

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**March 23, 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 7:00 P.M. by **Mayor Michael Metcalf**.

ROLL CALL

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

Councilmembers absent: Councilmember Phil Arth

2. PLEDGE OF ALLEGIANCE

Vice Mayor Trotter led the Pledge of Allegiance.

3. SPECIAL ANNOUNCEMENTS

A Moment of Silence was observed for those who lost their lives or had been injured in the terrorist attacks in Brussels, Belgium on March 22, 2016.

Mayor Metcalf announced that Judy Dinkle had been selected as Moraga Citizen of the Year and offered his congratulations. The Citizen of the Year event was scheduled for April 29 at Saint Mary's College (SMC). He added the Town Council had been provided information for the Town and Gown meeting scheduled for April 1, at the Founder's Dining Room at SMC.

4. PROCLAMATIONS AND PRESENTATIONS

- A.** Proclamation Declaring March 2016 as Prescription Drug Abuse Awareness Month

Mayor Metcalf presented a proclamation declaring March 2016 as Prescription Drug Abuse Awareness Month.

PUBLIC COMMENTS OPENED

Jaime Rich, Lamorinda Alcohol Policy Coalition, thanked the Town Council for its continued support and spoke to the dangers of prescription drug abuse. She reported

that the National Coalition Against Prescription Drug Abuse was sponsoring a contest in April involving all local high and middle school students to coincide with Alcohol Awareness Month, to address underage marijuana use, underage drinking, and prescription drug use.

PUBLIC COMMENTS CLOSED

5. PUBLIC COMMENTS AND SUGGESTIONS

There were no comments from the public.

6. ADOPTION OF CONSENT AGENDA

A. Approval of Consent Items

No items were removed from the Consent Agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Wykle/Onoda) to adopt Consent Agenda Items 6.1, 6.2, 6.3, 6.4, and 6.5. Vote: 4-0-1. Absent: Arth.

- | | | |
|-----|--|----------|
| 6.1 | Accounts Payable Claims for: 3/4/2016 (\$917,042.06);
3/4/2016 (\$128.30) | Approved |
| 6.2 | <u>Electronic Community Information Sign Project Acceptance</u>
Consider Acceptance of the Moraga Road Electronic
Community Information Sign Project (CIP No. 15-302) and
Authorize the Interim Town Manager to File the Certificate of
Completion with the County | Approved |
| 6.3 | <u>Ford F-250 Truck Purchase for Parks and Public Works</u>
Consider Resolution 26-2016 Authorizing the Interim Town
Manager to Suspend the Competitive Bid Process and Enter
Into an Agreement with Downtown Ford of Sacramento,
California for an Amount Not to Exceed \$26,000 to Purchase a
2016 Ford F-250 Truck for the Parks and Public Works
Departments and Authorize Town Staff to Surplus a Town-
Owned 1999 Ford Crown Victoria | Approved |
| 6.4 | <u>Support of Walnut Creek Watershed Council's Grant Application</u>
Consider a Letter of Support for the Walnut Creek Watershed
Council's Grant Application to the California State Coastal
Conservancy | Approved |
| 6.5 | <u>Continuation of Local Emergency Due to Storm Damage</u> | Approved |

Consider Motion to Renew and Continue the Local Emergency Due to El Niño Storm Damage Pursuant to Public Contract Code Section 22050 and as Proclaimed by the Director of Emergency Services on March 14, 2016 and Ratified by Town Council on March 16, 2016

B. Consideration of Consent Items Removed for Discussion

No items were removed from the Consent Agenda.

7. ADOPTION OF MEETING AGENDA

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

**ACTION: It was M/S (Trotter/Wykle) to adopt the Meeting Agenda, as shown.
Vote: 4-0-1. Absent: Arth.**

8. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Metcalf – Reported that he had attended a weekly Southwest Area Transportation Committee (SWAT) meeting for the continued review of the proposed Measure J reauthorization work program with a decision to be made by the Contra Costa Transportation Authority (CCTA) in late April.

