

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**March 9, 2016
MINUTES**

7:00 P.M. Regular Meeting

Council Chambers and Community Meeting Room
335 Rheem Boulevard, Moraga, California 94556

1. CALL TO ORDER

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

ROLL CALL

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

Councilmembers absent: Councilmember Teresa Onoda

2. PLEDGE OF ALLEGIANCE

Vice Mayor Trotter led the Pledge of Allegiance.

3. SPECIAL ANNOUNCEMENTS

There were no special announcements.

4. PROCLAMATIONS AND PRESENTATIONS

There were no proclamations and presentations.

5. PUBLIC COMMENTS AND SUGGESTIONS

There were no comments from the public.

6. ADOPTION OF CONSENT AGENDA

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Wykle) to adopt the Consent Agenda, as shown. Vote: 4-0-1. Absent: Onoda.
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| 6.1 | Accounts Payable Claims for: 02/19/2016 (\$103,375.89) | Approved |
| 6.2 | Approve Minutes for the Special Town Council Goal Setting Meeting on January 21, 2016 | Approved |

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| 6.3 | Approve Minutes for the Special and Regular Town Council Meetings on January 27, 2016 | Approved |
| 6.4 | <u>Federal Aid for Moraga Road Pedestrian Improvement Project</u>
Consider Resolution 17-2016 Authorizing the Interim Town Manager, the Administrative Services Director or the Public Works Director to Enter Into the Program Supplement No. N013 to the Administering Agency-State Agreement for Federal-Aid Projects No. 04-5415R for Reimbursement of Project Costs for the Moraga Road Pedestrian Improvements Project (Federal Project No. CML-5415(013), Town Project No. CIP 15-103) | Approved |
| 6.5 | <u>Contract with Opticos Design Re: MCSP Implementation Project</u>
Consider Resolution 18-2016 Authorizing the Interim Town Manager to Execute a Professional Services Contract with Opticos Design, Inc., for a Contract Amount Not to Exceed \$25,000 for Additional Technical Assistance for Completion of the Moraga Center Specific Plan (MCSP) Implementation Project, and Allocating \$25,000 from the General Fund Operating Surplus | Approved |

B. Consideration of Consent Items Removed for Discussion

No Consent items were removed for discussion.

7. ADOPTION OF MEETING AGENDA

PUBLIC COMMENTS OPENED

Interim Town Manager Robert Priebe asked that Item F under Ordinances, Resolutions and Requests for Action related to the Regulation of Taxicab Services be removed from the agenda given new information that had just been presented. The item would return for Town Council consideration in the near future.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Arth/Trotter) to adopt the Meeting Agenda, with the removal of Item F from Ordinances, Resolutions and Requests for Action. Vote: 4-0-1. Absent: Onoda.

8. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Metcalf – Reported that he had attended the Lamorinda Joint meeting on February 29; a presentation by Gould Evans during the Open House for the Hacienda de las Flores Conceptual Plans for the repurposing of the Hacienda on February 25; and advised that he, along with the Vice Mayor and the Director of Parks and Recreation, would meet with the President of Saint Mary's College (SMC) on March 10 to discuss the plans for the Hacienda.

Vice Mayor Trotter – Reported that he had attended and chaired a RecycleSmart Board meeting on February 25; a presentation by Gould Evans on the same evening for the Hacienda de las Flores conceptual plans for the repurposing of the Hacienda; the Lamorinda Joint Meeting on February 29; chaired the RecycleSmart Finance Committee meeting on March 2; and represented the Town in the Mayor’s absence at the Mayors’ Conference in the City of Lafayette on March 3.

Councilmember Arth – Reported that he had attended the Lamorinda Joint meeting on February 29; a Moraga Chamber of Commerce meeting on March 2; the Mayors’ Conference in the City of Lafayette on March 3; and a reception at SMC for parents of students who had been accepted to SMC but who had not yet confirmed their attendance on March 8.

Councilmember Onoda – No report.

Councilmember Wykle – Reported that he had attended the Lamorinda Joint Meeting on February 29.

- B.** Town Manager Update – Interim Town Manager Priebe reported that in anticipation of the next storm this week, the Town had sand and sandbags available to the public behind Moraga-Orinda Fire District (MOFD) Station No. 41 on Moraga Way. He also reported that City Ventures had reconciled its account with the Town, including legal fees due in defense of the referendum, and planned to move forward with the project on Moraga Way; the Contra Costa County Board of Supervisors planned to meet on March 15 to discuss options for the County for the Community Choice Aggregation (CCA) Program; and Marin Clean Energy (MCE) had contacted Moraga staff to advise that its March 31, 2016 inclusion deadline would not be extended, although a new inclusion period might be discussed by the MCE Board on March 17. The Town Council would be kept apprised of the status of those discussions.

