



**TOWN OF MORAGA
REGULAR MEETING**

**May 11, 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 Phil Arth, Teresa Onoda and Roger Wykle

Councilmembers absent: None

2. PLEDGE OF ALLEGIANCE

Assistant Town Attorney Karen Murphy led the Pledge of Allegiance.

3. SPECIAL ANNOUNCEMENTS

There were no special announcements.

4. PROCLAMATIONS AND PRESENTATIONS

- A.** Update on Central Contra Costa Transit Authority (County Connection) by Al Dessayer

Al Dessayer, Town representative to the Central Contra Costa Transit Authority, reported on the recent problems with BART and the necessity of providing bus bridges from County Connection which had required a great deal of coordination and effort. County Connection had been reimbursed for its expenses, but its bus drivers had been volunteers requiring supervision and subject to workplace restrictions, and the effort could not be sustained long term. Tri Delta Transit and AC Transit had also provided bus bridges to assist BART.

Mr. Dessayer also reported that three electric powered trolleys would be introduced as a test program in the City of Walnut Creek; the trolleys would provide transit from the Walnut Creek BART station to downtown Walnut Creek, paid by the City of Walnut Creek, and County Connection had received a grant from the federal government for the trolleys, which would be recharged automatically at the BART station. The electrical costs for the recharging station were currently unknown and more information would be provided closer to the introduction of the program in September/October. He clarified that the trolley system would not be introduced in the Lamorinda area, and the trolleys would replace the existing bus that transported people from BART to downtown Walnut Creek. There had been no change in the ridership for the local County Connection buses; the program was doing a bit better than the national average since some ridership was free, paid by the City of Walnut Creek; seniors rode for free between

10:00 a.m. and 2:00 p.m., and approximately 25 percent of the total ridership for County Connection's entire system was comprised of school-age children.

Mayor Metcalf reported that the Lamorinda School Bus Agency would be adding one more bus in Moraga to serve Joaquin Moraga Intermediate School (JM) and Campolindo High School. It had not been designed to compete with County Connection, but to address the demand for bus service at Campolindo High School.

Mr. Dessayer stated that County Connection had added more buses to serve Miramonte High School during the morning and evening periods which, by law, would be open to everyone.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

B. Proclamation Declaring National Public Works Week to be May 15 through 21, 2016

Mayor Metcalf presented a proclamation declaring National Public Works Week from May 15 through 21, 2016, to honor public works for their outstanding achievements and presented the proclamation to Public Works Director/Town Engineer Edric Kwan.

PUBLIC COMMENTS OPENED

On behalf of the Public Works Department, Public Works Director/Town Engineer Edric Kwan thanked the Town Council for the proclamation and recognition, and noted that the Public Works Department was responsible for planning, designing, constructing, and maintaining the Town's infrastructure for the benefit of the community. He stated the Public Works Department was proud of its work and was happy to serve the Town.

PUBLIC COMMENTS CLOSED

5. PUBLIC COMMENTS AND SUGGESTIONS

Mayor Metcalf stated that during the Town Council meeting on April 27, there had been an unfortunate incident when special consideration had been given to a particular speaker who had wanted more time to speak on an item under consideration. In that situation, the next speaker had wanted the same amount of time to speak, and there were a number of other speakers wishing to speak on items on a very lengthy meeting agenda. He reported that before every item, and prior to public comment, he would clarify that every speaker had three minutes to speak. If a speaker desired more than three minutes, it would be up to the speaker to approach the presiding officer, the Mayor, and make an arrangement for additional time to speak, a process that had been followed in the past.

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: 5-0.

