

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**August 26, 2015
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 7:15 p.m. by **Mayor Roger Wykle**.

ROLL CALL

Councilmembers present: Mayor Roger Wykle, Vice Mayor Michael Metcalf, and Councilmembers Phil Arth, Teresa Onoda, and Dave Trotter

Councilmembers absent: None

II. PLEDGE OF ALLEGIANCE

Councilmember Trotter led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

Mayor Wykle reported that the Town Council had met in Closed Session and no reportable action had been taken.

IV. PROCLAMATIONS AND PRESENTATIONS

There were no proclamations or presentations.

V. PUBLIC COMMENTS

Barry Behr, Moraga, congratulated the Parks and Recreation Director and his staff on the success of the Camp-Out at Rancho Laguna Park; thanked those community members who had organized the clean-up of the park, but expressed concern with fill at the park which he believed to contain dangerous items. He asked the Town to immediately inspect the fill, then remove it.

VI. ADOPTION OF THE CONSENT AGENDA

A. Approval of Consent Items

Consent Items 7, 10 and 11 were removed from the Consent Agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Arth/Onoda) to adopt Consent Agenda Items 1, 2, 3, 4, 5, 6, 8, 9 and 12. Vote: 5-0.

- 1) Accounts Payable Claims for: 7/1/15 (\$28,062.78); 7/10/15 (\$62,320.76); 7/10/15 (\$234,496.24); 7/24/15 (\$293,433.00); 8/7/15 (\$233,999.72); 8/7/15 (\$181.85); 8/7/15 (\$6,183.54) Approved
- 2) Approve Minutes for the Special Town Council Meeting on June 9, 2015 Approved
- 3) Approve Minutes for the Special and Regular Town Council Meetings on June 10, 2015 Approved
- 4) Approve Minutes for the Special and Regular Town Council Meetings on June 24, 2015 Approved
- 5) Surplus Vehicle Equipment Approved
Approve by Motion Authorization for the Town Manager to Deem Identified Town-Owned Vehicle and Equipment as Surplus
- 6) Letters of Support for Transportation Funding Approved
Consider Submitting Letters to Assemblymember Catharine Baker and Senator Steve Glazer Urging Support of Additional Transportation Funding for State and Local Streets and Roads in Upcoming Extraordinary State Legislative Session
- 7) PG&E Street Light Conversion to LED Project Removed
Consider Resolution 77-2015 Authorizing the Town Engineer to Enter into an Agreement with PG&E of San Francisco in an Amount Not to Exceed \$91,100 for Upgrading 118 LS-2 Tariff Streetlights for Light Emitting Diodes (Project); Appropriating \$91,100 from Lighting Assessment District and/or Lighting Special District (Funds 500 and 140) Towards the Project; and Depositing PG&E Rebates of \$4,800 into Funds 500 and 140
- 8) On-Call Excavation Services Construction Contracts Approved
Consider Resolution 75-2015 Authorizing the Town Manager to Award Construction Contracts with Bay Area Drainage, Inc. (Moraga), David C. Dunn Company (Walnut Creek), and Siteworks Construction Inc. (Lafayette) for On-Call Excavation Services in an Amount Not to Exceed \$75,000 Annually, Contingent on Available Annual Budget Appropriations for a Total Contract Period of Three Years with an Option to Extend for an Additional Two Years
- 9) Interim Assistant Engineer Contract Services Approved
Consider Resolution 76-2015 Authorizing the Town Manager to Amend a Purchase Order Contract with Anchor Engineering (Lafayette) in an Amount Not to Exceed \$32,000 for a Total Amount of \$47,000 for Staff Augmentation Services During the Recruitment Process for an Assistant (Civil) Engineer and Appropriate \$9,500 of National Pollutant Discharge Elimination

System Funds (Fund 510) and \$9,500 of Measure J Funds (Fund 210) Towards Contract Services Operating Budgets in Storm Drain Maintenance and Street Maintenance Cost Centers, Respectively

- 10) Rancho Laguna II Biological Monitoring Contract Services Removed
Consider Resolution 78-2015 Authorizing the Town Manager to Execute a Professional Services Contract with Woods Biological Consulting, Inc. in an Amount Not to Exceed \$24,135 for Monitoring Implementation of the Biological Protections and Mitigation Measures for the Bella Vista Project, Subdivision 9330 (formerly Rancho Laguna II)
- 11) Rancho Laguna II Construction Inspection Services Removed
Consider Resolution 79-2015 Authorizing the Town Manager to Award a Consultant Services Contract to Ghirardelli Associates, Inc. (Oakland) in an Amount Not to Exceed \$180,000 for Construction Inspection Services for Bella Vista Project, Subdivision 9330 (formerly Rancho Laguna II)
- 12) Proposed Countywide Sales Tax Measure Approved
Receive and Accept Draft Transportation Expenditure Plan Recommended by the Southwest Area Transportation (SWAT) Subregion for a Proposed Countywide Sales Tax Measure

B. Consideration of Consent Items Removed for Discussion

1. PG&E Street Light Conversion to LED Project

Consider Resolution 77-2015 Authorizing the Town Engineer to Enter into an Agreement with PG&E of San Francisco in an Amount Not to Exceed \$91,100 for Upgrading 118 LS-2 Tariff Streetlights for Light Emitting Diodes (Project); Appropriating \$91,100 from Lighting Assessment District and/or Lighting Special District (Funds 500 and 140) Towards The Project; and Depositing PG&E Rebates of \$4,800 into Funds 500 and 140

Mayor Wykle explained that he had removed the item since his company was a PG&E contractor with a Master Services Agreement and would therefore recuse himself from the discussion of the item.

Assistant Town Attorney Karen Murphy added that Vice Mayor Metcalf would recuse himself from Items 10 and 11, and if there were no questions of staff, neither the Mayor nor the Vice Mayor would be required to step down from the dais.

ACTION: It was M/S (Metcalf/Trotter) to adopt Resolution 77-2015 Authorizing the Town Engineer to Enter into an Agreement with PG&E of San Francisco in an Amount Not to Exceed \$91,100 for Upgrading 118 LS-2 Tariff Streetlights for Light Emitting Diodes (Project); Appropriating \$91,100 from Lighting Assessment District and/or Lighting Special District (Funds 500 and 140) Towards The Project; and Depositing PG&E Rebates of \$4,800 into Funds 500 and 140. Vote: 4-1-0. Abstain: Wykle.

2. Rancho Laguna II Biological Monitoring Contract Services

Consider Resolution 78-2015 Authorizing the Town Manager to Execute a Professional Services Contract with Woods Biological Consulting, Inc. in an Amount Not to Exceed \$24,135 for Monitoring Implementation of the

Biological Protections and Mitigation Measures for the Bella Vista Project, Subdivision 9330 (formerly Rancho Laguna II)

3. **Rancho Laguna II Construction Inspection Services**

Consider Resolution 79-2015 Authorizing the Town Manager to Award a Consultant Services Contract to Ghirardelli Associates, Inc. (Oakland) in an Amount Not to Exceed \$180,000 for Construction Inspection Services for Bella Vista Project, Subdivision 9330 (formerly Rancho Laguna II)

Vice Mayor Metcalf advised he would abstain from the vote on the two items given that he lived within 500 feet of the Rancho Laguna II development.