Vice Mayor Trotter – Reported that he had attended the Hillside and Ridgeline Special Town Council meeting on March 10; met along with the Mayor, members of Town staff, and Gould Evans with SMC President Donahue to brief SMC on the proposed plans for the Hacienda de las Flores on March 11; attended an agenda review meeting on March 15 for the Recycle Smart meeting scheduled for March 24; and visited the site of the sinkhole at Rheem Boulevard when the engineer in charge had offered a briefing of the status of the repair work on March 18.

Councilmember Arth – Absent.

Councilmember Onoda – Reported that she had attended the Hillside and Ridgeline Special Town Council meeting on March 10; the Town and Gown meeting on March 15; and had judged the Joaquin Moraga (JM) Intermediate School Art Competition on March 18.

Councilmember Wykle – No report.

B. Town Manager Update – Interim Town Manager Robert Priebe reported on the follow-up discussions for Community Choice Aggregation (CCA) for

Clean Energy in that the Contra Costa Board of Supervisors had approved a study at a cost of \$150,000, with the intent to ask all cities in the County to share in that cost with Moraga's cost estimated at \$5,000 minimum. Upon completion of the study, which was expected to take nine months to complete, a recommendation would be made to either create a County Joint Powers Authority (JPA) to continue with the CCA, partner with Alameda County JPA to do the same, or join Marin Clean Energy (MCE). He added that MCE had stated the Town of Moraga could join MCE at no cost if an ordinance was adopted by the end of April 2016, which would require a first reading by April 13 and a second reading by April 27.

Mr. Priebe added that Moraga Rotary had proposed the donation of an all access playground at Rancho Laguna Park, to include a commemorative plaque honoring Rotary members' 50 years of service to the Town of Moraga. The request had been discussed and conceptually approved by the Park and Recreation Commission for the design work as planned, with the desire for a completion date of spring 2017.

Mr. Priebe advised there was nothing substantial to report on the status of the sinkhole at Rheem Boulevard due to weather interruptions and the investigation would continue as soon as weather permitted. He had been working closely with the California Department of Emergency Services (OES) to provide necessary documents, and working with staff to write a letter to the Governor requesting State of Emergency Status. The Town would provide weekly updates on the status of the sinkhole repairs through the About Town newsletter, Nixle.com, and NextDoor.com, and in the event something substantial occurred the Town Council would be so advised. The East Bay Municipal Utility District (EBMUD) would be making a presentation to the Town Council regarding the landslide issue in the Moraga Country Club. In addition, the Moraga Youth Involvement Committee (MYIC) was promoting a rock band showcase on Friday, March 25 at 7:30 p.m. at the Lafayette Community Center.

9. DISCUSSION ITEMS

There were no discussion items.

10. PUBLIC HEARINGS

There were no public hearings.

11. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

A. Moraga Library HVAC System Construction Contract

Consider Resolution 27-2016 Authorizing the Interim Town Manager to Award a Construction Contract to Martinez Sheet Metal, Inc. (Martinez) in the Amount of \$277,980 for the Moraga Library HVAC System Renovation Project (CIP 16-306), Execute Contract Change Orders up to 15% of the Contract Amount, and Appropriate \$37,177 from Fund 100 – One Time Developer Fees (Palos Colorados) to Fund the Project Shortfall

Parks and Recreation Director Jay Ingram presented the staff report and recommended that the Town Council adopt a resolution authorizing the Interim Town Manager to award a construction contract to Martinez Sheet Metal, Inc. (Martinez) in the amount of \$277,980 for the Moraga Library HVAC System Renovation Project (CIP 16-306), execute contract change orders up to 15% of the contract amount, and appropriate \$37,177 from Fund 100 – One Time Developer Fees (Palos Colorados) to fund the project shortfall.

Responding to Council, Senior Civil Engineer Laurie Suggang explained that in speaking with the architects and mechanical engineers, re-insulation of the return fan section work did not seem to be critical or it would have been part of the base bid package. If the bid had come in low, they could have elected to add in that item of work. At this point, the bid was a bit higher than staff had expected. She also verified that the new cooling tower location would be placed away from the redwood trees.

Public Works Director/Town Engineer Edric Kwan added that the pre-bid conference had involved the participation of fifteen contractors who were mostly sub-contractors. He thought the sub-contractors had attended the pre-bid conference to determine what the project entailed and may have been looking for partners. Given the complexity of the mechanical system, he would have expected that many different contractors and subcontractors would have participated. He stated the receipt of three bids was a pretty good number for the project.