- 6.1 Accounts Payable Claims for: 4/21/16 (\$170.00);
4/25/16 (\$969.07); 4/29/16 (\$168,000.41);
4/29/16 (\$126.15) Approved
- 6.2 Approve Minutes for the Regular Town Council Meeting on
March 9, 2016 Approved
- 6.3 Continuation of Local Emergency Due to Storm Damage
Consider Resolution 40-2016 Renewing and Continuing 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 Approved
- 6.4 Third Quarter FY 2015/16 Revenue and Expenditure Report
Review and Accept Third Quarter (through March 31) Fiscal
Year 2015/16 Revenue and Expenditure Report Approved
- 6.5 Development Impact Fees Annual Report
Review, Accept and File AB 1600 Development Impact Fees
Annual Report for the Fiscal Year Ended June 30, 2015 Approved
- 6.6 Reimbursement of Project Costs for Pavement Resurfacing
Consider Resolution 41-2016 Authorizing the Interim Town
Manager, the Administrative Services Director or the Public
Works Director to Enter Into the Administering Agency-State
Agreement for Federal-Aid Projects Master Agreement For
Federal-Aid Projects No. 04-5415F15 and Program Supplement
Agreement No. F014 for Reimbursement of Project Costs for the
Moraga Road Pavement Resurfacing Project, From St. Mary's
Road to Draeger Drive (Federal Project No. STPL-5415(012),
(Town Project No. CIP 15-102) Approved

B. Consideration of Consent Items Removed for Discussion

No Consent Items were removed for discussion.

7. ADOPTION OF MEETING AGENDA

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Wykle/Arth) to adopt the Meeting Agenda, as shown. Vote: 5-0.

8. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Metcalf – Reported that he had attended a meeting of the Southwest Area Transportation Committee (SWAT) to discuss the Transportation Expenditure Plan (TEP).

Vice Mayor Trotter – Reported that he had chaired the RecycleSmart meeting on April 28; attended the Moraga Citizen of the Year Dinner for Judy Dinkle on April 29; Coffee with a Cop on April 30; the John Muir Land Trust (JMLT) Gala in support of the Carr Ranch acquisition on April 30; and briefly attended an agenda review meeting of RecycleSmart on May 10.

Councilmember Arth – Reported that he had attended the Coffee with a Cop on April 30; Moraga Chamber of Commerce Board meeting on May 4, with the Community Faire and Car Show scheduled for May 14; and the East Bay Leadership Council Small Business Awards on May 6, at which time Moraga Motors had received the Small Business Person Award.

Councilmember Onoda – Reported that she had attended the Citizen of the Year Dinner for Judy Dinkle on April 29; the JMLT Gala on April 30; and the first Art in Public Spaces Committee meeting on May 10.

Councilmember Wykle – Reported that he had attended the RecycleSmart Board Meeting on April 28, when the Saint Mary's College (SMC) food service contractor had received an award; and had briefly attended the JMLT Gala on April 30.

- B.** Town Manager Update – Interim Town Manager Robert Priebe reported that Rheem Boulevard was now open with one lane in each direction. He commended Town staff for the effort, with staff awaiting response from Caltrans on the sinkhole repair. U. S. Small Business Administration (SBA) Economic Injury Disaster Loan Program forms had been sent to all businesses in the last week in and around the Rheem Commercial Center, with follow-up hand delivery by the Moraga Police Department. If the minimum number of forms were submitted, businesses might become eligible for the SBA program.

In response to a request for the use of a projector for citizens during public comment, Mr. Priebe reported that Town staff would make the projector available to anyone who requested its use during the three-minute period allowed for members of the public to speak, although he asked that anyone wishing to use the projector contact the Town Clerk prior to the Town Council meeting to allow staff the opportunity to ensure the equipment was available. He added that the Moraga Community Faire and Car Show would be held on Saturday, May 14 in the Rheem Valley Shopping Center from 11:00 a.m. to 4:00 p.m.; the Hacienda Centennial Fiesta would be on Sunday, May 15 from noon to 5:00 p.m. with admission free to the public; and the Community Garage Sale had been scheduled for Saturday, May 21, with those interested to contact the Parks and Recreation Department. Additionally, a Swearing-In Ceremony had been scheduled for Thursday, May 12 at the Hacienda at 5:30 p.m. for the Town's newest Reserve Officer Kevin Walker. The public was invited to attend and refreshments would be served.