ACTION: It was M/S (Trotter/Onoda) to adopt Resolution 78-2015 Authorizing the Town Manager to Execute a Professional Services Contract with Woods Biological Consulting, Inc. in an Amount Not to Exceed \$24,135 for Monitoring Implementation of the Biological Protections and Mitigation Measures for the Bella Vista Project, Subdivision 9330 (formerly Rancho Laguna II); and Resolution 79-2015 Authorizing the Town Manager to Award a Consultant Services Contract to Ghirardelli Associates, Inc. (Oakland) in an Amount Not to Exceed \$180,000 for Construction Inspection Services for Bella Vista Project, Subdivision 9330 (formerly Rancho Laguna II). Vote: 4-1-0. Abstain: Metcalf.

VII. ADOPTION OF MEETING AGENDA

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Arth/Onoda) to adopt the meeting agenda, as shown. Vote: 5-0.

VIII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Wykle – Reported that he had attended the Mayors' Conference hosted by the City of Clayton on July 9; a Moraga Liaison Meeting on July 10; and a special meeting of RecycleSmart (formerly the Central Contra Costa Solid Waste Authority) on August 26.

Vice Mayor Metcalf – Reported that he had attended a Southwest Area Transportation Committee (SWAT) meeting on August 3; and pointed out Consent Agenda Item 12 should be corrected to read *Southwest Area Transportation Committee* not Southwest Area Taskforce.

Councilmember Arth – Reported that he had attended the Town Gown meeting on July 9; Moraga Night Out on August 4; Chamber of Commerce Board of Directors meeting on August 5; a presentation for the Hacienda development on August 17; and the Moraga Chamber of Commerce community barbecue sponsored by Safeway on August 25.

Councilmember Onoda – Reported that she had attended the Town Gown meeting on July 9; the Mayors' Conference hosted by the City of Clayton on July 9; a meeting in the City of El Cerrito to discuss automated vehicles on July 23;

Moraga Night Out on August 4; the Mayors' Conference hosted by the City of Hercules on August 6; and had been working with Parks and Recreation Department staff on the Pear and Wine Festival.

Councilmember Trotter – Reported that he had attended the Mayors' Conference hosted by the City of Clayton on July 9; RecycleSmart on July 30; picked pears during the pear harvest on August 1; attended a portion of the Hacienda development presentation on August 17; a sneak preview of some trailers for the California Independent Film Festival (CAIFF) on August 20; a special meeting of RecycleSmart on August 26; and some of the concert series during the month of August sponsored by the Park Foundation.

- B.** Town Manager Update – Town Manager Jill Keimach recognized that Moraga-Orinda Fire District (MOFD) Rescue One had provided a generous donation to the Town of Moraga for an automated external defibrillator (AED) at the Moraga Library; and specifically thanked Rescue One President Greg Reams, Boardmember Dr. Eugene Gottfried, and MOFD Battalion Chief Jerry Lee.

IX. DISCUSSION ITEMS

There were no discussion items.

X. PUBLIC HEARINGS

A. Update 2015/16 Master Fee Schedule

Consider Resolution 80-2015 Amending Resolution No. 55-2015 Adopting the Town of Moraga Master Fee Schedule Effective July 27, 2015 to Correct Hacienda and Pavilion Fees; Add an Hourly Rate for the Assistant (Civil) Engineer Position; and Add an Hourly Rate for the New Senior Construction Inspector Position Contingent Upon Approval of August 26, 2015 Town Council Agenda Item XI. E.

Parks and Recreation Director Jay Ingram presented the staff report and requested that the Town Council consider a resolution amending Resolution No. 55-2015 Adopting the Town of Moraga Master Fee Schedule Effective July 27, 2015 to correct Hacienda and Pavilion fees; add an hourly rate for the Assistant (Civil) Engineer position; and add an hourly rate for the New Senior Construction Inspector Position contingent upon approval of August 26, 2015 Town Council Agenda Item XI. E.

Town Manager Keimach explained that the hourly rate of \$117 for a new Senior Construction Inspector position was contingent upon a later agenda item, which would not be included if not approved.

Responding to Council, Mr. Ingram explained that staff had compared the fees for the Hacienda to similar venues in Lamorinda and neighboring communities and the new fees had actually decreased \$300 to \$400 from previous years.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Responding to a member of the audience, Ms. Keimach clarified that the hourly rate of \$117 for a new Senior Construction Inspector included overhead, which was approximately 30 percent. The reimbursable position was paid completely by development.

ACTION: It was M/S (Trotter/Arth) to adopt Resolution 80-2015 Adopting the Town of Moraga Master Fee Schedule Effective July 27, 2015 to Correct Hacienda and Pavilion Fees; Add an Hourly Rate for an Assistant (Civil) Engineer Position; and Add an Hourly Rate for a new Senior Construction Inspector Position Contingent Upon Approval of August 26, 2015 Town Council Agenda Item XI. E. Vote: 5-0.

B. Rheem Valley Manor Monument Sign

Consider the Installation of a Monument Sign on Town Property at the Intersection of Stafford Drive and St. Mary's Road (APN 256-110-005), Including Consideration of:

1. Approving by Motion Waiving of Required Sign Permit Application Fee, Encroachment Permit Fee, and the Memorial and Donation Fee for the Rheem Valley Manor Monument Sign; and
2. Resolution 81-2015 to Retroactively Approve the Sign Permit Application and Accept the Donation of the Rheem Valley Monument Sign to the Town of Moraga

Associate Planner Ella Samonsky presented the staff report for consideration of the installation of the Rheem Valley Manor Monument Sign on Town property at the intersection of Stafford Drive and St. Mary's Road, and waiver of required Sign Permit Application Fee, Encroachment Permit Fee, and the Memorial and Donation Fee; and a request to adopt a resolution to retroactively approve the Sign Permit Application and accept the donation of the Rheem Valley Monument Sign to the Town of Moraga. She recommended that the Town Council consider Alternatives A through D, and provide direction to staff. In the event the Town Council desired to retain the sign, she recommended it be accepted as a donation with the understanding that a maintenance agreement would be signed with the volunteers.

Ms. Murphy noted that a revised resolution, with minor changes, had been provided to the Town Council and the public.

PUBLIC COMMENTS OPENED

Linda Foley, Moraga, explained that volunteers were in agreement with the donation of the sign to the Town, although they did not agree with signing an agreement. While the volunteers had not yet seen any agreement, they would be willing to review such a document. Volunteers wanted to continue to beautify the entrance to the neighborhood.