9. DISCUSSION ITEMS

There were no discussion items.

10. PUBLIC HEARINGS

There were no public hearings.

11. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

A. Local Sales Tax Oversight Committee Report

Review and Accept the Local Sales Tax Oversight Committee’s Independent Report for FY 2014/15 to the Town Council Regarding the Revenue and Expenditures of the Transactions and Use Tax

Administrative Services Director Amy Cunningham presented the staff report and asked that the Town Council review and accept the Local Sales Tax Oversight Committee’s Independent Report for FY 2014/15 regarding the Revenue and Expenditures of the Transactions and Use Tax, and thanked Committee members for their work over the past year.

Larry Rosenberg, Chair of the Local Sales Tax Oversight Committee, presented the Annual Report for FY 2014/15 as included in Attachment A to the staff report. He expressed his

appreciation to Town staff, the Local Sales Tax Oversight Committee members present in the audience, and members of the Audit and Finance Committee (AFC). Responding to Council, Mr. Rosenberg clarified the last one percent of invoices had not been audited by the Committee given that staff was still working on the paperwork, although 99 percent of the invoices had been audited.

Ms. Cunningham also clarified that the Town was in the third year of the Pavement Program Project and each year there had been a little money left over, which had carried forward year after year. While the project was in the red a bit this year, as shown in the staff report, that overage had been covered by the savings from prior years. The carryover from 2014/15 was \$1 million representing the history of the entire Pavement Program Project.

Mr. Rosenberg also affirmed that he was aware of the item on the agenda for the Joint Moraga-Orinda Ivy Drive Paving Project, and expected staff would brief the Local Sales Tax Oversight Committee at its next meeting on the status of that project.

The Town Council thanked the Local Sales Tax Oversight Committee for its service.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Arth) to accept the Local Sales Tax Oversight Committee's Independent Report for FY 2014/15 to the Town Council Regarding the Revenue and Expenditures of the Transactions and Use Tax (i.e. Measure K sales tax). Vote: 4-0-1. Absent: Onoda.

B. Moraga Police Department Surveillance Cameras

Consider Report on the Moraga Police Department's Proposed Use of Surveillance Cameras in Moraga and Provide Direction to Staff

Acting Chief of Police Jon King presented a PowerPoint presentation on the Moraga Police Department's proposed use of surveillance cameras as one of the Town's investigative tools to address crime prevention and public safety. The intent was for a multifaceted plan to provide public outreach, community cameras, a Central Video Surveillance System, and Reconyx Game Cameras, and details of each proposal were presented. He asked that the Town Council consider the report and provide direction to staff regarding what, if any, camera system was preferred; obtain formal cost estimates to purchase and install the preferred camera system; identify a funding source; and, if desired, work with community members to facilitate fundraising efforts to pay for a portion of the preferred systems.

Responding to Council, Acting Chief King identified the crime statistics for the Town of Moraga for the period 2014 to 2015, and acknowledged that Lafayette's burglaries had decreased by half during the same time period while the Town of Moraga's had increased by 24 percent, with thefts in Town having increased by 31 percent. He referenced the impacts as a result of Proposition 47 and Assembly Bill (AB) 109 on crimes, and explained that the crime rate throughout the State had increased. He affirmed that individuals and neighborhoods in the Town had been installing their own surveillance cameras, and understood the Sonsara development was in the process of installing cameras.

Acting Chief King discussed the installation of two Reconyx Game Cameras, as detailed in the presentation, in specialized situations or in a unique situation if there was a crime spree. He

had spoken with a few residents who had expressed an interest in working to raise funds for surveillance cameras, although he had recommended waiting and coordinating with the Mayor and the Town Council on this matter. He affirmed the potential for fundraising efforts could be publicized in the About Town Newsletter and through other community outreach efforts.

When asked if grant funding was available, given the potential benefit to the Emergency Operations Center (EOC), Acting Chief King explained that all funding sources had been researched and none had been located at this time. Staff would continue to review grant opportunities and would also check with the MOFD to determine whether there were any additional resources that could benefit the effort. He added that in terms of the annual costs for the surveillance cameras, costs would include a monthly Internet network connection fee and potential maintenance fees. A Request for Proposal (RFP) could be considered. He did not anticipate those fees to be substantial based on the size of the equipment being sought.