9. DISCUSSION ITEMS

There were no discussion items.

10. PUBLIC HEARINGS

A. Development Impact Fees Update

Consider Resolution 42-2016 to: Adopt the 2016 Comprehensive Development Impact Fee Update (2016 Nexus Study); Adopt Updated General Government, Public Safety, Storm Drainage, and Park Development Impact Fees; Adopt an Updated Fee In-Lieu of Parkland Dedication; and

Consider Waiving the First Reading and Introducing an Ordinance Amending Moraga Municipal Code Chapter 8.140: Park Dedications, and Chapter 17.24: Park Development Impact Fee (*Continued from February 24, 2016*)

Planning Director Ellen Clark presented the staff report and advised that issues raised by the Town Council during the meeting of February 24, 2016 had been outlined in the staff report, and had been addressed in a redline version of the Nexus Study. Revisions included a minor revision to reflect that Moraga and the cities of Lafayette and Orinda had adopted the Lamorinda Fee and Finance Authority (LFFA) fee; revisions to the list of land use definitions in Chapter 3 to provide clarity; a clarification of the language regarding the Town's ability to negotiate the LFFA fees to indicate that applied to the local portion of the LFFA fee and not the entire fee; and a correction to the reference on Page 41 of the study to Table 17, which had been referred to as Table 14. A number of references in the study to the application of the fee to secondary living units had been revised to be consistent with Moraga Municipal Code (MMC), Section 17.04.040 which excluded secondary units from being charged impact fees. Additionally, a suggestion had been made to include the words "open space" in the MMC amendments to Chapter 17.24 to encompass the range of projects that could be funded by the impact fees for parks. All changes would be reflected in a final draft of the Nexus Study assuming the Town Council provided direction to move forward as recommended.

Libby Seifel, Seifel Consulting, Inc., advised of the change of less than one percent, consistent with a Nexus Study where fees were to be proportional to the fees that must be imposed to address the impacts that new development would create.

PUBLIC HEARING OPENED

Charity Wagner, representing City Ventures, asked for clarification on the change in land use classification for attached single-family townhomes with a square footage limit of 1,500 square feet. She questioned whether the limitation had been based on gross square footage or living area. In the future, she recommended that if creating new land use categories and when proposals were brought forward for multi-family units, the Town Council support smaller units that could be built when using the revised classifications. She suggested it would behoove the Town Center to promote smaller, denser units, and they could get more if the revision was adopted.

Ms. Clark clarified the change in land use classification for attached single-family townhomes with a square footage limitation of 1,500 square feet had been based on living area.

Dave Bruzzone, Moraga, stated he had previously made comments in years past, and wanted those comments to be reflected in his statement at this time. He found some aspects of the Development Impact Fees to be inappropriate, and cited the new storm drain fees, which he suggested were highly increased parkland fees, and understood there were many deficiencies in the Town's existing storm drain system, although the impact fees were not intended to pay for existing deficiencies even if they were put into a Capital Improvement Program (CIP), unless

there were direct impacts created by new development. He stated corrections should not be paid with the developer impact fees.

Mr. Bruzzone pointed out that all new projects must mitigate storm drain impacts and limit them to less than peak flows. If new development created impacts, they would not impact the deficient storm drainage areas in the Town, only those directly downstream of the new development. He suggested the Nexus Study had not identified the actual impacts and had pushed costs of improvement onto new development, some of which was his. He also had concerns with the wish list for the park and recreation fees, even if identified on a master plan, these projects would not be paid by any discernable means other than through the impact fees. He asked that the Town Council not take action on the proposal at this time.

PUBLIC HEARING CLOSED

Responding to Mr. Bruzzone's concerns, Ms. Clark explained that the Storm Drain Master Plan had been used as the starting point for the work.

