



TOWN OF MORAGA REGULAR MEETING

August 24, 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 7:01 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

Town Attorney Michelle Kenyon led the Pledge of Allegiance.

3. SPECIAL ANNOUNCEMENTS

There were no special announcements.

4. PROCLAMATIONS AND PRESENTATIONS

- A. Presentation from Moraga Chamber of Commerce on the Rheem Center Survey Results

Kathe Nelson, Executive Director, Moraga Chamber of Commerce, read into the record the Chamber's mission statement "to advance economic vitality by providing advocacy, information, and services to our members and the Moraga community," and introduced the members of the Chamber who were present in the audience to make the presentation.

Bob Fritzky, Chamber Vice President, described the background and history of the survey to attain feedback from Moraga citizens on the desires for the Rheem Center; provide feedback to U.S. Realty Partners and the community on their desires for shopping and restaurants; and separately to gather input from Saint Mary's College (SMC) students on their desires for the Rheem Center since SMC students were an active, vital part of the Moraga community.

Jeanette Fritsky, Chamber member, detailed the survey design and provided an overview of the survey where 1,084 people had participated through the online survey, with over 50 comments on NextDoor; described the demographics of the Town, SMC, and the participants of the survey; explained that overall comments related to a desire to enhance the shopping center with nicer outdoor surroundings, where special events could be held; and from a “Shop Moraga First” aspect adding value to the community. Only a few people wanted to do away with the center and build something from which the tax base of the Town could be enhanced.

Jay Kerner, U.S. Realty Partners, Inc., stated the survey had identified many ideas the Rheem Center property owners had been considering, which included a renovation and refreshment of the center where Precision Property Measurements had been retained to create a conceptual plan to present to the Town. The main focus would be to create gathering areas within the center with food located nearby to allow outdoor dining, which would entail some landscaping changes, color changes, and a freshening of the storefront and facade elements. The property owners were also interested in local and surrounding area restaurateurs and an expansion of existing businesses or a new concept; they were working on social media, Yelp and using other sources to determine the popular non-chain establishments in the Bay Area that could be encouraged to locate in Moraga.

PUBLIC COMMENTS OPENED

Fred Schroeder, Moraga, a member of the Revenue Enhancement Committee (REC) and Economic Development Committee (EDC) several years ago, stated it would be nice to see some of the issues discussed at that time come to fruition. He noted at that time SMC had been identified as the largest employer in the Town and there had been some interest in a family sports bar/grille which would attract SMC students along with members of the community. He recommended that grocery/supermarket chains beyond the Safeway in Town should be considered, such as Trader Joe’s.

Renee Zeimer, Moraga, also spoke to the past EDC efforts for the Rheem Center and the work that had been done at that time which information she hoped would be considered as part of this effort. She was pleased the Rheem Center had a new property owner to work with and she looked forward to sharing some of the work the community had already done in reviewing the space.

PUBLIC COMMENTS CLOSED

As the Town Council Liaison to the Moraga Chamber, **Councilmember Arth** was impressed with the survey and thanked the Moraga Chamber of Commerce for all its efforts.

Mayor Metcalf also thanked the Chamber for the work, and Mr. Kerner for hosting the Chamber on the property. He recognized the past efforts in the community, the three to four different cycles of effort that had been pursued on the same subject, the change in ownership, and the challenges facing the new property owner. He suggested the fact that the Rheem Center had no parking problem would be a good selling point.

Councilmember Onoda was confident the center would improve once the new property owner moved forward with a facelift.

5. PUBLIC COMMENTS AND SUGGESTIONS

There were no comments from the public.

6. ADOPTION OF CONSENT AGENDA

No Consent Agenda 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 (Arth/Trotter) to adopt Consent Agenda Items 6.1, 6.2, 6.3, (Wykle abstained), 6.4, 6.5, 6.6, 6.7, 6.8, 6.9 and 6.10. Vote: 5-0.