PUBLIC HEARING OPENED

Jane Low, Friends of the Moraga Library, appreciated the support from the Town Council for the Moraga Library and reported that Library staff was eager to have the improvements completed.

PUBLIC HEARING CLOSED

ACTION: It was M/S (Wykle/Onoda) to adopt Resolution 27-2016, Authorizing the Interim Town Manager to Award a Construction Contract to Martinez Sheet Metal, Inc. (Martinez) in the Amount of \$277,980 for the Moraga Library HVAC System Renovation Project (CIP 16-306), Execute Contract Change Orders up to 15% of the Contract Amount, and Appropriate \$37,177 from Fund 100 – One Time Developer Fees (Palos Colorados) to Fund the Project Shortfall. Vote: 4-0-1. Absent: Arth.

B. Amend Kennedy and Associates Contract for Stormwater Program Services

Consider Resolution 28-2016 Authorizing the Interim Town Manager to Amend the On-Call Consultant Services Agreement with Kennedy and Associates (Walnut Creek) for Stormwater Program Services to Comply with New Requirements Imposed by the Reissued Municipal Regional Stormwater Permit in an Amount of \$53,000 for a Total Amount Not to Exceed \$211,000 and Appropriate \$40,000 from Fund 510 – NPDES (National Pollutant Discharge Elimination System)

Public Works Director/Town Engineer Kwan presented the staff report and asked the Town Council to adopt a resolution authorizing the Interim Town Manager to amend the On-Call Consultant Services Agreement with Kennedy and Associates (Walnut Creek) for Stormwater Program Services to comply with new requirements imposed by the reissued Municipal Regional Stormwater (MRP 2.0) permit in an amount of \$53,000 for a total amount not to exceed \$211,000 and appropriate \$40,000 from Fund 510 – NPDES (National Pollutant Discharge Elimination System).

In response to the Council, Mr. Kwan explained that the MRP 2.0 contained many provisions, although the specific issue was with respect to trash reduction requirements, where the Town was required to achieve certain percentages of trash reduction by certain years. During visual surveys of the entire Town, yellow and red zone areas of medium and high trash generation had been identified, which included the Rheem and Moraga Shopping Centers, and Campolindo High School. The Town had received a grant four years ago to install various trash capturing devices along the right-of-way (ROW) in the roadway sections with some areas on private properties, which had been a challenge. The Town had been unable to achieve its goals. If the Town was unable to meet its next deadline, the Town would have to come up with a plan to address that reduction and meet that goal by the next year. The consultant's goal was to bring the Town into compliance.

As to whether a plastic bag ban would assist the Town in achieving its goal, Mr. Kwan noted that prior to the requirements of MRP 2.0 when the Town had prepared formulas to come up with its percentage of trash capture, a plastic bag ban had been recommended in order to increase the percentage of trash capture; however, the Regional Water Quality Control Board (RWQCB) had disagreed with how much credit agencies would receive.

Frank Kennedy, Kennedy and Associates, reported the RWQCB was now allowing five percent credit for a plastic bag ban. The RWQCB defined trash as anything that was five millimeters or larger, which was a challenge. By June 2015, the Town was required to meet a 40 percent reduction, and by June 2016, a 60 percent reduction. If the Town did not meet that goal, it must submit a work plan to the RWQCB to show how the Town would reach 70 percent reduction by June 2017. The most important thing was to ensure that the trash maps were as accurate as possible since the fewer number of hot spots that could be identified the larger the impact on an acreage basis the actions would have. What would hurt the Town was if the high school properties would become non-jurisdictional, since those properties would then become the responsibility of the school district and the Town would receive no credit for their trash reduction.

Mr. Kennedy identified the Laguna Creek hot spot as the creek across the road from Campolindo High School where all the trash collected came from the high school. While the Town would receive credit for that clean up and assessment of the creek in terms of reducing the sources of trash, the Town would no longer receive credit from the high school. He noted that Laguna Creek was the only creek within the public jurisdiction that had trash. Most of the creeks in the Town were on private property and the Town had no right to enter those properties and no assessment of the condition of those creeks had been done. The creek near the Hacienda had been assessed and found to be in fairly good condition.