PUBLIC COMMENTS OPENED

Barry Behr, Moraga, thanked Acting Chief King for meeting with him to discuss the proposal. He requested that camera technology be considered as a required mandate for major new development, with the system to be turned over to the Town once that development was complete. He urged the Town Council to consider a model plan where residents could promote surveillance systems in their subdivisions. He also suggested the Town approach a major supplier of surveillance equipment, and possibly enter into a contract for the use of the equipment for a substantial discount or donation, with the Town potentially used as a tool to market the equipment to other communities.

Steve Spikes, Moraga, referenced his experience in violence prevention with law enforcement agencies; supported the idea of the Reconyx Game Cameras; supported communities installing their own cameras; but opposed the use of license plate readers due to privacy concerns, and noted that he believed that research had proven that license plate readers and cameras did not prevent or reduce crime unless located in an area with a great deal of activity. He suggested the reduction in criminal activity in the City of Lafayette was due to the fact that Lafayette had the staff to deal with that issue, which the Town of Moraga did not.

Dennis Martell, Moraga, a member of the Moraga Country Club Board of Directors and Chair of the Safety and Public Compliance Committee, supported the proposal from the Police Department; spoke to his experience in law enforcement; agreed with the information presented by Acting Chief King; and suggested that cameras and signage would serve as a deterrent to criminal activities. He urged the Town Council to support the proposal.

Paul Wolford, Moraga, supported the proposal; liked the idea that the information from the proposed systems would be kept private and would be used only for investigative purposes in order to prevent crime in Moraga; and commended Acting Chief King for offering a proposal that allowed residents to retain their privacy but still allowed the Police Department the ability to prevent criminal activity in the Town.

PUBLIC COMMENTS CLOSED

Acting Chief King acknowledged the proposal was an operating expense expenditure in the range of \$100,000. He clarified the cost estimates had been provided by a local vendor who had provided a rough estimate to the Police Department, where each of the five camera set-ups would cost in the range of \$10,000, and with the remainder of the costs for the installation of the repeater sites, storage and server in the Police Department, and the wireless network overlay. The Town Council could also consider a phased installation over a few years, dependent upon the Town's resources. He suggested it might be possible to coordinate fundraising efforts with

the community foundations in the Town. The Police Department had also conducted targeted fundraising efforts in the past.

Mayor Metcalf suggested that staff consider the models used by community foundations for fundraising efforts to determine whether that would be an opportunity for the Town of Moraga.

Responding to the Council, Interim Town Manager Priebe clarified that he recalled a figure of approximately \$105,000 from the operating surplus budget, but he was uncertain whether any of the funds had been encumbered.

Councilmember Wykle acknowledged the benefits and importance of fundraising and recommended the use of the available funds in the operating surplus budget. He added that the empirical data was clear that crime statistics had decreased in the cities of Lafayette and Orinda as a result of the installation of surveillance cameras in those communities.

Ms. Cunningham affirmed that the operating surplus balance was approximately \$110,000, although some of the surplus might be encumbered by remaining items on the agenda. She clarified that the numbers would be tracked when the Town Council took specific action to approve an encumbrance of the monies.

Councilmember Wykle understood and clarified with staff that there could be enough in the operating surplus budget for this effort and for the MCSP Implementation Project.

Vice Mayor Trotter noted that this was a capital project that had not been included in the current budget. If pursuing an RFP, it could be a capital project that could be approved as part of the 2016 budget rather than using operating surplus funds. He supported consideration of fundraising efforts and an RFP, particularly since the proposal was not yet ready to proceed before the end of the fiscal year.

Councilmember Arth concurred, wanted to see the project implemented as soon as possible, and suggested that the Lafayette and Orinda surveillance systems may have driven criminal activities to Moraga.

Mayor Metcalf agreed with the Vice Mayor's rationale in terms of the timing and when the funding would be better clarified and potential grant monies considered for the project. He suggested that many in the community would likely be willing to contribute to the effort. He supported moving the proposal forward.

Councilmember Wykle recommended that staff prepare an RFP, determine the amount needed, research grant and fundraising opportunities and proceed with the process.

Vice Mayor Trotter recommended that the item be placed on the Capital Improvement Project (CIP) list for approval in June 2016 for implementation in July 2016.

Councilmember Wykle clarified he was not making such a recommendation and suggested there was no need to delay. He again recommended sending out an RFP in order to get better clarification of the costs and then determine how to pay for it.

Mayor Metcalf agreed with Councilmember Wykle's recommendation and disagreed the project should be placed on the CIP list for the next year.

Councilmember Wykle offered a motion to direct staff to prepare a Request for Proposal (RFP) to purchase and install five cameras and the corresponding network in the Town of Moraga to help curb crime, including the Reconyx system. **Councilmember Arth** seconded the motion.