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| 6.1 | Accounts Payable Claims for: 7/1/2016 (\$62,859.42);
7/8/2016 (\$399,308.57); 7/22/2016 (\$378,337.88);
7/26/2016 (50.00); 8/1/2016 (\$10,894.88);
8/5/2016 (\$358,039.23) | Approved |
| 6.2 | Approve <u>Minutes</u> for the Regular Town Council Meeting on
May 11, 2016 | Approved |
| 6.3 | Approve <u>Minutes</u> for the Regular Town Council Meeting on
May 25, 2016 | Approved |
| 6.4 | Approve <u>Minutes</u> for the Special Town Council Meeting on
June 3, 2016 | Approved |
| 6.5 | Approve <u>Minutes</u> for the Regular Town Council Meeting on
June 8, 2016 | Approved |
| 6.6 | <u>Electronic Community Information Sign Status Report</u>
Review and Accept One Year Status Report on Electronic
Community Information Sign Policy | Approved |
| 6.7 | <u>Grand Jury Report No. 1609 "Human Trafficking" Response</u>
Consider and Authorize the Interim Town Manager to Sign and
Submit the Town of Moraga Response to 2015-2016 Grand Jury
Report No. 1609 "Human Trafficking" | Approved |
| 6.8 | <u>Grand Jury Report No. 1614 "Where Will We Live?" Response</u>
Consider and Authorize the Interim Town Manager to Sign and
Submit the Town of Moraga Response to 2015-2016 Grand Jury
Report No. 1614 – "Where Will We Live?" | Approved |

6.9 Grand Jury Report No. 1615 “Truancy in Schools” Response Approved
Consider and Authorize the Interim Town Manager to Sign and Submit the Town of Moraga Response to 2015-2016 Grand Jury Report No. 1615 “Truancy and Chronic Absence in Contra Costa County Schools”

6.10 Continuation of Local Emergency Due to Storm Damage Approved
Consider Resolution 76-2016 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

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 (Onoda/Wykle) to adopt the Meeting Agenda, as shown. 5-0.

8. REPORTS

A. Mayor’s and Councilmembers’ Reports

Mayor Metcalf – Reported that he had attended the Annual Chamber of Commerce Barbecue on August 23 sponsored by Safeway at the Commons Park; gave a presentation to the Lions Club on August 23; and attended Moraga’s National Night Out on August 2.

Vice Mayor Trotter – Reported that he had chaired the Board of Directors meeting of RecycleSmart on July 28; and participated through teleconference in the Special Town Council Meeting on August 11.

Councilmember Arth – Reported that he had attended Moraga’s National Night Out on August 2.

Councilmember Onoda – Reported that she had attended the Special Town Council Meeting on August 11; and had taught a workshop on sketching at the Commons on August 20 for the Centennial “Parks Make Life Better.”

Councilmember Wykle – Reported that he had attended Moraga’s National Night Out on August 2.

- B. Town Manager Update – Interim Town Manager Robert Priebe provided a response to concerns with the number of “No Parking” signs along St. Mary’s Road with nine of the signs having been removed; reported four candidates had filed papers for three Town Councils seats; the work on the piers and wall for the Lower Rheem Boulevard Stabilization Project had been done quickly although the tieback work would not be complete until mid-October when the road work would commence, with the road to be closed through December; the Rheem Boulevard Sinkhole would not be completely repaired during this construction cycle although the Town would conduct winterization work to allow one lane each way to remain open until permanent repairs could commence in April.

Public Works Director/Town Engineer Edric Kwan added that the tieback work for the Lower Rheem Stabilization Project was going slower than anticipated and not as fast as the contractor preferred. He understood no vehicles or debris had been found on the site other than clay and rock and he would review the agreement with the contractor to determine the responsible party for cost overruns. As to the winterization work for the Rheem Boulevard Sinkhole, a contractor had been brought on board to conduct that work with the goal to have the work complete by September 8.

Mr. Priebe added that the other Town pavement projects had been completed including the Lafayette/Orinda project, although he reminded everyone that additional work would commence on Bollinger Canyon on August 29 through September 1, and identified the hours of road closure. The “Slow Down Lamorinda” Campaign had been a success; and Hacienda Nights had also been a success with the next event scheduled for September 9 from 6:00 to 10:00 p.m. In addition, Public Works Parks Maintenance Manager Kyle Salvin had reached his 20th anniversary with the Town of Moraga and Senator Steve Glazer had sent a Certificate of Appreciation in recognition of that career milestone.

Mayor Metcalf acknowledged that the Town Council had met in Closed Session prior to the regular meeting and there was no reportable action from the Closed Session.

9. DISCUSSION ITEMS

There were no discussion items.