Mr. Kennedy added that the two shopping centers identified as hot spots were required to install full capture devices and comply with the new permit requirements. As to what would happen if a property owner of the shopping centers refused to comply with the requirements of the RWQCB, the Town would have to work through its ordinances, particularly related to no detrimental effects on the waters in the United States. If, as an example, a shopping center was not conducting appropriate management of the property by using trash capture devices, sweeping the property, or properly cleaning the trash, under the Town's Stormwater Ordinance, the Town could take some action against that property owner since they were causing pollution to the waters of the United States. Such an ordinance was already in place, and while the language in the ordinance was strong enough to do what was needed, he explained that the program attorneys were evaluating them to determine whether any strengthening was needed. If that was necessary, a model ordinance would be created and reviewed in the context of the Town's needs, and then adopted and/or modified to ensure the appropriate legal authorities were in place.

As to whether the Moraga Municipal Code (MMC) had language that did or did not need to be changed whenever new regulations from the RWQCB came into play, Assistant Town Attorney Karen Murphy stated that would have to be verified. If such language was not in the MMC now, staff would likely recommend changes.

Mr. Kennedy detailed how the multiple visual assessments had been done in the past, particularly related to creek assessment, how the RWQCB was trying to force the installation of some sort of trash capture device on all storm drain infrastructure which in some places was not cost effective, and how expensive it would be if the Town was required to do something in the creeks. He defined trash as any kind of manufactured man-made product, paper, plastic bags, cigarette butts, plastic pieces and the like, anything that was not storm water and was in the storm drain system. He also clarified how creeks had been assessed with a definition in the permit whereby anything that was built, pipes, inlets, and the like were defined as the Municipal Separate Storm Drain System (MS4) with devices placed to stop things from reaching the natural stream channels, the rivers, and ultimately the Bay.

Mr. Kennedy explained, when asked, that the issue started with the Clean Water Act of 1972 as amended in 1987, and the local regulations had been turned over to the State RWQCB which was creating the regulations that were required to be enforced. He also clarified the issue with materials containing Polychlorinated biphenyls (PCBs) in the new standards; identified what that could cost the Town to address; did not believe there were fruitful PCB sites within the Town of Moraga although there could be an approval process where demolition permits would have an attached requirement to test for and remove PCBs. He did not know what the Town might have to spend to manage the PCB standards.

Mr. Kwan commented that building demolition would return to the Town Council as part of a model ordinance. Any buildings that were non-wood, constructed between 1940 and 1980, would have to be tested prior to demolition. If PCBs were found, they would have to be properly disposed. By having the model ordinance and green infrastructure plan, the Town would receive credit. He emphasized that the Town would still have to capture remaining unaccounted PCBs, and while negligible, the Town would be challenged to find them. He added that if the Bay Area was found to be in compliance

with capturing sufficient amounts of PCBs, the Town would be in compliance regardless of whether the Town achieved its PCB capture or not. The same held true if the Bay Area was not in compliance but the County was in compliance, the RWQCB would look at each individual agency and if found out of compliance, the Town could be open to third party lawsuits.

Mr. Kwan commented that an assessment had been performed through the Clean Water Program and parcels that had been zoned Industrial between 1940 and 1980 had been identified. A visual assessment had been done to determine whether the properties had been redeveloped and encapsulated to remove high risk areas. He stated the Town of Moraga would unlikely find PCBs in industrial sites, especially since pears were the Town's largest industry.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Vice Mayor Trotter recommended that the one hot spot creek area could be cleaned up prior to a visual assessment, which should be considered by staff.

ACTION: It was M/S (Wykle/Onoda) to adopt Resolution 28-2016 Authorizing the Interim Town Manager to Amend the On-Call Consultant Services Agreement with Kennedy and Associates (Walnut Creek) for Stormwater Program Services to Comply with New Requirements Imposed by the Reissued Municipal Regional Stormwater Permit in an Amount of \$53,000 for a Total Amount Not to Exceed \$211,000 and Appropriate \$40,000 from Fund 510 – NPDES (National Pollutant Discharge Elimination System). Vote: 4-0-1. Absent: Arth.