Karen Chin, Moraga, explained that Stafford Drive had become one of the most unattractive, safety-hampered areas of the Town with wild weeds and bushes. Volunteers had maintained the Stafford Drive entrance, which was a highly visible area to Saint Mary's College (SMC) and users of the Moraga-Lafayette Trail. She detailed the background leading to the effort to replace the sign announcing Rheem Valley Manor, and found the sign to be tasteful and compatible with other signs in the area. She asked that the Town Council find a way to make the sign work without further penalizing volunteers with additional costs or individual liability. She suggested that Alternative A, as outlined in the staff report, would be a reasonable solution.

Gary Irwin, Moraga, commended staff and their willingness to consider approval of the sign, as well as the volunteer efforts, which he suggested would reinforce volunteerism in the Town.

Connie Mueser, Moraga, cited the Homeowners' Association's (HOA's) efforts to beautify the area in the past. She provided background history as to how the Stafford Drive access had been added to the development when it was first built. The exit from Draeger Drive over the hill had allowed people to reach the Rheem Shopping Center, improving the safety of the area. She urged the Town Council to recognize the volunteer efforts to improve the St. Mary's Road/Stafford Drive intersection for everyone.

Kathy Shieman, Moraga, asked the Town Council to waive any fees that could be associated with the project, particularly since volunteer efforts with Neighborhood Watch Programs and the Moraga School District had not incurred fees.

Al Foley, Moraga, also cited the volunteer efforts and overall performance of Moraga citizens over the years in improving the Town's common areas and the ambience of the Town without paying fees or obtaining permits. Since the sign had been installed at no expense to the Town, volunteers had been surprised with the request from the Town to execute a Maintenance Agreement or pay fees. He suggested the plantings and sign conformed very nicely with other Town signage and area landscaping themes. He asked that the requirement for a Maintenance Agreement also be waived, and that the Town Council support Town volunteers and approve the completed work absent the assessment of fees or imposition of any written agreements.

Barbara Simpson, Moraga, thought the volunteers had done a great job and added to the beauty of the area and of Moraga. She was unaware of the controversy and the requirement for a Maintenance Agreement and believed that requirement should be waived. She otherwise cited the corner of Rheem Boulevard and St. Mary's Road where a large branch had fallen off a eucalyptus tree and which had never been removed, and suggested that corner also represented a safety issue. She expressed her hope the Town would allow the volunteer efforts to continue along Stafford Drive, which the Town should appreciate, and urged that the volunteers not be saddled with bureaucratic red tape.

PUBLIC COMMENTS CLOSED

Councilmember Trotter found that the sign had been constructed beautifully, meeting the Town's design criteria. He clarified with Mr. Ingram that the lifespan of the sign was expected to be approximately 25 years. He referenced Page 2 of the Town's Donation Policy regarding maintenance and suggested there was a good chance there would be a Garden Club or Rheem Valley Manor residents in the future who would maintain the sign. Rather than impose a Maintenance Agreement, he recommended consideration of the policy in 25 years to require a refurbishment of the sign.

Ms. Keimach commented on the difficulty with the situation since there was an agreement in place, which had been adopted by the Town Council, and staff did not want to set a precedent which may allow something less desirable. Since the sign for Rheem Valley Manor had been installed, Town staff had received a complaint about a similar issue, although in that case the e-mail had spoken to the unattractiveness of another sign. In this case, the sign and landscaping were attractive although everyone needed to be treated consistently with the Town's own regulations adopted by the Town Council. She explained that staff had brought the issue to the Town Council since staff was unable to waive the fees, and with the anticipation the Town Council would likely waive all fees. She emphasized the difficulty in finding a long-term solution to capture the ethos of Moraga of minimal government while avoiding additional liability and maintenance costs.

Ms. Keimach stated that the Town had a strong position to avoid taking on additional taxpayer costs. She acknowledged the neighborhood had a long history of volunteerism, and whether there was an agreement or not, the neighborhood would maintain the sign since it valued the

neighborhood and its appearance. She suggested something similar to the agreement between the Town and the Moraga Garden Club for the Moraga Commons Park. She sought a solution without changing the Town's goals and past practices.

Vice Mayor Metcalf spoke to the history of Stafford Drive; recognized the Town's volunteerism and pointed out that Councilmembers were also volunteers; and as to the volunteer work on public property, commented that many of the daffodil bulbs along Moraga Way/Moraga Road and elsewhere had been planted by the Garden and Kiwanis Clubs absent an agreement with the Town. He suggested the Town had more important matters to consider than the subject sign, affirmed he was a resident of the neighborhood but had not contributed to the sign, thanked the volunteers for the donation of the sign, and was confident it would be maintained by volunteers since the Town would not conduct any maintenance given its limited resources.

Councilmember Arth concurred with the Vice Mayor's comments and acknowledged that the sign and the work at the corner was beautiful and an enhancement to the area.

Councilmember Trotter also concurred with the comments and suggested that a maintenance agreement that would not apply for 25 years would be useless. If the Town still had a donation policy in 2040, and if any maintenance on the sign was needed, no Town resources would be spent and volunteers or successors would have to take care of the sign. He saw no reason to impose a maintenance agreement that had no value or utility to the Town.

Councilmember Onoda thanked the Rheem Valley Manor volunteers for showing pride and taking the initiative to beautify Moraga, and thanked Linda Foley for her leadership on the project. She too favored putting the matter out for 25 years, allowing the sign absent a maintenance agreement.

Mayor Wykle echoed the previous comments, commended the volunteer efforts, but also recognized that the Town had a process that should have been followed before the sign had been installed. He was confident the sign would be maintained by the volunteers.

Mr. Ingram advised in response to Councilmember Trotter that the Town had a handshake agreement, not a written agreement, with Moraga Garden Club for the Commons Park.

Ms. Murphy reiterated that the Town Council had been provided a revised resolution, which would require further revision with the elimination of paragraph 2 b as shown on Page 2, related to the requirement for a maintenance agreement.

Councilmember Trotter recommended the elimination of paragraph 2 in its entirety.

ACTION: It was M/S (Trotter/Wykle) to waive the Required Sign Permit Application Fee, Encroachment Permit Free, and the Memorial and Donation Fee for the Rheem Valley Manor Monument Sign; and waive any requirement for the submittal of a completed Memorial and Donation Application. Vote: 5-0.

ACTION: It was M/S (Trotter/Wykle) to adopt Resolution 81-2015 to Retroactively Approve the Sign Permit Application and Accept the Donation of the Rheem Valley Manor Monument Sign to the Town of Moraga in the form provided by staff, with the exception of Paragraph 2 of Page 2 to be deleted entirely, and paragraphs 3 and 4 to be renumbered 2 and 3 respectively. Vote: 5-0.

XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

A. Referendum Petition Against Ordinance 252

Accept the County Certification that the Referendum Petition Against Ordinance 252 Regarding: *Amending Moraga Municipal Code §8.48.040 to Add 12-DUA-PD Zoning District (12-PD-MC) and Amending the Zoning Map to Zone the Site of the Proposed Town Center Homes Project (APNs: 257-180-082-6 and 257-190-057-6) 12-PD-MC Contains the Requisite Number of Valid Signatures*

Town Clerk Marty McInturf presented the staff report and asked that the Town Council accept the County Certification that the Referendum Petition against Ordinance 252 regarding *Amending Moraga Municipal Code (MMC) §8.48.040 to add 12-DUA-PD zoning District (12-PD-MC) and amending the Zoning Map to zone the site of the proposed Town Center Homes Project (APNs: 257-180-082-6 and 257-190-057-6) 12-PD-MC contains the requisite number of valid signatures.*

PUBLIC COMMENTS OPENED

Seth Freeman, Moraga, noted that this was the second referendum in the last few years, and suggested the Council needed to evaluate the actions that would lead to a referendum petition. In this case, the Planning Commission had been appointed to represent the public's interests and questioned what had happened to make people undertake this action. He asked the Town Council to consider why people who did not ordinarily attend Town Council meetings had been motivated to sign the petition.

Dan Hagen, Moraga, reported that he had been approached to sign the referendum. He expressed concern that the process the developer had gone through had been done legally, the Town Council had operated within the framework of the law and within the mandates of State law, and people were now operating in an ex post facto manner. He expressed concern with the potential litigation against the Town, asked the Town Council to consider that concern, and asked the petitioners to reconsider the process in regards to the lawsuit.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Wykle/Arth) to Receive and File the Attached Certificate to Acknowledge the County's Certification that the Referendum Petition Against Ordinance 252 Contains the Requisite Number of Valid Signatures; and Direct Staff to Return to Council After the Court had Made a Final Decision on the Merits of the Petition. Vote: 5-0.

B. PG&E Agreement and Tree Removal Along St. Mary's Road

Receive a Presentation by PG&E on the Community Pipeline Safety Project and Consider Resolution 82-2015 Authorizing the Town Manager to Approve the Framework of Principles Agreement in Concept and Direct Staff to Continue to Work with PG&E to Minimize the Impacts of the Project on the Town

Vice Mayor Metcalf recused himself from the discussion since his son was an employee of PG&E's Gas Division and was directly involved with the project.

Mayor Wykle also recused himself from the discussion given that his company was a PG&E contractor. Both the Mayor and the Vice Mayor stepped down from the dais.

Councilmember Trotter chaired the meeting at this time.

Public Works Director/Town Engineer Edric Kwan introduced Tom Guarino with PG&E to make the presentation.

Tom Guarino, East Bay Government Relations Team, PG&E, offered a PowerPoint (PPT) presentation on the PG&E Community Pipeline Safety Project, introduced the development team present in the audience, and identified the framework for the Project, which had been developed with a Subcommittee of the East Bay City Managers. The Subcommittee had worked to ensure that the Project Initiative would be completed in a manner that balanced PG&E's shared need to keep its communities both safe and beautiful by reevaluating trees with the goal to reduce the number of trees proposed for replacement, to comply with ministerial encroachment permit procedures, to work together to identify and mitigate the protected and heritage trees, to compensate the cities for costs associated with evaluation of work and to provide detailed data and conduct field reviews with the cities. He emphasized that PG&E's top priority was the safety of its customers and communities in which it served, with important changes to improve the safety and reliability of its natural gas transmission system.

Mr. Guarino explained that PG&E was checking the area above and around the pipeline to ensure the safety of first responders and their crews to have immediate access in a natural disaster or other emergency; confirm the pipe could be properly inspected, maintained and operated; prevent tree roots from damaging the pipe by exposing it to corrosion; and ensure that the area provided a clear visual indicator of underground facilities. He noted that an evaluation had been conducted of the Town's trees, and one coastal live oak tree located along St. Mary's Road near Rheem Boulevard had been found to pose a high and unacceptable risk. All private property trees within Moraga were located on Central Contra Costa Sanitary District (Central San) property. Of the 165 trees to be reviewed, 115 trees had been determined to be manageable risk trees, and 50 trees had been determined to be unacceptable risk trees or to pose an imminent safety threat. He identified the manageable and unacceptable trees along St. Mary's Road adjacent to Casitas de Moraga Homeowner's Association.

Responding to Council, Mr. Guarino affirmed that Central San was a public agency but outside of the franchise area (the agreement PG&E had with the Town). He commented that the replacement of the trees would involve negotiation with the property owner, PG&E, Central San and the Town of Moraga; all having collaborated on and endorsing a Restoration and Replacement Plan.

Mr. Kwan acknowledged the true collaboration between all involved for a Restoration and Replacement Plan, with staff having worked closely with the Planning Department to ensure consistency with tree mitigation and maintenance, and to ensure reasonable replacement trees. He noted the Planning and Maintenance Departments had recommended a replacement ratio of 1:1 which would make it easier for staff to locate new homes for the trees. There was also an option for the payment of in-lieu fees for the value of the replacement tree as well as installation and two years of maintenance costs. Staff had worked to ensure that the replacement trees would be of like species or alternative native tree species appropriate for the habitat and local conditions.

Councilmember Onoda recommended consideration of Parcel C, part of the Camino Ricardo Subdivision, which she understood the Town might own in the future. Responding to Council, Mr. Kwan stated that there was a full landscape plan for Parcel C but would look into that option.

Mayor Pro Tem Trotter thanked PG&E for the revised PPT presentation, suggested the presentation could be posted on the Town's website to educate the public on the trees to be removed, and expressed concern with the fact that oftentimes new trees did not survive, which was why the Town typically required more than a 1:1 replacement ratio. He asked staff whether a 2:1 or 3:1 ratio had been considered to protect against that eventuality.

Mr. Kwan noted the newly-planted trees would be covered under a warranty and would be replaced if they died. For the in-lieu fees, a greater ratio could be considered.

Mayor Pro Tem Trotter commented on the number of isolated trees that would have to be cut, and those east of Carter Drive across from the entrance of Stafford Drive and to Rheem Valley Manor. He questioned whether that would be an area to focus on the replacement of the canopy or whether there was room for tree replacement.

Kevin Ventura, Forester for PG&E, explained that was an area where the pipeline veered off of St. Mary's Road and where it was important for the area to be cleared. He provided a detailed explanation of the amount of clearance that would be necessary along St. Mary's Road. Clearance outside of the pipeline would be required for planting with specific species that would not grow to a certain size. Ideally, an alternative site could be chosen for replanting or an in-lieu agreement could be considered.

Mayor Pro Tem Trotter questioned how a canopy of trees could be preserved and whether that preservation could be written into an agreement. Mr. Kwan advised that the agreement was a framework of principles only, and that the details would be negotiated between PG&E and Maintenance, Planning and Central San staff.

Councilmember Arth pointed out that a 2:1 replacement ratio was not needed given the statement that trees that died would be replaced under the warranty period.

Councilmember Onoda suggested PG&E should be held to the same standards as citizens of the Town where a 2:1 replacement ratio was required.

Mayor Pro Tem Trotter again suggested that a 2:1 replacement ratio would be appropriate. He understood no agreement was being approved at this time beyond the presentation from PG&E and input from the Town.