10. PUBLIC HEARINGS

- A. **Moraga Town Center Homes (City Ventures Project) Appeal**
Conduct a Public Hearing and Consider Resolution No. 77-2016 Granting the Appeal and Approving the General Development Plan and Vesting Tentative Map for the Moraga Town Center Homes project, Subject to Conditions of Approval *CEQA Status: An Environmental Impact Report (SCH# 2000031129) was previously certified for the Moraga Center Specific Plan, which adequately analyzed the potential environmental*

impacts of the proposed project. No additional CEQA review was required.

Senior Planner Holly Pearson presented the staff report and recommended that the Town Council adopt a resolution granting the appeal and approving the General Development Plan (GDP) and Vesting Tentative Map (VTM) for the Moraga Town Center Homes project, subject to conditions of approval.

Mayor Metcalf identified the process for the public hearing on the appeal.

APPELLANT:

Charity Wagner, Project Manager, Town Center Homes Project, City Ventures, introduced the City Ventures CEO, Principal Architect, and Legal Counsel present in the audience, and asked that the Town Council grant the appeal and approve the GDP and VTM. She presented a PowerPoint presentation for the 36-unit Moraga Town Center Homes GDP and VTM; stated the project was consistent with the General Plan and zoning, Housing Element, Town Guidelines, Moraga Municipal Code (MMC), Moraga Center Specific Plan (MCSP), and the approved Conceptual Development Plan (CDP) from 2015. She identified the project evolution and public process since the initial application had been submitted to the Town in 2012, and stated this was the 14th public hearing on the application in addition to numerous community meetings.

Ms. Wagner also highlighted the May 2013 Planning Commission Study Session discussions and the community meetings held in the summer of 2013; revisions to the project after those discussions leading to a new concept which had been presented to the Design Review Board (DRB) in May 2014 and the DRB discussions and direction during that time; the changes to the project as a result of the May 2014 DRB meeting; and the discussions with the Planning Commission when the CDP was approved in November 2014, which had led to an appeal to the Town Council. On May 13, 2015, the Town Council had upheld the Planning Commission's approval of the CDP, and on May 27, 2015 had approved a rezoning of the project site from Suburban Office (SO) to 12 dwelling units per acre Planned Development District (12-PD-MC); the CDP had included project specific development standards. She described the numerous CDP and PD rezoning design considerations and explained that the GDP had taken into account all of the items on that list and all of the standards in the tables.

Ms. Wagner again asked the Town Council to grant the appeal and approve the GDP and VTM for the Moraga Town Center Homes Project, and find the project consistent with the Town Council's previous approval.

Mayor Metcalf read into the record a section of Resolution 35-2012, which outlined how Town Council meetings were conducted where public comments were limited to three minutes, and where exceedance of the three-minute rule would be allowed only as outlined in the resolution.

PUBLIC HEARING OPENED

Steve Huxley, Moraga submitted written comments to the Council and the public. Having spoken in opposition to the project in the past, he believed the project did not fit

on the subject property since it would create a crowd of multi-family homes along the scenic corridor impacting the semi-rural atmosphere. He preferred to see stacked units placed in the center of the Safeway area of the MCSP in order to protect the scenic corridor. While the project may be consistent with the MCSP, he understood the General Plan trumped the MCSP. He asked that the Town's procedures be clarified to avoid similar conflicts in the future.

Charles Coane, Moraga, preferred that the project be placed on the ballot to allow Moraga residents the opportunity to vote on the project. In his opinion the project was not appropriate for the subject site given the setbacks, proximity to the Moraga-Orinda Fire District (MOFD) property, and the three-acre parcel which was too small for what had been proposed.

Dan Alipaz, Moraga, had supported the Town Council's approval of the project in May 2015 since the Town needed more residents to allow a viable retail community. Having lived in a City Ventures project in another community, he stated that City Ventures produced good work, and in this case had done everything asked of them. He also found that the City Ventures' plan conformed to the Town's General Plan, and he hoped the Town Council would approve the project.

Gerry Tanner, Moraga, understood that City Ventures was a quality group, and he had no issue with City Ventures or with the Bruzzone family, although he disputed statements that the design met the scenic corridor quality and standards. He presented a copy of the MCSP Environmental Impact Report (EIR) and staff report regarding compliance of the development, and read into the record excerpts from a prior staff report and the EIR for the City Ventures Town Center Homes project. He also cited the Sonsara development and adjacent office buildings which complied with Town guidelines and standards. He found the project to be inconsistent with required setbacks, building height, and the project EIR and mitigation measures.