Vice Mayor Trotter understood as part of the motion that the item would come back to a future Council meeting to consider the appropriation of funds, at which time there would be a better idea of the net costs and whether there were other sources to defray those costs.

Councilmember Wykle affirmed that had been the intent of his motion as originally stated.

ACTION: It was M/S (Wykle/Arth) to direct staff to prepare a Request for Proposal (RFP) to purchase and install five cameras and the corresponding network in the Town of Moraga to help curb crime, including the Reconyx System. Vote: 4-0-1. Absent: Onoda.

C. Joint Moraga-Orinda Ivy Drive Paving Project

Consider Resolution 19-2016 Authorizing the Interim Town Manager to Execute a Memorandum of Understanding with the City of Orinda to Partner in the Joint Moraga-Orinda Ivy Drive Paving Project

Public Works Director/Town Engineer Edric Kwan presented the staff report and requested that the Town Council adopt a resolution authorizing the Interim Town Manager to execute a Memorandum of Understanding (MOU) with the City of Orinda to partner in the Joint Moraga-Orinda Ivy Drive Paving Project. Responding to Council, Mr. Kwan clarified the project costs and affirmed the work completed would be quantified, with the costs broken down by line item allowing the Town to calculate its fair share. He clarified the differences between this program and a program the Town of Moraga had recently approved for a joint project with the City of Lafayette on a surface seal program which had been similar in concept. The costs would be shared on a 50-50 basis based on square footage, with the actual limits at the centerline.

Mr. Kwan also clarified the paving project limits and the shared portion of the project, as shown in Attachment B to the staff report. He added that any complaints should be sent to him and he would contact Orinda's Construction Managers to ensure that all complaints were addressed. Regarding public outreach, Moraga staff would provide separate letters to Moraga residents to identify the project.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Responding to the Mayor regarding Orinda's level of public outreach, Mr. Kwan noted he could offer some of the tools the Town had used which had been successful in its program.

Vice Mayor Trotter noted there were twelve affected homes on the non-high school side of Ivy Drive and it would be easy for Town staff to conduct some public outreach.

Mr. Kwan reiterated that Town staff would send letters to affected residents and Orinda would also conduct outreach.

ACTION: It was M/S (Arth/Wykle) to adopt Resolution 19-2016 Authorizing the Interim Town Manager to Execute a Memorandum of Understanding with the City of Orinda to Partner in the Joint Moraga-Orinda Ivy Drive Paving Project. Vote: 4-0-1. Absent: Onoda.

D. Property Assessed Clean Energy Programs

Consider Resolution 20-2016 Authorizing the Inclusion of Properties within the Town's Jurisdiction in the Open PACE Property Assessed Clean Energy

Program; and Resolution 22-2016 Authorizing the Inclusion of Properties within the Town's Jurisdiction in the HERO Property Assessed Clean Energy Program, and Approving an Amendment to the Joint Powers Agreement Related Thereto

Senior Planner Holly Pearson presented the staff report and recommended that the Town Council adopt a resolution authorizing the inclusion of properties within the Town's jurisdiction in the Open PACE Property Assessed Clean Energy Program, and the HERO Property Assessed Clean Energy Program, and approve an amendment to the Joint Powers Agreement (JPA) related thereto. Responding to Council, Ms. Pearson understood that the Town of Moraga, which was already a member, did not have to pay to be a member of the California Statewide Communities Development Authority (CSCDA).

Vice Mayor Trotter pointed out that the resolution for the HERO Program and Approving JPA for Western Riverside Council of Governments (WRCOG), contained information referencing a budget and making assessments on the members, implying annual costs to the Town to join the HERO Program.

Jonathan Kevles, Senior PACE Director, Renew Financial, CaliforniaFIRST, explained that the Town of Moraga had been a member of the CSCDA JPA since at least 1997, and the Town had financed projects through the CSCDA. He too affirmed there was no cost to join or continue to be a member of the CSCDA JPA, although participation in the bonding would extract a fee as part of the transaction costs. He spoke to State Legislature and law, which had clarified the PACE assessment was an assessment and not a loan, but rather than having a neighborhood have to come to an agreement on what it wanted to do, a single property was allowed to do it. He highlighted the high-level government support of the PACE Clean Energy Program, and explained that there were homeowners in the Town of Moraga who had stated their support for the PACE Program.

Tim Cali, Commercial Regional Sales Manager, Renew Financial, spoke to his experience with homeowners who were grateful for the access to the PACE Program who would otherwise have been unable to take advantage of numerous home improvement opportunities.

