \$41,493 for Completion of the Rheem Boulevard/St. Mary's Road Roundabout Feasibility Study (CIP 14-604), Extending the Contract Term and Appropriating an Additional Amount of \$24,818 from Measure J County Return to Source Funds (Fund 210) Towards the Project

Councilmember Trotter explained that he had removed the item from consent since the consultant had been retained for one job but was trying to expand it to something else. He urged the project to stay within the original scope of work and budget and opposed the requested amendment to the Professional Services Agreement with Omni-Means, as proposed.

Ms. Clark identified the background of the project, the time spent with the consultant on the scope of work, and in the interest of trying to save monies the consultant had been asked to focus on the Rheem Boulevard/St. Mary's Road intersection; however, after further discussion a need had been determined to look at the Bollinger Canyon Road intersection as well to fully understand the geometrics of the project due to the close proximity of the intersections. Staff hoped the work would be done as initially envisioned, although once the consultant had gone into the field, it had been concluded that there could not be a helpful study unless the scope had been expanded and staff concurred with the need to review the two intersections together.

Public Works Director/Town Engineer Kwan agreed there was merit to an expansion of the original scope of work since the two intersections were interconnected, and since there was a need to analyze the grade and rights-of-way, and to ensure that a design would not have to be modified in the future. An expansion of the original scope of work would offer more options.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

In response to **Councilmember Metcalf** as to the potential for Saint Mary's College (SMC) to consider a secondary entrance to the SMC campus, Ms. Clark stated that the Initial Study prepared by Fehr & Peers had included an option to study the realignment of Bollinger Canyon Road to create a four-way intersection at Rheem Boulevard, with the proximity of the roads creating the sight distance concerns. She suggested an expansion of the scope of work would provide more information and give the consultant the opportunity to review the feasibility of a four-way intersection at Rheem Boulevard.

Councilmember Trotter expressed concern that the expansion of the scope of work would include the possibility of a four-way intersection at Rheem Boulevard. In his opinion, such an option would cost too much money and was something the Town might not support.

Ms. Clark clarified that staff was not advocating any of the options as this time but merely wanted to find the best option.

Mayor Chew urged a conversation with SMC on the potential for a secondary entrance to the SMC campus, and expressed his hope SMC could partner with the Town on a joint project. He did not want to lose that opportunity. He asked staff whether there were any time constraints with the item.

Ms. Clark agreed it would be beneficial to have a dialogue with SMC as to whether SMC would be willing to provide funding for something that would be a benefit to the study. She commented that there were no time constraints, simply a desire to get the work done in a reasonable time frame.

Councilmember Trotter suggested that the Council wait to take action on the item pending SMC's plans for the area.

Councilmember Metcalf suggested moving forward, with the study to review the removal of the substantial portions of safety risk on the roadway, and if tied in with SMC suggested that would be great. Absent a defined project "on the shelf," there would be no funding from the Contra Costa Transportation Authority (CCTA). He did not want to pre-judge, and if the study found that the project was not feasible to pursue, it could be done on that data.

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

Responding to the Vice Mayor, Ms. Clark explained that the consultants had done some work in late May.

Mr. Kwan acknowledged that from an engineering perspective it would be better for the consultants to do the work all at once. He noted that regardless of SMC's plans, there remained an S-curve between Bollinger Canyon Road and St. Mary's Road, regardless of the expansion of the scope, which was significant from a safety perspective. He advised that there was a sufficient fund balance in Measure J and the project would be an appropriate project for that funding source.

Ms. Keimach suggested that the project was first about the roundabout at Rheem Boulevard and St. Mary's Road, and then to consider whether it was feasible to have a second entrance at Bollinger Canyon Road.

Councilmember Metcalf commented that since the problems at the intersection were largely attributable to SMC, SMC should consider mitigation to its own traffic impacts.

Ms. Clark suggested it was within the scope of work, as defined, for the consultant to work with staff and involve SMC on its ideas and intent for the intersection.

Councilmember Trotter pointed out that if SMC considered a secondary entrance, it would likely not be from Bollinger Canyon Road but from a new street made into a four-way intersection, leading to whether the Town should consider a roundabout or a signal light. As a result, he questioned whether this was the right contract, the right project, at the right time.

ACTION: It was M/S (Wykle/Trotter) to Extend Town Council Meeting to 11:50 P.M. Vote: 5-0.

Mayor Chew suggested a quick inquiry with SMC, although Ms. Keimach recommended moving forward with the analysis, eliminating the benefit road to SMC, approaching SMC concurrently with the project consultant, and if SMC wanted to add funds for that section SMC could pay for that section.

ACTION: It was M/S (Metcalf/Wykle) to adopt Resolution 75-2014 Authorizing the Town Manager to Amend the Design Professional Services Agreement with Omni-Means by \$21,604 for a Total Contract Amount of \$36,081 with a 15% Contingency for a Total Budget Amount Not to Exceed \$41,493 for Completion of the Rheem Boulevard/St. Mary's Road Roundabout Feasibility Study (CIP 14-604), Extending the Contract Term and Appropriating an Additional Amount of \$24,818 from Measure J County Return to Source Funds (Fund 210) Towards the Project. Vote: 4-0-1. Noes: Trotter

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Mayor Chew reiterated a request for a status report from the Joint Ad-Hoc Facilities Planning Subcommittee. It was noted that such a report could likely be presented no earlier than November.

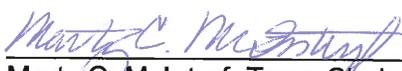
XIII. COMMUNICATIONS

There were no communications.

XIV. ADJOURNMENT

ACTION: It was M/S (Trotter/Arth) to adjourn the meeting at 11:49 P.M. Vote: 5-0.

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Ken Chew, Mayor