C. Palos Colorados Final Map Approval

Consider Adopting Resolution 29-2016 Approving the Final Map and Subdivision Improvement Agreements for Subdivision 8378 Palos Colorados, a Project Being Developed by Bigbury Company, Accepting Grant Deeds of Development Rights, Authorizing the Recordation of the Irrevocable Offer of Dedication, and Authorizing the Interim Town Manager to Take Other Actions to Effectuate Recordation of the Final Map

Senior Civil Engineer Laurie Suggang presented the staff report and recommended that the Town Council adopt a resolution approving the Final Map and Subdivision Improvement Agreements for Subdivision 8378 Palos Colorados; accepting grant deeds of development rights; authorizing the recordation of the Irrevocable Offer of Dedication; and authorizing the Interim Town Manager to take other actions to effectuate recordation of the Final Map.

Responding to Council, Assistant Town Attorney Karen Murphy affirmed there were six action items as part of the resolution under consideration, which the Town Council could consider under one resolution, as contained in the staff report. The resolution approved the Final Map and all agreements related to the Final Map, including the Subdivision

Improvement Agreements and a number of other agreements required by the conditions of the map.

Ms. Sucgang confirmed the action before the Town Council was a ministerial approval.

Ms. Murphy defined ministerial approvals and advised that the conditions of approval imposed on the map had been completed, and the Town Engineer had reviewed the conditions and the map and had verified compliance with the conditions. Part of the project was the creation of future public trails through the Palos Colorados development to be dedicated to the East Bay Regional Park District (EBRPD), with dedications on the face of the map, and with an irrevocable offer of dedication for the trail easements in the staff report, which could be accepted at a later time.

Ms. Sucgang referenced Sheets 28 and 29 of the Final Map and identified all of the trails on the site, with a number of trails to be dedicated; some to be dedicated to the EBRPD, some to the Town, some coincident with emergency vehicle access easements, and some that may also remain with the Homeowners Association (HOA) or the Geologic Hazard Abatement District (GHAD). She verified the Final Map was consistent with the Tentative Map and the previously approved Precise Development Plan (PDP), and the Final Map reflected the trails as shown or as described in the conditions of approval, and included a trail link that would cross at Moraga Road at the corner and uphill towards the reservoir through the right-of-way (ROW) of Moraga Road. There was also a sidewalk that would extend beyond the private property of the Palos Colorados development northward and could presumably be considered a pedestrian pathway along Moraga Road and with a crossing of the roadway, pedestrians could reach the trail at the border of Lafayette and Moraga in order to reach the reservoir trail.

Ms. Murphy also clarified that the Palos Colorados Agreement for processing previously acted upon by the Town Council during a meeting in February 2016, had not been required to be incorporated into the Final Map approval.

PUBLIC COMMENTS OPENED

Cecilia Markey, Lafayette resident, owner of 28 acres that bordered the Palos Colorados project, asked for a copy of the Final Map to identify the trail connections and requested clarification that no public trails crossed her private property.

Ms. Murphy clarified that the trails were in the same location as they had been identified on the Tentative Map for the Palos Colorados project.

PUBLIC COMMENTS CLOSED

Speaking to Sheets 28 and 29 of the Final Map, Ms. Sucgang identified the Palos Colorados property lines, detailed the trails and their connections, and advised that the applicant's engineer and surveyor were present and could provide more clarification.

Andrew Palffy, President, DK Consulting, Civil Engineers for the Palos Colorados project, referenced Sheet 4, which had shown the entire boundary and the trail locations; the property on the west side; a 20-foot EBRPD trail easement which stopped at the boundary line; an existing trail easement off of the EBRPD property where

EBRPD had chosen the location and dictated its alignment and location to tie into; and the adjacent homes located on Mildred Lane in the city limits of Lafayette.

Vice Mayor Trotter noted the action before the Town Council was a ministerial act and the Town Council must approve the item, which was part of a very long 20/plus year process. He offered a motion to move the item including all of its subparts.

ACTION: It was M/S (Trotter/Wykle) to adopt Resolution 29-2016 Approving the Final Map and Subdivision Improvement Agreements for Subdivision 8378 Palos Colorados, a Project Being Developed by Bigbury Company, Accepting Grant Deeds of Development Rights, Authorizing the Recordation of the Irrevocable Offer of Dedication, and Authorizing the Interim Town Manager to Take Other Actions to Effectuate Recordation of the Final Map. Vote: 4-0-1. Absent: Arth.