Ms. Seifel advised that a very detailed engineering analysis had been conducted on the Town's storm drain system, they had looked at mitigation on a Town-wide level based on impacts from new and existing development; the Nexus Study specifically only looked at new development's fair share of those improvements and funding a small piece of the entire system; the system had been evaluated as a whole and the approach taken was to only allocate to new development its fair share, a small proportion of the total capital improvement costs, with the rest borne by existing development. That methodology was defensible and standard in the industry.

Ms. Clark explained that all projects would be required to comply with the stormwater control requirements detention and infiltration devices to slow and decrease the storm water entering the system. Those facilities had been designed to deal with a typical storm event and not a large 100-year storm, and the Nexus Study had taken that into account.

Ms. Seifel added that similarly to the storm drain system, there was a Park and Recreation Master Plan where the expanded fee had recognized that beyond the parks there were also recreational facilities that met Town-wide needs in addition to neighborhood needs. The Nexus Study had realistically reflected overall the list of improvements that met park, recreation, and open space needs, and the recreation piece, which had not previously been included, had been added to the equation. She understood in speaking with Town staff that the improvements were projects that were on the Town's CIP list for parks, recreation, and open space.

Assistant Town Attorney Karen Murphy noted that the Town Council had previously considered and approved review of the Annual Report of the Development Impact Fee. The Mitigation Fee Act required the Town to annually report on the progress of the use of those fees and to make certain fees with respect to those fees and the projects.

As to whether an argument could be made that the 2008 Parks and Recreation Master Plan was too old and inadmissible, Ms. Seifel stated she would not make that suggestion. The plan existed, was the guiding plan in existence, and while it could be updated, was not that old. Also, the Town Council looked at the CIP every year or every two years, and was, in effect, updating the plan on an annual or two-year basis.

Responding to Mr. Bruzzone's request that no action be taken and that more work be done on the Nexus Study, Ms. Clark spoke to the already three-year effort on the Nexus Study. She suggested it was a very thoughtful and thorough document and would not require substantial further revision. She stood by the staff recommendation to adopt the resolution, as discussed.

ACTION: It was M/S (Trotter/Metcalf) to adopt Resolution 42-2016 to adopt the 2016 Comprehensive Development Impact Fee Update (2016 Nexus Study); adopt Updated General Government, Public Safety, Storm Drainage, and Park Development Impact Fees; and adopt an Updated Fee In-Lieu of Parkland Dedication; including the changes recommended by staff in the presentation and as reflected in the staff report. Vote: 5-0.

ACTION: It was M/S (Trotter/Metcalf) to waive the First Reading and Introduce an Ordinance Amending Moraga Municipal Code Chapter 8.140: Park Dedications, and Chapter 17.24: Park Development Impact Fee, in the form provided by staff. Roll Call Vote: 5-0.

Vice Mayor Trotter thanked staff for what he described as significant work done since the Town Council had last met on February 24 to discuss the item.

11. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

A. Moraga School District Shared Facilities Use Agreement

Consider Resolution 43-2016 Approving and Authorizing the Interim Town Manager to Execute a Memorandum of Understanding (MOU) Regarding Shared Facilities Use with the Moraga School District (MSD)

Parks and Recreation Director Jay Ingram presented the staff report and recommended the Town Council adopt the resolution approving and authorizing the Interim Town Manager to execute a Memorandum of Understanding (MOU) regarding shared facilities use with the Moraga School District (MSD). Responding to Council, Mr. Ingram reported that he and the Superintendent of Schools for MSD had discussed the core value of sharing community facilities. The Superintendent of Schools then had discussions with MSD Boardmembers who were interested in being community partners.