Ms. Murphy clarified that the resolution would approve the basic format of the Framework of Principles Agreement, which included the 1:1 replacement ratio, but which could be reconsidered by the Town Council.

Mr. Guarino commented that the Framework of Principles Agreement had the approval of the 35 public managers, and the item on the agenda was only for the Town Council to give its approval to that agreement, with PG&E to come back with a proposed agreement on the trees. He emphasized the collaborative effort between the Town, PG&E, and Central San, with Central San having gone above and beyond what was legally required.

Ms. Keimach confirmed that the Town Council could require a 2:1 or greater replacement ratio, with the Council-amended resolution speaking to the approval of the agreement, with Town staff directed to continue working with PG&E to minimize the impacts. She asked the Town Council to consider the staff recommendation for a combination of replacement trees that impacted both the number of trees and/or in lieu costs associated with PG&E. If the Town Council required a 3:1 replacement ratio, the Town would have to immediately identify 159 trees. If there was a combination and flexibility, some trees could be planted now and some in the future, with a bond set aside for the maintenance of future trees and with PG&E to cover that maintenance.

Mr. Guarino reiterated that the Framework of Principles Agreement had the approval of the 35 public managers who had all endorsed the agreement as an association and agreement to whatever the city/town ordinance required, although they were speaking not of Town, but non-Town property in working collaboratively between the Town, Central San, and PG&E. He referenced Attachment D, the PG&E/Agency Framework Agreement, VII (4) and (5) as shown on Page 2 of the agreement, and after review of that section had to acknowledge it did not contain the issues on which he had spoken. The agreement before the Town Council was not the agreement which had been signed since it had been amended.

Mr. Kwan clarified that the only change to Section VII (5) was to address tree mitigation. The agreement had been reformatted by the Town Clerk and he had also changed the title of the project from the Pipeline Protection Project to the Community Pipeline Safety Project. In addition, he had updated all of the dates in the document.

Mayor Pro Tem Trotter referenced Section VII (5) as shown on Page 2 of the agreement and recommended the following revision to the second sentence of the paragraph, to read:

Per recommendations from the Town Arborist and Town Planning and Maintenance departments, provide tree removal mitigation through replanting on a 2:1 basis:

And revise VII (5) (a) (i), (ii) and (iii) to read:

- i. <6" DBH = two (2) 5 gallon trees;
- ii. 6"-20" DBH = two (2) 15 gallon trees;
- iii. >20" DBH = two (2) 36 inch box; or

Ms. Murphy acknowledged a request for staff to also provide better verbiage for that section related to the replacement basis, noting that in the resolution the Town Manager and Town Attorney had the ability to make revisions.

Mr. Guarino advised that PG&E was supportive of the Town's direction.

ACTION: It was M/S (Trotter/Arth) to adopt Resolution 82-2015 in the form provided by staff, Authorizing the Town Manager to Approve the Framework of Principles Agreement in Concept and Direct Staff to Continue Work with PG&E to Minimize the Impacts of the Project on the Town, provided the resolution and the draft of the Agency (PG&E) Framework Agreement is modified, as follows:

**The second sentence of Section VII (5) on Page 2 to be revised, to read:
Per recommendations from the Town Arborist and Town Planning and Maintenance departments, provide tree removal mitigation through replanting on a 2:1 basis;**

Revise VII (5) (a) (i), (ii) and (iii) to read:

- i. <6" DBH = two (2) 5 gallon trees;
- ii. 6"-20" DBH = two (2) 15 gallon trees;
- iii. >20" DBH = two (2) 36 inch box; or

Vote: 3-2-0. Abstain: Metcalf, Wykle.

After the motion was taken, **Mayor Pro Tem Trotter** realized that public comment had not been taken. As a result the motion was rescinded and public comment was taken at this time.

PUBLIC COMMENTS OPENED

Barry Behr, Moraga, questioned whether redwoods would be removed that could be sold to brokers and/or milled, and asked who would receive the revenue.

Mr. Guarino explained that the redwood trees in question were owned by Central San and the disposition of those trees would be up to Central San.

Emily Barnett, Communication Services and Intergovernmental Affairs Manager, Central San, explained she had only joined Central San recently and was unaware of the disposition of any redwood trees that would be removed. She cited the background and specifics of Central San, a public agency; pointed out the title of the agency had been misspelled in the agreement and would have to be corrected; commented that Central San was technically the owner of the property under discussion but was looking to the Town as the best decision maker to where the trees should be placed for beautification purposes; and noted the ownership of the current trees would have to be clarified further.

Bob Kennedy, Moraga, Board of Directors, Casitas de Moraga HOA, reported that the HOA was located in Work Area 1 with only manageable trees, but had an encroachment agreement from Central San to maintain the landscaping in that area. The HOA owned the trees in that area and he urged PG&E to include the HOA on anything involved in that work area.

Mr. Guarino reiterated that the trees in Work Area 1 were manageable and there were no plans to do anything with those trees. He thanked the Town Manager, the Public Works Director, and other Town staff on the endeavor; and re-identified the one tree, 13-inches in diameter, that was Town owned, deemed unacceptable, and should be removed quickly.

Ms. Keimach stated the tree was a public safety issue and if PG&E was significantly concerned it should be removed and the Town should allow that to happen.

Barbara Simpson, Moraga, asked how the oak tree would be removed without breaking the pipeline, to which Mr. Ventura described how the tree roots had wrapped around and impacted the pipe. PG&E would make no attempt to peel the roots from the pipeline, but would cut the tree to grade, grind to a safe depth below grade to prevent re-sprouting, and in due time the roots would decay and become less of an impact to the pipe.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Arth/) to adopt Resolution 82-2015 in the form provided by staff, Authorizing the Town Manager to Approve the Framework of Principles Agreement in Concept and Direct Staff to Continue Work with PG&E to Minimize the Impacts of the Project on the Town, provided the resolution and the draft of the Agency (PG&E) Framework Agreement is modified, as follows:

The second sentence of Section VII (5) on Page 2 to be revised, to read:
Per recommendations from the Town Arborist and Town Planning and Maintenance departments, provide tree removal mitigation through replanting on a 2:1 basis;

Revise VII (5) (a) (i), (ii) and (iii) to read:

- i. <6" DBH = two (2) 5 gallon trees;
- ii. 6"-20" DBH = two (2) 15 gallon trees;
- iii. >20" DBH = two (2) 36 inch box; or

Vote: 3-2-0. Abstain: Metcalf, Wykle.

Mayor Wykle and **Vice Mayor Metcalf** returned to the dais at this time.

C. Loud and Unruly Parties Ordinance

Consider Waiving the First Reading and Introducing an Ordinance Amending Chapter 9.08 of the Town of Moraga Municipal Code Regarding Liability for Police Response to Loud or Unruly Parties

Chief of Police Robert Priebe presented the staff report for consideration of waiving the first reading and introducing an ordinance amending Chapter 9.08 of the Town of Moraga MMC regarding liability for police response to loud or unruly parties. He asked that the Town Council consider the amendments, waive the first reading, and introduce the amended ordinance. The second reading would be scheduled for the Town Council at its next meeting on consent.