Steve Utley, Tice Valley Electric, Energy Division, spoke from his perspective as a contractor, and noted that many of his customers had been allowed the opportunity to pay for a project of their choosing, which allowed the opportunity to keep cash for other things. He affirmed that while he was present as an ally to the Open PACE Program, he had worked with several different financing programs. He supported both programs in terms of the service aspects, and had found that CaliforniaFIRST's service had been better in terms of the commitments made and kept. Based on his experience, both the HERO and PACE Programs had been great programs.

Eve Perez, Director of Municipal Development, HERO, clarified that HERO was the largest PACE Program in the nation; having financed over 90 percent of PACE Programs. HERO had set the standard for PACE, with no pre-payment penalty, subordination of a PACE lien to other debts on a property, and consumer protection provisions. In terms of consumer protection, all contractors must be licensed, bonded and insured, all work must be permitted, and property owners must sign off on projects prior to contractors being paid. She detailed the HERO Protect program which had launched in 2015 and provided free dispute resolution services to any property owner within the city. She confirmed there was no cost for a jurisdiction to participate in the HERO Program, and there were no costs in the JPA Amended Agreement with HERO.

Vice Mayor Trotter again referenced Attachment B, specifically Page A-2, Section B5, Ongoing Administration, which included language about the collection of assessments under the HERO Program, although Attachment C, WRCOG JPA, Page 4, Section 2.3, Duties, included language

about assessing contributions from the members, essentially referencing the Town of Moraga as a member. Based on that language, he stated that the WRCOG could require the Town of Moraga to pay for the costs incurred by the JPA administering the program.

Ms. Perez understood based on conversations with her legal counsel that there would be no cost to a jurisdiction. She explained that the CSCDA had mirrored its program on the WRCOG Program, with no costs for either program. Over 400 jurisdictions had opted into the program, and it was understood there was no cost to a jurisdiction to participate. Given her understanding there was no cost to a jurisdiction, she would provide clarity from her legal counsel tomorrow.

As to whether there was any anticipation the Town would promote any of the programs, Ms. Pearson explained that some towns/cities that had opted into the PACE Program had information available in their Planning Departments. The programs would provide their own marketing efforts independent of the Town. The only reason the Town was involved was that it must create a special taxation district for such programs.

Ms. Perez went on to detail the history of AB811 passed in 2008; the history of the WRCOG; and acknowledged there were other JPAs offering the program. She cited a number of competitors offered through the CSCDA, which must be offered through a public entity, and was why the JPA was the party offering the program.

Mr. Cali suggested one of the reasons Town staff may have settled on the Open PACE and HERO programs was that their JPAs were the only two in the State which adopted a comprehensive set of consumer protection policies. Those programs also encouraged the other JPAs to adopt similar protections to ensure they were on a level playing field with all competitors.

Ms. Pearson advised that staff had recommended the Open PACE Program since the Town was already a member of the financing authority, and because of the variety of actual programs offered providing more flexibility and choices for property owners. The HERO Program had been recommended as the most tested, established, and because it took the most proactive stance on the subordination of the PACE lien issue.

Planning Director Ellen Clark reiterated the reasons for the two programs staff had selected; a desire to look at more than one program; with the HERO Program selected for the reasons stated; and with both programs offering Moraga residents' robust choices. The Town could always consider joining other JPAs in the future.

Mr. Cali clarified that the funds for the PACE Loss Reserve Program in California came from a State allocated fund as part of an account in the State Treasurer's Office, which had an account balance of \$10 million. To date no monies had been drawn from the account.

Vice Mayor Trotter again referenced Attachment C and the discrepancies he had identified along with language on Page 11, Article III, Funds and Property, Section 3.4, Contributions/Public Funds; Page 16, Article VI, Admission and Withdrawal of Parties, Section 6.2, Withdrawal from WRCOG, b.; and expressed concern that all sections included language which carried some financial consequences to join the JPA.

Ms. Perez explained that the fees that were in place were designed for the property owner, and the property owner would pay a recording fee and an annual administrative fee to Contra Costa County, which fees were disclosed in the paperwork to the property owner. She asked the Town Attorney to opine on the language under discussion.

Assistant Town Attorney Karen Murphy referenced Attachment C, Page 18, Article VIII, PACE Implementation and Participation Agreements: Associated Membership, Section 8.2, PACE Assessments: Associate Membership, which addressed the rights of the associate members, with the Town to be an associate member if it were to join the JPA. That section also stated that the rights were limited to the terms and conditions of the amendment of joining the JPA. She stated it would have been clearer if it stated the rights and obligations if that was the intent.