Responding to the Vice Mayor's concerns with the language in the early termination clause of the MOU, which would only occur if one or the other party defaulted, Assistant Town Attorney Karen Murphy advised that the term of the MOU would be for five years with no specific termination, unlike an agreement the Town had with SMC which was renewable every year. Section 1 of the MOU reflected the five-year term of the MOU, with the MOU able to be terminated by mutual consent or as set forth in Section 15 of the MOU. She acknowledged there was no damage remedy if one party walked away early from the agreement. Section 15.3 of the MOU specifically included a no-damage provision.

Mr. Ingram added that he had the same conversation with the MSD Superintendent of Schools who found the language as presented acceptable.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Councilmember Onoda congratulated the Parks and Recreation Director on a job well done.

ACTION: It was M/S (Arth/Onoda) to adopt Resolution 43-2016 Approving and Authorizing the Interim Town Manager to Execute a Memorandum of Understanding (MOU) Regarding Shared Facilities Use with the Moraga School District (MSD). Vote: 5-0.

B. Appointment to Hillside and Ridgeline Steering Committee

Consider New Appointment of Town Council Representative to the Moraga Hillside and Ridgeline Steering Committee

Planning Director Ellen Clark presented the staff report and asked that the Town Council consider a new appointment of a Town Council representative to the Moraga Hillside and Ridgeline Steering Committee.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Mayor Metcalf explained that he wished to step down as a member of the Hillside and Ridgeline Steering Committee given his concern that the activity was proceeding at a slow pace; there was a potential for back-to-back Committee meetings tentatively scheduled for June which would be arduous for all involved; the difficulty in getting a quorum; and given the work load, the potential for the effort to continue into 2017. He suggested the worst thing that could happen would be to not have the same membership involved in the last phase of the project. He added that he did not intend to run for re-election in November.

Councilmember Wykle volunteered to serve on the Hillside and Ridgeline Steering Committee.

Vice Mayor Trotter expressed his appreciation to the Mayor for his service on the Hillside and Ridgeline Steering Committee.

ACTION: It was M/S (Wykle/Trotter) to appoint Roger Wykle as the new Town Council Representative to the Moraga Hillside and Ridgeline Steering Committee. Vote: 5-0.

12. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Councilmember Arth pointed out that the Town would be faced with a large expense for the repair of the Rheem Boulevard sinkhole, and requested a discussion on the potential sale of the back nine property to the Moraga Country Club as a future agenda item.

Assistant Town Attorney Karen Murphy recommended that staff examine the issue to be brought back accordingly as an open agenda item.

Councilmember Wykle cited recent correspondence received by the Town Council regarding the Palos Colorados Trails and asked whether staff had reviewed the correspondence.

Interim Town Manager Priebe acknowledged that engineering staff would review the matter raised in the correspondence, and it was possible it could be agenized for a Council meeting.

Mayor Metcalf reported that the Contra Costa Transportation Authority (CCTA) would be asking the Town Council to take action on whether or not to support the Transportation Expenditure Plan (TEP). He asked staff to contact the CCTA and determine an appropriate time to make a presentation to the Town Council.

Mr. Priebe reported that the item had been scheduled for Town Council consideration on June 8.

Councilmember Onoda requested a future agenda item to discuss live streaming of all Town Boards and Commissions meetings to ensure transparency.

Vice Mayor Trotter suggested it would be better to have such a discussion during the upcoming budget cycle given his understanding that live streaming of Town meetings would be an expense to the Town.

Mayor Metcalf directed the Interim Town Manager to review the budget ramifications of live streaming Town meetings. If found to be a budget discussion, it should be brought back as such, although if not, the matter could be brought back to the Town Council for discussion.

Mr. Priebe understood that live streaming of Town meetings was not a budget issue but a policy discussion for the Town Council.

13. COMMUNICATIONS

There were no communications.

14. ADJOURNMENT

ACTION: It was M/S (Trotter/Arth) to adjourn the meeting at 8:14 P.M. Vote: 5-0.

Respectfully submitted by:



Marty C. McInturf, Town Clerk

Approved by the Town Council:



Michael Metcalf, Mayor