PUBLIC COMMENTS OPENED

Jennifer Burke, Moraga, stated she had previously appeared before the Town Council to report on disturbances related to a party house on Wandel Drive. While one of the occupants of the home had appeared before the Town Council promising not to repeat past behavior, the occupants had another large party on Mother's Day weekend. She supported the amendments to the MMC for the Loud and Unruly Parties Ordinance and expressed her appreciation for the work of the Moraga Police Department and the Town Council to ensure that her neighborhood would be more family friendly.

Jerome Siebert, Moraga, also appreciated the Chief of Police and Town Council's efforts to bring resolution to the matter. He endorsed the amendments to the MMC and the fact the landlord/property owner would be placed on notice, and expressed his hope the amendments would go some distance to resolve past problems.

Fanny Wilson, Moraga, whose residence was located across the street from the Wandel Drive property, also expressed appreciation for all of the work that had been done, agreed with the recommendations put forth to the Town Council, and hoped the amendments would ensure a peaceful neighborhood again.

Emily Wood, Saint Mary's College (SMC) student, understood the grievances past behavior had caused, but suggested a positive reaction to noise complaints would be better than criminal action. Referencing the criteria of SMC's Peer Conduct Council, she suggested an open dialogue meeting between the students, neighbors and Peer Conduct Council would go far in limiting noise complaints and bad behavior as opposed to increasing fines and criminalization. While she also understood the concerns with the Wandel property, she suggested one home's actions and noise complaints should not reflect on every party.

Seth Freeman, Moraga, suggested the ordinance was unclear about the definition of a group that other communities had defined. As a resident of Moraga Country Club where homes were close to one another, there had been a past problem with loud and unruly behavior which had involved a domestic disturbance and not a party, and he asked how those distinctly different situations would be addressed. He also spoke to multiple tenants in a residence in terms of who was the responsible person, and suggested those issues should be considered. As a landlord, he noted it could take up to six months to evict a tenant, with limits on what actions could be taken against unruly tenants, which also needed to be considered. There was also no database for landlords to determine who may be unruly, and suggested it would be oppressive for landlords to be subject to misdemeanors or other situations that could rise to a criminal level.

Tim Farley, Director of Community and Government Relations, SMC, advised that he had appeared before the Town Council when the ordinance had last been discussed, and had reported that SMC was in support of the Town Council's efforts to strengthen its ordinance. He stated that SMC continued to support that effort and supported the ordinance, as presented.

Megan Cartley, Director of Student Life, SMC, described SMC's Peer Conduct Council and policy sanctions, and stated it had been updated along with violations of SMC's good neighbor policy, which prior to the upcoming academic year had not included minimum sanctions. The sanctions ranged from an educational project to expulsion. Once SMC had been notified of a citation or direct complaint from a neighbor, a student would go through a hearing process, with the first minimum sanction a meeting facilitated by herself and the SMC Dean of Students or another campus official. If the student failed or refused to participate in the hearing, the next minimum sanction and further violations would be considered all the way up to expulsion.

Vice Mayor Metcalf suggested neighbors might feel more comfortable if they were aware that SMC's student conduct policy worked. He suggested SMC should demonstrate it was following its own policy; suggested SMC should reach an understanding with its students, with the Town and Moraga Police Department's role to enforce the existing rules; suggested the ordinance was closer to what was needed; and that he still preferred a zero tolerance approach. He encouraged SMC to take the matter very seriously given that he expected the Moraga Police Department to aggressively enforce the ordinance to the letter.

Ms. Cartley added that her role as Director of Student Life was to ensure that the students understood what it meant to live in the community, as evidenced through the Student Code of Conduct, with neighbors to be invited to attend any facilitated dialogue she might have with a student. She recognized that several of the neighbors had been dealing with unruly behavior for years, emphasized the edification of the policy was brand new for the 2015/16 school year, and encouraged residents to contact SMC with any potential violation of student conduct. Her goal was to help build relationships with the community.

Mayor Wykle detailed the background of the unruly behavior at the Wandel Drive property and past testimony which had led to the need to strengthen the ordinance. He wanted SMC to let everyone know that the Town was serious and there was a need to be good neighbors.

Ms. Cartley affirmed she had a list of off-campus student residents in Moraga and agreed with the need to notify students of the Town's ordinance. SMC students were asked to sign receipt of the SMC Student Handbook, and signing receipt of a copy of the Town's ordinance could be added to the list of ways to communicate to students.

PUBLIC COMMENTS CLOSED

Chief Priebe reported that he had been contacted by SMC's Director of Public Safety, and for the first time this year, anyone who resided off campus and applied for a student parking pass on campus would be provided a copy of the Town's ordinance. He emphasized the relationship between SMC's Public Safety Department and the Moraga Police Department had improved over the years, with good collaboration between the two agencies. The amendments to the ordinance would codify, in the ordinance, the enforcement that could be applicable.

Councilmember Trotter cited the section of the ordinance which detailed the potential penalties for increased offenses and the need to be serious in response to neighbors' concerns given that previous efforts to enforce the ordinance had been unsuccessful. He suggested that throughout the ordinance "Loud and Unruly Parties" should be capitalized; cited the last sentence of Section 9.08.030, Notification of Liability for Costs of Subsequent Police Response and suggested the word "party" be capitalized; cited Section 9.08.080 Recovery of police services fee and/or Special Security Assignment and requested a correction in the first paragraph to change Loud or Unruly Property to read "Loud or Unruly Party," and suggested that Section 9.08.020 Definitions, "Person Responsible" could be revised, to read:

"Person Responsible" shall mean without limitation any person(s) who owns, rents, leases, occupies or otherwise controls the premises where the Loud or Unruly Party occurs, and/or any person(s) who organize the Loud or Unruly Party.

Councilmember Onoda appreciated SMC and its students but stated the Town did not want parties waking up families all night long.

ACTION: It was M/S (Trotter/Arth) to waive the First Reading and Introduce an Ordinance Amending Chapter 9.08 of the Town of Moraga Municipal Code Regarding Liability for Police Response to Loud or Unruly Parties, with the minor modifications as identified by Councilmember Trotter. Roll Call Vote: 5-0.

Mayor Wykle declared a recess at 9:30 P.M. The Town Council meeting reconvened at 9:47 p.m. with all Councilmembers present.

D. Construction and Demolition Debris Recycling Ordinance

Consider Waiving the First Reading and Introducing an Ordinance Deleting Moraga Municipal Code Chapter 8.156, Construction and Demolition Debris Recycling, Title 8, Planning and Zoning and Adding Chapter 15.08; Construction and Demolition Debris Recycling, Title 15, Buildings and Construction, of the Town of Moraga Municipal Code (CEQA Status: Exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b) (3) and 15308 of the CEQA Guidelines)

Associate Planner Brian Horn presented the staff report and asked the Town Council to consider waiving the first reading and introducing an ordinance deleting MMC Chapter 8.156, Construction and Demolition Debris Recycling, Title 8, Planning and Zoning and adding Chapter 15.08; Construction and Demolition Debris Recycling, Title 15, Buildings and Construction, of the MMC.