Vice Mayor Trotter commented that the proposed amendment to the JPA would have the Town be subject to the JPA agreement given the language in the JPA. He again cited the sections of the JPA of which he had concern, including Sections 2.3, 3.4, 6.2 b, and now 8.2.

Ms. Perez stated she knew a number of contractors who would like access to the HERO Program who were already doing business in the Town and offering other financing options. She cited the numerous contractors who had expressed a desire for the programs to be approved and read their names into the record. She also spoke to the potential for job creation and explained that the HERO Program alone had created almost 11,000 jobs.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Given the issues in question relative to the WRCOG JPA, **Mayor Metcalf** recommended that the Town Council continue the item to a later point on the agenda.

Ms. Perez asked whether the Council would be willing to provide conditional approval on the HERO Program.

Vice Mayor Trotter recommended that the Town Council act on the Open PACE Program at this time and continue the HERO Program discussion to later on the agenda.

Mayor Metcalf agreed that the Town Council act on the Open PACE Program and continue the HERO Program to later on the agenda, allowing Ms. Perez to communicate with her colleagues to possibly address some of the concerns that had been raised.

ACTION: It was M/S (Trotter/Wykle) to adopt Resolution 20-2016, in the form provided by staff, Authorizing the Inclusion of Properties within the Town's Jurisdiction in the Open PACE Property Assessed Clean Energy Program. Vote: 4-0-1. Absent: Onoda.

ACTION: It was M/S (Metcalf/Arth) to continue consideration of Resolution 22-2016 Authorizing the Inclusion of Properties within the Town's Jurisdiction in the HERO Property Assessed Clean Energy Program, and Approving an Amendment to the Joint Powers Agreement Related Thereto, after consideration of Agenda Item 11E. Vote: 4-0-1. Absent: Onoda.

E. Lower Rheem Boulevard Repair Project

Consider an Alternative Design for Landslide Stabilization Associated with Repair of Rheem Boulevard Adjacent to Subdivision 9330 Rancho Laguna II/Bella Vista, and Consider Resolution 21-2016 Authorizing the Town Engineer to Approve Revisions to the Project Plans, Interim Town Manager to Sign an Amendment to the Reimbursement Agreement with SummerHill RL, LLC, in a Form Approved by the Town Attorney, Reflecting the Plan Revisions, and Appropriating \$173,500 from Fund 711- Street Pavement Management Program Towards the Project

Mayor Metcalf reported that he must recuse himself from the discussion on the item since he lived within 500 feet of the Rancho Laguna II project. Although he stated for the record he would have no conflict of interest, he stepped down from the dais at this time.

Vice Mayor Trotter chaired the meeting.

Public Works Director/Town Engineer Kwan presented the staff report. Senior Civil Engineer Laurie Succgang presented a PowerPoint presentation on the Lower Rheem Project, Proposed Structural Retention System for the Stabilization and Repair of Rheem Boulevard; detailed the project for the developer to stabilize a section of Rheem Boulevard that had been badly damaged by existing landslides, and reported that three options had been considered in May 2010; and the Town and SummerHill Homes had entered into a Reimbursement Agreement to allocate costs and responsibilities of the project.

Ms. Succgang identified the Shared Responsibility Area; options considered in May 2010 including the Lower Valley Buttress, Geogrid Reinforced Buttress, and Below-Grade Tie-Back Retaining Wall; and detailed the repair methods for each option.

Uri Eliahu, Geotechnical Engineer, President and CEO of ENGEO, outlined a comparison of each of the options proposed versus the alternative for a structural approach to stabilize Rheem Boulevard.

Ms. Succgang further offered a side-by-side cost comparison of the options versus the proposed structural retention system. She recommended the Town Council adopt a resolution authorizing the Town Engineer to work with the developer to revise the project plans and specifications to reflect a repair of Rheem Boulevard in the "Shared Responsibility" area using a structural retention system consisting of Cast in Drilled Hole (CIDH) piers and tie backs. It was anticipated once the project had been reviewed and approved by the County Building Official, construction could commence in May/June 2016.

Ms. Succgang also asked that the Town Council authorize the Interim Town Manager to execute an amendment to the Reimbursement Agreement in a form approved by the Town Attorney to incorporate any changes needed to reflect the alternative design and appropriate \$173,500 from Fund 711 – Street Pavement Management Program towards the project.

Responding to Council, Mr. Eliahu again spoke to the constructability issue of the Geogrid Reinforced Buttress fill option; identified the cross section for that option, and stated if the landslide reactivated it would go up onto the road rather than shifting the road towards the creek and downward. In that case, the excavation required would be the most risky and it had been shown as a 45 degree angle at a 1:1 slope. The contractor involved in the Rancho Laguna II project had stated they would not dig at 45 degrees due to the risk, and would make the excavation flatter, although that would exacerbate other conditions and would achieve the design depth much farther down the slope, reducing the amount of sheer key and there would be a need for recalculation. Under any circumstance, there was a time period during which the landslide would be unsupported even if the contractor was willing to cut the 1:1 slope under this scheme.