D. \$10,000 Donation Towards the Carr Ranch Open Space Property

Consider Use of Town of Moraga General Funds in an Amount Not to Exceed \$10,000 Towards the John Muir Land Trust Acquisition of the 600 Acre Carr Ranch Open Space Property

Parks and Recreation Director Ingram presented the staff report and recommended the Town Council consider the following alternatives: Consider the donation and request staff to return with a resolution for approval; not consider the donation; or consider a donation in the context of the Fiscal Year 2016/17 Operating and Capital Budget requests, and direct staff to return with a resolution for approval.

PUBLIC COMMENTS OPENED

Linus Eukel, Executive Director of the John Muir Land Trust (JMLT), explained that the JMLT was more than two thirds in reaching its goal for the acquisition of the Carr Ranch Open Space property. JMLT expected to close on the property no later than the end of 2016. He emphasized the effort had been endorsed by the community at large, and expressed his appreciation to the Town Council for the opportunity to consider the item. JMLT was in a major push to reach its goal, had seen significant support countywide for this outcome, and the donation from the Town was important to offer encouragement.

Mr. Eukel offered written materials to the Council and to the public from the JMLT on Saving Contra Costa - A Campaign to Protect Our Endangered Lands.

PUBLIC COMMENTS CLOSED

Responding to the Mayor, Administrative Services Director Amy Cunningham reported in relation to the third alternative outlined in the staff report that staff was in the process of gathering all data and working through the different projects proposed, which would be brought back to the Town Council for consideration and prioritization. She verified the \$10,000 was General Fund monies, and the Town Council could spend the money as it saw fit. She added that JMLT was a non-governmental body.

Ms. Murphy explained that the Town may make certain funding choices provided there was public purpose. In this case, there was a public purpose behind the funding as had been outlined in terms of contributing to the preservation of the property, and it was up

to the Town Council to determine whether the public purpose had been met and whether it was an appropriate use of Town funds.

Vice Mayor Trotter suggested there was a public nexus to the extent the preservation of open space could be a matter that advanced the public interest and the interests of the Town. He believed a decision made by the Town Council to fund the item would not be considered an improper gift of public funds.

Ms. Murphy affirmed that the Town on its own accord could purchase open space or preserve open space, one example of how the Town could utilize the funds.

Ms. Cunningham advised that the League of California Cities provided guidance around such issues in that the legislative body would want to make a statement about what the benefit would be to the overall community. If the Town Council chose to move forward with the donation, it should explicitly state the public benefit.

Vice Mayor Trotter noted the \$10,000 had been a payment by SummerHill Homes for removing a Buckeye tree on the Rancho Laguna II property. This issue had been discussed with the former Town Manager who had persuaded SummerHill Homes to make a mitigation payment for the removal and the money had always been intended to be placed in the Town's Open Space account. He was surprised that the funds had been placed in the General Fund instead.

Ms. Cunningham reported that a letter from SummerHill Homes transmitting the \$10,000 stated that Summerhill Homes wanted to make a donation in the amount of \$10,000 to the Town's Open Space Fund, which could not be done given that by resolution the Open Space account was very specific as to what it was for; the Mulholland Open Space Preservation and Maintenance. As a result, the funds had been placed into the General Fund.

Vice Mayor Trotter suggested the proposed use of the \$10,000 would be appropriate for the funding towards the JMLT acquisition of the Carr Ranch property. He recommended that the funds be committed tonight contingent upon JMLT reaching its \$7 million goal, and then releasing the \$10,000 in funds at that time. He wanted to see payment made early in the next fiscal year at which time a policy decision would have already been made that the monies would be paid.

Mr. Eukel clarified that this donation had not been solicited by JMLT. The item had appeared on the Town Council agenda as something offered in support of the Carr Ranch acquisition. He viewed the potential \$10,000 donation as a generous gesture which would have direct benefit to the citizens of Moraga, including connections to Rancho Laguna Park. If the funds were restricted, he asked that they be restricted to the close of escrow and not to a specific fundraising goal.