Dick Olsen, Moraga, read into the record written comments to the Town Council dated August 24, 2016; acknowledged he did not have a view of the project site from his residence; spoke to his background as a former Director for the MOFD; and identified his extensive background in fire and emergency medical activity. If the project was approved, he suggested the project would impact MOFD Station No. 41 which might have to move, and noted the MOFD Board of Directors had sent a letter to the Town expressing concern with the project and that some of the problems identified had still not been resolved. He suggested the City Ventures project, as currently designed, would have major impacts on the MOFD and on the health, welfare, and safety of the community which he suggested would be grounds for the denial of the appeal. He asked that the Town Council remand the project back to the Planning Commission and instruct the Planning Commission to do everything reasonable and possible to mitigate the impacts to the MOFD and Moraga residents.

Kevin Gregory, Moraga, disagreed the project would detract from the character of Moraga Way and recognized that the applicant had gone above and beyond what was reasonable to redesign the project over the past four years, particularly since the number of units, building mass, and square footage had been reduced and there were appropriate setbacks and landscaping as well as a park. City Ventures had held eleven

community meetings and numerous DRB and Planning Commission hearings. He urged the Town Council to grant the appeal.

Seth Freeman, Moraga, asked that the Town Council bring the matter back to the Planning Commission which was the reviewing body for the process for development. He found the list of details identified by the developer as part of the prior meetings to be part of the risk taken during the development process, and although those details had been purportedly incorporated into the design plan, this fact did not matter given the Town's multistage process. He was disappointed with the Town Council's reaction to the petition for a referendum that had been circulated, and although it had been found invalid by a judge, it should not have been completely eliminated given the fact that 1,500 residents had expressed a position on the project. He questioned the most recent staff report which had been presented to the Planning Commission, which he characterized as unidirectional, and which had not provided the Planning Commission with any alternatives.

Brigid Wonder, Moraga, spoke to current traffic issues in and out of Moraga which affected residents' quality of life. She suggested the project was not in the best interests of the residents given the three-story buildings, no setback from the street, inadequate parking next to an office building, proximity to the MOFD and inconsistency with the General Plan. She expressed concern that the project would set a bad precedent for the Town. She suggested there were ample reasons to place the matter on the ballot before any more development occurred.

An unidentified speaker suggested it was in the best interests of the community to review the approval process and all of the unresolved issues; setting a precedent that honored the Town's plans, codes, and character. She identified a number of concerns with the development, including violation of numerous policies, code, and process; lack of compatibility with the neighborhood; non-compliance with the MCSP EIR and a precedent for other development. She stated the project did not meet the conditions of the MOFD, nor meet the conditions required to give up the offer of right-of-way (ROW) dedication. She questioned whether the Town would meet its Greenhouse Gas Emission (GHGs) reduction goals with more vehicles on the roads; asked for a separate traffic report to avoid bias; expressed concern that the presentation from staff sounded like it was from the developer; and expressed concern that only one option was being considered although the applicant could be asked by the Town Council to modify the project, or provide alternative direction. She urged consideration of smart development that would honor the Town's plans, codes, and character.

Tom Schnurr, Moraga, supported development and suggested the Town Council had done the right thing to approve the CDP, which was now at the refinement stage. He noted the Town had appointed Planning Commissioners, one of whom had written a 21-page commentary on the process which should be addressed. He asked that the Town Council take the concerns with respect to process into consideration.

PUBLIC HEARING CLOSED

Although the Mayor closed the public hearing, Town Attorney Michelle Kenyon explained that it was a normal practice to allow a rebuttal from the appellant, but it was up to the Mayor whether to allow that to occur, subject to a time limit.

By consensus, the Town Council allowed a five-minute rebuttal from the appellant.

REBUTTAL:

Phil Kerr, CEO, City Ventures, stated he had appeared before the Town Council over the past three years working with the Town and the community on the project. He reminded everyone that City Ventures built projects in infill locations, and City Ventures wanted to build a project where people could live and walk in the downtown area and be near retail. The project was consistent with the MCSP that had been prepared by the Town and approved by the Town Council. He pointed out that while many people wanted less development and did not want to see change, new housing offered an opportunity for new families and growth and rejuvenation. The project offered an opportunity to build 36 townhomes that would not change, ruin, or affect the character of the Town. He emphasized that the project was consistent with the MCSP, General Plan, and design guidelines, and the project had been through the Planning Commission process which had approved the CDP. City Ventures had provided additional detail over and over again at the request of the involved bodies and the community as part of the CDP approval process, and the Town Council had also approved the CDP.