Mr. Eliahu again stated that 18 borings had been taken, not all were in the road, although a total of 18 borings had penetrated the older fills. Based on the boring data and general condition of the material removed, they had not seen buried trees and concrete. It appeared as expected for a side hill fill with a little cut, and fill for a flat area for a road. He acknowledged there were areas where the asphalt was very thick, and under the proposed alternative structural retention system approach, they would still need to dig through the road to get the drain in and need to

close the road to general traffic with the exception of emergency traffic. The existing asphalt would be dug up but rehabilitated once the work was complete.

Mr. Eliahu affirmed that the asphalt and the base underneath it would be dug out, and if there was any base rock it would not be suitable, and would be removed with new base rock, and new asphalt surface. He also affirmed with the new alternative approach that the existing PG&E poles would require shoring. He understood there was a hard bid from a contractor which included all of that work.

Ms. Sucgang clarified that the PG&E poles had been put into the project as a "maybe", and while it was likely the poles would remain in place the sub drain was pretty deep. If the sub drain was close to the PG&E poles, there was the possibility they would have to ensure the poles were stabilized to place the deep sub drain.

Mr. Eliahu added that there would be a need to enter the adjacent private property, and an encroachment permit from the property owner would be required.

Ms. Sucgang explained that with the currently approved solution, there would have been a temporary easement for construction purposes. The developer had already been in discussions with the affected property owner, and in this case if a permanent easement was needed, and staff was of the opinion it was, the developer would continue conversations with the property owner on behalf of the Town. The developer would obtain all easements on behalf of the Town and the Town would accept the easements and improvements after everything was complete. She understood it would be at no cost to the Town.

Kevin Ebrahimi, SummerHill Homes, clarified that the Reimbursement Agreement had contemplated SummerHill Homes working with the Town in getting the easement, and with the cost, if any, split 50-50 once going over the \$1.5 million, as stipulated in the agreement.

Mr. Kwan clarified that undergrounding of overhead utilities had not been part of the conditions of approval for the SummerHill Homes development along the frontage.

Mr. Eliahu responded to concerns whether the proposed alternative for a structural retention system was a tried and true approach. He noted in 2010, a former Town Councilmember had expressed a preference for this approach because of the disruption issues. The Geogrid Buttress option was solid, with the alternative a conservative design, designed to handle large loads and arrest the horizontal movement. He acknowledged there was an active landslide in the area and all they wanted to do was stabilize the road and not stabilize the entire hillside. Stabilizing the bottom would add to the stabilization of the entire slope. He acknowledged that future failures could occur. For the road bed, he suggested the alternative was a good solution.

Mr. Eliahu acknowledged a request from the Vice Mayor that the contractor take photographs to provide to the Town to allow an explanation to the public as to the amount of asphalt the County or the Town had poured onto the road since 1948. The Vice Mayor had suggested the Moraga Historical Society would likely be interested in having those photographs.

Mr. Eliahu identified a gap in the roadway of Rheem Boulevard when the landslides were most active and commented the areas had been lower, and the gap stayed high, creating a dangerous condition. Speaking to a map of the site, he pointed out the landslides had merged together into a large mass, and with a resistant area in between that had not exhibited any movement. He clarified there was no landslide in the middle. He again identified the details of the tie-back areas.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Councilmember Wykle supported the item, although when moving forward with the design he sought more information on the volume of existing asphalt to be removed, how much of the older layers of asphalt would be removed, the layer of AB, and more information to ensure a comfort level that the road would be reconstituted.

Councilmember Arth also supported the item.

Vice Mayor Trotter supported the project, stated it needed to be done, was long overdue, and in terms of the easement he assumed it would be a cost-free easement.

Speaking from the audience, Mr. Ebrahimi stated the neighbors had been cooperative and understood the landslides would impact their properties. SummerHill Homes had obtained a temporary easement at this time and had spoken with the neighbors about the other solutions that would be considered. He expected the neighbors would continue to be cooperative.

ACTION: It was M/S (Wykle/Arth) to adopt Resolution 21-2016 Authorizing the Town Engineer to Approve Revisions to the Project Plans for Rheem Boulevard, and the Interim Town Manager to Execute an Amendment to the Lower Rheem Boulevard Stabilization and Road Repair Off-Site Improvements and Reimbursement Agreement with SummerHill RL, LLC, in a Form Approved by the Town Attorney, and Appropriating \$173,500 from Fund 711- Street Pavement Management Program Towards the Project. Vote: 3-1-1. Recused: Metcalf. Absent: Onoda.