Responding to Council, Mr. Horn advised that the action would align with what other jurisdictions had done; Waste Management Plans would be reported to Central Contra Costa Solid Waste Authority (CCCSWA) which would then report to the State; the Town of Moraga had a lower capture of projects, with higher thresholds than neighboring jurisdictions, which was one of the reasons there was less development in Moraga; and the CCCSWA was in contract with Green Halo, a third party online system for waste management plans with receipts submitted online, which improved the tracking of construction and demolition debris waste which would also result in less work for staff. The ordinance would also eliminate the deposit system and replace it with a penalty-based system. He suggested that encouraging people to use Green Halo, while not a requirement, had been supported by CCCSWA and had been used by other agencies.

Councilmember Trotter commented that he had been a member of the CCCSWA when Green Halo had offered a presentation on its services and clarified with Mr. Horn his understanding that CCCSWA paid the fee for Green Halo as part of a two-year contract.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Councilmember Trotter spoke to the thresholds that had been set a few years back intended to avoid making it too onerous for individual homeowners doing small remodel jobs, and the

concern that the ordinance had now proposed a lower threshold of 1,000 square feet or \$50,000 valuation, which he found to be too low given the substantial regulatory burden it imposed on the owner of a single-family residence as opposed to a contractor. The higher thresholds for covered projects at 3,000 square feet or a \$250,000 valuation had been intended to be lighter as a regulatory matter on constituents and homeowners in the Town to avoid exposing them to a substantial fine for non-compliance.

Vice Mayor Metcalf also expressed concern with the thresholds given the variables that could be considered.

Planning Director Ellen Clark explained that most projects had some degree of demolition and recycling with the waste taken to a certified landfill, which involved a cost for the landfill facility. There would be no additional costs but there would be a penalty to those who did not verify correctly, through receipts, the recycling of materials and not did not abide by the rules. There was also a burden of process online that must be followed.

Mr. Horn identified the Town's plan check fee at \$175; stated there was no additional charge for the preparation of a Waste Management Plan (WMP) although a required deposit was currently taken at the same time as the application fee; there would be no fee for filing online; and there were advanced features for contractors available through Green Halo. He noted that the contractor would create a Green Halo account and it was a simple process to upload a receipt. A WMP would be triggered as part of the requirement for a building permit and a building permit was required for any electrical, plumbing, windows, skylights, and the like. He described the consistency of the ordinance with nearby jurisdictions which projects were all at a threshold of 1,000 square feet or \$50,000 valuation.

Mayor Wykle referenced his personal experience with a remodel when all demolition debris had been taken to the Martinez recycling facility, with a receipt received and presented to the County. He had not found the process to be too onerous.

Vice Mayor Metcalf offered a motion to waive the first reading and introduce an ordinance deleting MMC Chapter 8.156, Construction and Demolition Debris Recycling, Title 8, Planning and Zoning and adding Chapter 15.08; Construction and Demolition Debris Recycling, Title 15, Buildings and Construction, of the MMC.

Mayor Wykle seconded the motion.

Councilmember Onoda supported the ordinance, but asked that the last sentence of Section 15.08.090 Compliance with Waste Management Plan C (3), as shown on Page 8 of the ordinance, be revised to read:

If the official determines that the applicant has fully failed to comply with the diversion requirements of the ordinance, then a fine of \$1,000 or less, or 1% of project costs, whichever is greater, will be levied against the WMP applicant and/or property owner and used by the Town to recover the costs of administering the provisions of this ordinance.

Vice Mayor Metcalf accepted the revision to the motion.

Councilmember Trotter recommended consideration of the fine at \$500 or less, and the Vice Mayor supported consistency with nearby jurisdictions which had levied a fine of \$1,000.

ACTION: It was M/S (Metcalf/Wykle) to waive the First Reading and Introduce an Ordinance Deleting Moraga Municipal Code Chapter 8.156, Construction and Demolition Debris Recycling, Title 8, Planning and Zoning and Adding Chapter 15.08; Construction and Demolition Debris Recycling, Title 15, Buildings and Construction, of the Town of Moraga Municipal Code, subject to a revision to Section 15.08.090 Compliance with Waste Management Plan C(3), as shown on Page 8 of the ordinance, be revised to read:

If the official determines that the applicant has fully failed to comply with the diversion requirements of the ordinance, then a fine of \$1,000 or less, or 1% of project costs, whichever is greater, will be levied against the WMP applicant and/or property owner and used by the Town to recover the costs of administering the provisions of this ordinance.

Roll Call Vote: 5-0.

E. Construction Inspector for Land Development Construction

Consider Resolution 83-2015 Amending the Fiscal Year 2015/16 Salary Schedule for the Town of Moraga to Add the Regular Full-Time Temporary Classification of Senior Construction Inspector for a Period of Two Years in Order to Provide Increased Oversight and Review of Private Development Construction Activities; Appropriating \$65,000 to the Operating Budget for Personnel Account Codes in the Public Works Administration/Engineering Cost Center to Fund the Position for the Remaining Fiscal Year; and Increasing \$65,000 to Public Works/Engineering Revenue to Offset Personnel Expenses Associated with the Position

Mr. Kwan presented the staff report and asked the Town Council to adopt a resolution amending the Fiscal Year 2015/16 Salary Schedule for the Town of Moraga to add the Regular Full-Time Temporary Classification of Senior Construction Inspector for a period of two years in order to provide increased oversight and review of private development construction activities; appropriating \$65,000 to the Operating Budget for Personnel Account Codes in the Public Works Administration/Engineering Cost Center to fund the position for the remaining fiscal year; and increasing \$65,000 to Public Works/Engineering revenue to offset personnel expenses associated with the position.

Responding to Council, Mr. Kwan advised that the \$65,000 was for a burdened salary, benefits and overhead, would be fully cost recoverable, with the budget required to match revenues. It was expected that revenue would increase to match the \$65,000 dollar amount. The position would involve a permanent employee on a contract basis for two years.

Ms. Keimach described the position as an in-house, not a contract employee, for two years.

Mr. Kwan reiterated that staff would go through a recruitment process, and in the interim the Town would rely on the geo-technical engineer who had plan checked and peer reviewed the project. As to why a recruitment process was being considered, he suggested there was a more direct conduit between a permanent employee and staff to provide information in a timely manner, with a permanent employee more devoted to the Town's goals as opposed to a consultant. In the event there was no response from the recruitment process, he would have to reevaluate the strategy and determine whether the consultant had the time to do the work.

Ms. Keimach added that staff had a productive meeting with the SummerHill Homes staff, noting they were willing to add another inspector to allow the developer to be on-site full time, along with the Town Inspector, and for the Town to have weekly meetings with the developer's engineers, construction managers, and all sub-contractors given that there had been a great deal of miscommunication. If it became too much for one person, the Town also had two other

positions on consent at this time, and if more were needed, staff could request that the Town Council consider more oversight.