Mr. Kerr suggested that City Ventures risked being caught in a trap where a number of the things that had been previously approved in the CDP were up for reconsideration, creating a problem with the law and a circular process between the Planning Commission and the Town Council. He stated that City Ventures had worked hard to be respectful in working with the Town and its procedures and processes and had been extremely patient. He suggested the process to date had led to a better project which would be a great project for the Town. He asked the Town Council to determine that the GDP was consistent with the CDP at this time. He again emphasized the efforts to meet the goals laid out in the MCSP, General Plan, and the entire process, and asked the Town Council to move forward and approve the GDP and VTM. He also noted that there had been comments in the past suggesting that the Sonsara development would ruin the Town. He encouraged the Town Council to re-read those quotes from previous meetings, stated that Moraga was doing fine with Sonsara, and the same would occur with the City Ventures project which would add vibrancy to the Town.

PUBLIC HEARING CLOSED

In response to the Mayor, Ms. Kenyon explained that the Town Council had received the staff report and that staff was correct in its interpretation of the CDP approvals. She agreed with the staff recommendation that the Town Council uphold the appeal and approve the GDP and VTM.

Councilmember Onoda asked staff to respond to a member of the public's suggestion that mitigation for the project was not consistent with the project EIR and that the mitigation would not work.

Planning Director Ellen Clark clarified that the comments were related to a discussion in the Draft and Final EIR for the MCSP in terms of the internal view corridors for the MCSP area. She affirmed the member of the public was correct in his quote of the discussion in the EIR, and read into the record the entire text of that discussion on what measures should be included in order to preserve the view corridors.

Ms. Clark explained that the discussion did not refer to each development or property including a 50-foot view corridor, but spoke to a block of development which could include multiple properties side-by-side; the 50-foot wide requirement was not a standard specified in the MCSP or the Design Guidelines. The building separations for the project were as specified in the various MCSP tables and were not a mitigation measure. Staff had determined based on an analysis of the California Environmental Quality Act (CEQA) compliance and the project relative to view and scenic corridors, and in the CDP, the view and scenic corridors would be adequately maintained. When the MCSP had been adopted it had been found to be in conformance with the EIR that was prepared at that time. The requirements and intent to preserve the view corridors had been reflected in the development standards adopted in the MCSP.

Mayor Metcalf understood that the Town Council may not go back and change the approved CDP, and Ms. Kenyon explained that the Town Council had to ensure that the GDP was consistent with the CDP. As stated in the staff report, it was true the Town Council did not have the authority unilaterally to amend the CDP in that the Town Council was bound by the approvals it made in the CDP. The task before the Town Council was therefore to determine whether or not the GDP was consistent with the approved CDP.

Responding to Councilmember Onoda, Ms. Kenyon advised that the document a member of the public had referred to was the EIR that was prepared for the MCSP and that the Planning Director had also referenced this EIR. Subsequent to approval of the MCSP, as was true with all proposed developments located within the MCSP area that go through the review process, a project must go through a separate, more detailed environmental review. The CEQA review of the MCSP had involved a more general environmental review; CEQA was also required on a project-specific basis, which had been done for City Ventures. As such, it was not relevant to discuss the environmental review for the MCSP when there was a more focused environmental review for the City Ventures project itself.

Councilmember Wykle expressed his appreciation for all of the research done on the process, affirmed the Town had a three-step development review process, pursuant to the Moraga Municipal Code (MMC) and that several other items were needed for the approval of the GDP including Planning Commission approval of a Conditional Use Permit (CUP), subject to conditions. Given the CUP guidelines which called for other findings to be met, and due to the written process, he suggested there was an opportunity to review some of the items in the GDP and CUP approval process to ensure the best project possible.

Councilmember Arth stated that having read all of the associated material, the staff report and the advice of legal counsel, he would vote to uphold the appeal.

Vice Mayor Trotter emphasized the importance of ensuring that the project addressed all of the legal issues. He acknowledged that there could have been a more conceptual CDP, which would have left a number of open questions to be addressed at the GDP stage but that approach was not supported by many in Town at the time. As a result, much analysis, detail, and changes were made to the plan at the CDP stage addressing concerns by members of the public and the Planning Commission in 2014, and the

Town Council in 2015. Given that input, there were certain constraints on what the Town Council could do, including modifying the density, which had been set at 36 units..