Mayor Metcalf expressed concern, not with what was being asked of the Town Council, but with the way it was being done. Due to the recent sinkhole at Rheem Boulevard, the Town had to deplete Measure J Gas Tax Fund Balance for initial contracting work, and given the upcoming budget cycle with many items to address such as the recently approved police cameras in the community, the public perception of the expenditure of \$10,000 for open space could be a concern. The budget cycle offered the opportunity

to have a rational assessment and prioritization of all of the Town's needs. He disagreed with this process of what appeared to be a deal made with a developer who had made a mistake and was paying a mitigation fee to the Town, and he supported the placement of the item into the normal budget cycle.

Vice Mayor Trotter did not support consideration of the item through the normal budget cycle. He pointed out the item had been properly noticed on the Town Council agenda; the acquisition of the Carr Ranch property had seen a lot of support; there was no one present from the public to object to a proposed donation to JMLT; Mr. Eukel had suggested the payment to JMLT could occur at the close of escrow; and in his opinion a nexus could be made for the public benefit. He expressed his hope the Town Council would make a commitment to move the item forward now and could then make that donation to JMLT in the future.

Councilmember Onoda recognized the community support for this effort; stated the property backed up to Sanders Ranch where residents would likely support open space rather than development; and the preservation of 600 acres would also assist in water conservation. She supported the approach recommended by the Vice Mayor and disagreed that the issue should be considered as part of the overall budget cycle.

Councilmember Wykle preferred to see the budget items be prioritized and agreed with the Mayor on that issue, although this issue related to newly found money regarding a direct correlation between the removal of an existing tree and funds to be used for an open space asset. He read into the record General Plan Open Space and Conservation Policy OS1.1. In his view, the Town Council had to support the General Plan and suggested this was a great way. He too found \$10,000 to be a modest sum.

Mayor Metcalf reiterated he could not support the item, not because he disagreed with the expenditure, but because he disagreed with the methods and approach that had been recommended. In his opinion, the use of the donated funds should not be considered outside of the upcoming budget process.

Vice Mayor Trotter offered a motion for the Town Council to approve a donation of \$10,000 to the JMLT, restricted to the purchase of Carr Ranch, and that the donation be made within two days of receipt of notice from JMLT that it had reached its fundraising goal and could close escrow on the property.

Councilmember Onoda seconded the motion.

Ms. Cunningham requested that the donation be made within five working days after receiving that notice from the JMLT.

Vice Mayor Trotter as the maker of the motion, and **Councilmember Onoda** as the second approved the staff amendment.

On the motion, Ms. Murphy explained that the staff report had envisioned that staff would return with a resolution with certain findings to appropriate the money.

Vice Mayor Trotter offered further modification to the motion as follows:

Town Council to approve a donation of \$10,000 to the John Muir Land Trust restricted to the purchase of the Carr Ranch and that donation be made prior to close of escrow upon receiving notice from the John Muir Land Trust that it had reached its fundraising goal and could close; and the donation be made within five working days after receiving that notice from the John Muir Land Trust. Staff to return with a resolution of approval for the donation to be placed on the Consent Agenda at its next meeting.

Councilmember Onoda as the second to the motion approved the modification.

ACTION: It was M/S (Trotter/Onoda) to approve a donation of \$10,000 to the John Muir Land Trust restricted to the purchase of the Carr Ranch and that donation be made prior to close of escrow upon receiving notice from the John Muir Land Trust that it had reached its fundraising goal and could close; and the donation be made within five working days after receiving that notice from the John Muir Land Trust. Staff to return with a resolution of approval for the donation to be placed on the Consent Agenda at its next meeting. Vote: 3-1-1. Noes: Metcalf. Absent: Arth.

Mr. Eukel thanked the Town Council for the generous donation.

12. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Councilmember Onoda requested a future agenda item include consideration of a plastic bag ban.

As to the status of the State efforts for a plastic bag ban, **Vice Mayor Trotter** reported that there was a referendum to be considered in the fall.

13. COMMUNICATIONS

There were no communications.

14. ADJOURNMENT

ACTION: It was M/S (Trotter/Wykle) to adjourn the meeting at 8:52 P.M. Vote: 4-0-1. Absent: Arth

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Michael Metcalf, Mayor