PUBLIC COMMENTS OPENED

Kevin Ebrahimi, Vice President of Development, SummerHill Homes, explained that he had worked on the Rancho Laguna II project for the past two and half years, with SummerHill Homes having worked with the neighborhood and staff in an effort to be a good neighbor and ensure the project complied with all requirements. He apologized for some of the issues that had occurred, including the removal of a tree, which he had stated during a Planning Commission meeting would be preserved and had been incorporated into the plans. He emphasized that SummerHill Homes would do whatever was possible to work with staff to reach solutions for any and all issues. In addition, SummerHill Homes had asked staff to consider adding one hour to each work day, and potentially be able to work on Saturdays, if possible, to complete the grading prior to the rainy season.

Mr. Ebrahimi explained that the SummerHill Homes Camino Ricardo project had also started and could potentially be completed, depending on sales, in early 2017. Responding to the Vice Mayor, he confirmed that the haul roads that were in use would have to be restored to the pre-haul road condition once that work was completed. The haul routes were part of the means and methods that a contractor needed to get the project completed, with different roads for vehicles up and down. He had no experience with a jurisdiction having issues with haul routes in the past but was now aware that there was an issue with the haul routes outside of the grading limit. The developer would work with staff to better address the details before the work was done. He also affirmed that he had received telephone calls related to concerns with the haul routes and whether they would be regraded to a natural contour. He stated the haul routes were only used to expedite construction and would be put into a natural grade and hydro seeded back with a natural seed.

Councilmember Trotter read into the record Condition 173 of the Rancho Laguna II project related to the haul routes, and pointed out the haul routes were not existing roadways and in violation of Condition 173, which he understood could not be discussed at this time since it had not been agendaized. He understood this issue would be worked out between SummerHill Homes and staff.

PUBLIC COMMENTS CLOSED

Councilmember Trotter suggested the new hire was a great idea. He recognized that there had been few minor subdivisions on infill, level properties that had not involved a great deal of grading over the last few years, with few issues and few major subdivision development in the past 25 years. He suggested it was time for the Town's standard subdivision, grading, and construction conditions to be tuned up, with an improved process for enforcing those conditions, and would likely request a discussion of issues and lessons learned as a result of the recent project work by SummerHill Homes as a future agenda item, with direction from the Town Council as to how to administer major subdivisions to avoid repeat problems.

Councilmember Onoda agreed with Councilmember Trotter's comments, suggested the position under discussion would be extremely important, and suggested that Condition 156 of the Rancho Laguna II project had not been addressed with oak trees on the other side of the project site also not protected. She favored stopping construction until the conditions had been reviewed to ensure compliance. She urged the position of the Senior Construction Inspector be put into place immediately to ensure that project conditions were being met.

Ms. Murphy clarified that the action before the Town Council was only the consideration of the hiring of the position that had been agendized.

Councilmember Trotter suggested the matter was a staff coordination issue with an existing set of conditions that must be addressed.

Mayor Wykle pointed out that the Council had already approved a Consent Agenda item for consultants to provide for immediate relief for construction services.

ACTION: It was M/S (Trotter/Metcalf) to adopt Resolution 83-2015 Amending the Fiscal Year 2015/16 Salary Schedule for the Town of Moraga to Add the Regular Full-Time Temporary Classification of Senior Construction Inspector for a Period of Two Years in Order to Provide Increased Oversight and Review of Private Development Construction Activities; Appropriating \$65,000 to the Operating Budget for Personnel Account Codes in the Public Works Administration/Engineering Cost Center to Fund the Position for the Remaining Fiscal Year; and Increasing \$65,000 to Public Works/Engineering Revenue to Offset Personnel Expenses Associated with the Position. Vote: 5-0.

F. Amend CalPERS Contract for Cost Sharing

Consider:

- 1) Resolution 84-2015 of Intention to Approve an Amendment to Contract Between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the Town of Moraga; and
- 2) Waiving First Reading and Introducing an Ordinance Authorizing an Amendment to the Contract Between the Town Council of the Town of Moraga and the Board of Administration of the California Public Employees' Retirement System (CalPERS) to Provide Section 20516 (1% employee cost sharing) Applicable to Section 21362 (2% @50) for Local Safety Members and Section 20516 (1% Employee Cost Sharing) Applicable to Section 21354 (2% @55) for Local Miscellaneous Members

Ms. Keimach presented the staff report and asked the Town Council to adopt a resolution of intention to approve an amendment to the contract between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the Town of Moraga; and waive the first reading and introduce an ordinance authorizing an amendment to the contract between the Town Council of the Town of Moraga and the Board of Administration of the California Public Employees' Retirement System (CalPERS) to provide Section 20516 (1% employee cost sharing) applicable to Section 21362 (2% at 50) for Local Safety Members and Section 20516 (1% Employee Cost Sharing) applicable to Section 21354 (2% at 55) for Local Miscellaneous Members.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Wykle) to adopt Resolution 84-2015 of Intention to Approve an Amendment to Contract Between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the Town of Moraga. Vote: 5-0.

ACTION: It was M/S (Metcalf/Wykle) to waive the First Reading and Introduce an Ordinance Authorizing an Amendment to the Contract Between the Town Council of the Town of Moraga and the Board of Administration of the California Public Employees' Retirement System (CalPERS) to Provide Section 20516 (1% employee cost sharing) Applicable to Section 21362 (2% at 50) for Local Safety Members and Section 20516 (1% Employee Cost Sharing) Applicable to Section 21354 (2% at 55) for Local Miscellaneous Members. Roll Call Vote: 5-0.

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Councilmember Trotter requested that a future agenda item include a discussion of lessons learned as a result of the recent project work by SummerHill Homes and suggested changes to the Town's standard suite of conditions for major subdivision and construction projects.

Vice Mayor Metcalf suggested that would also be a good topic of discussion for a joint Town Council and Planning Commission meeting.

There was Town Council consensus for the item to be considered as a future agenda item.

Mayor Wykle added that he had received an e-mail from a solar provider about bulk solar purchases with many programs for renewable energy projects, some of which would require Council action.

Ms. Keimach advised that Property Assessed Clean Energy (PACE) had been tentatively scheduled for Town Council consideration at an upcoming meeting.

Ms. Keimach added that she had also received an e-mail about water issues at 1800 Donald Drive. Attorneys were reviewing the matter and the Town would send a response, which would also be provided to the Town Council.

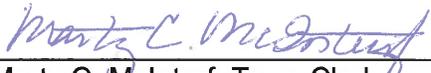
XIII. COMMUNICATIONS

There were no communications.

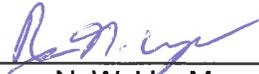
XIV. ADJOURNMENT

ACTION: It was M/S (Trotter/Arth) to adjourn the meeting at 10:37 P.M. Vote: 5-0.

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Roger N. Wykle, Mayor