F. Regulation of Taxicab Services

Consider Resolution ___ -2016 Authorizing the Interim Town Manager to Pursue the Potential Formation of a Regional Joint Powers Agreement (JPA) for the Regulation of Taxicab Services within Contra Costa County

THIS ITEM WAS REMOVED FROM THE AGENDA

Mayor Metcalf returned to the dais at this time.

The Town Council returned to complete the remainder of Agenda Item 11D.

Property Assessed Clean Energy Programs

Consider Resolution 22-2016 Authorizing the Inclusion of Properties within the Town's Jurisdiction in the HERO Property Assessed Clean Energy Program, and Approving an Amendment to the Joint Powers Agreement Related Thereto

Ms. Perez advised that the Executive Director of Western Riverside Council of Governments (WRCOG), who had provided written confirmation forwarded to Town staff, stated that Sections 2.3 and 3.4 of the WRCOG JPA referred to regular members of the JPA. The regular members of the JPA were the original 17 cities that had been part of the JPA which paid dues. The only terms and conditions that would be specific to the Town of Moraga's jurisdiction would be those that referenced associate members. In terms of Section 6.2 b of the WRCOG JPA, the WRCOG did have the legal right to continue to collect on the assessments already placed on the property prior to a jurisdiction's termination. If a jurisdiction passed a resolution to withdraw from the program, WRCOG sought the right to continue to collect on assessments previously placed, but at that point would not continue to place new assessments on any new properties.

Ms. Murphy suggested that the Amendment to the JPA, as shown in Attachment B, specifically Page A-2, Section 2, Associate Membership, could be clarified to reflect that the obligations of members was set forth in the JPA and would not extend to the Town.

Vice Mayor Trotter expressed concern absent actual representation from the WRCOG, other than a representative from HERO, who could not make agreements. He expressed concern the issue had not been raised before by other jurisdictions, suggested it was in the interest of WRCOG to resolve the issue with the Town of Moraga, and would be more inclined to support the item subject to getting that negotiation and resolution making it clear the Town had no financial responsibility with respect to joining the WRCOG JPA.

Ms. Perez reiterated that was the reason she had spoken with the Executive Director of the WRCOG, with a written confirmation provided to staff. Other jurisdictions had not expressed the same concern. She expressed her hope the Town Council could approve the item, subject to a provision of written confirmation in the morning from WRCOG.

Vice Mayor Trotter was not comfortable approving the item subject to the Executive Director of WRCOG, who could not necessarily bind the authority. He would rather see the JPA be resolved with lawyers and with agreements, not based on a written statement from the WRCOG Executive Director.

On the discussion, Ms. Murphy suggested that Item 4, as shown on Page 2 of the resolution contained in Attachment B, be revised to read:

The Town Council hereby approves the Joint Powers Agreement Amendment with revisions to clarify that the financial liabilities in the Joint Powers Agreement Amendment do not apply to the Town, and in a form approved by the Town Attorney, and authorizes the execution thereof by appropriate Town officials.

Vice Mayor Trotter, and **Councilmembers Wykle** and **Arth** supported the revision proposed by the Assistant Town Attorney.

ACTION: It was M/S (Trotter/Wykle) to adopt Resolution 22-2016 Authorizing the Inclusion of Properties within the Town's Jurisdiction in the HERO Property Assessed Clean Energy Program, and Approving an Amendment to the Joint Powers Agreement Related Thereto, as modified (Page 2, Item 4 of the Resolution contained in Attachment B) (Page A-2, Section A. 2 of the JPA Amendment, as contained in Attachment B), to clarify the Town of Moraga in becoming an Associate Member of the Joint Powers Agreement will not incur any cost for joining and for operating in the Joint Powers Agreement, or incur any liabilities as an Associate Member in the Joint Powers Agreement, in a form of agreement approved by the Town Attorney, and is acceptable to Western Riverside Council of Governments. Vote: 4-0-1. Absent: Onoda.

12. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

There were no Council requests for future agenda items.

13. COMMUNICATIONS

There were no communications.

14. ADJOURNMENT

**ACTION: It was M/S (Trotter/Wykle) to adjourn the meeting at 10:02 P.M. Vote: 4-0-1.
Absent: Onoda.**

Respectfully submitted by:



Marty C. McInturf, Town Clerk

Approved by the Town Council:



Michael Metcalf, Mayor