Vice Mayor Trotter added that he had served on the MCSP Subcommittee when the Town had worked on the MCSP. In addition there was a current effort to work on thorough zoning code revisions to do a better job of implementing the MCSP in the future. The next MCSP Implementation Project Subcommittee meeting was scheduled for August 25. He reiterated that while the Town Council could have considered a very conceptual process during the CDP stage, that had not been done. The Town Council had looked specifically at scenic corridor issues and spacing between the buildings, and had required changes to the design of the project to provide greater distances between the buildings to ensure views of significant ridgelines were not impacted by the project. Simulations and visualization materials had been provided by the developer during that process, with the Town Council concluding, as modified, that the project was consistent with the MCSP and in general terms the Town's scenic corridor guidelines. The project before the Town Council now was the result of that process.

Vice Mayor Trotter commented that the Town Council was bound by the findings and decisions made in approving the CDP, and he was inclined to uphold the appeal, although that did not mean that some of the conditions could not be revised consistent with the existing footprint, which might be something the Town Council could further discuss.

Mayor Metcalf spoke to the fact that the Town Council must uphold the law, and he had faith in the MMC and the Town's guidelines and having good staff to interpret the laws; legal counsel who had been with the Town of Moraga for many years and whose staff had done a lot of work to ensure this project and others were consistent with the laws; and the Town's processes were followed properly. Based on the advice of legal counsel that the project met those requirements, he agreed with the Vice Mayor.

Mayor Metcalf added that he had been a Planning Commissioner for six years and was aware of the process for a CDP, which process usually did not have refinement until reaching the GDP and Precise Development Plan (PDP) stages. In this case, there had been a request for more detail during the CDP stage. He agreed the applicant had done everything they had been asked to do, as reflected by the many meetings with the community and governing bodies of the Town over a period of time. He too had been a member of the MCSP Subcommittee and emphasized the time and effort to get the MCSP approved, which had involved public participation. He clarified the General Plan had been adopted by the Town Council after a lengthy process in 2002. He stated the project was right for the Town, a position he had maintained from the start; the development, in the center of Town, was close to public transportation, would be close to retail and would improve an unattractive vacant lot. He did not see that further revisions would address the complaints and he would uphold the appeal.

Councilmember Onoda agreed that City Ventures had come a long way since the initial concept, and having attended the community meetings she was well aware of the discussions. She acknowledged the concerns raised by a resident about the Town's three-step process, which had served the Town well. She cited the Palos Colorado development, in which between the CDP and GDP stages, the golf course component had been eliminated from the plan and the Town received \$17 million. Also for the

Rancho Laguna II project, between the CDP and GDP stages, two homes had been relocated from the top of the ridge to the bottom and a mature tree designated as important along Rheem Boulevard which had later been removed, had resulted in the developer paying \$10,000 to the Town.

While the three-step process had served the Town well in the past, **Councilmember Onoda** found it was flawed given the current CEQA requirements at the CDP stage. She suggested another flaw was the MCSP process took too long, with the results allowing zero setbacks which only made sense in the core of the downtown. She requested that staff, the Planning Commission and the DRB, follow the Town's Design Guidelines, which were in place to protect the community. Consistent with her last vote on the CDP, she would vote to deny the appeal.

Vice Mayor Trotter reiterated that as part of the MCSP Implementation Project Subcommittee process, there was an opportunity to discuss the issues raised with respect to the MCSP. He suggested there was a good chance for targeted amendments to the development standards as part of that process which was continuing but which would not apply to the subject project since it had an approved CDP and adopted development standards. In terms of the examples offered by Councilmember Onoda between the CDP and GDP stages, he pointed out those changes had not occurred as a result of the three-step process. Changes to the Rancho Laguna II project had been made since the applicant had voluntarily agreed to make those modifications which occurred during the CDP and GDP stages. In this case, the applicant could not be forced to make changes although there was a process that could be followed voluntarily.

In terms of the Palos Colorados project, **Vice Mayor Trotter** stated he had been involved in some of the early hearings in the mid-1990s. That project was approved at the Town Council level in 1999. Several years later, as part of a settlement the golf course was eliminated from the project because the developer had been unable to obtain approvals necessary to build the golf course. This involved a voluntary renegotiation of the settlement agreement resulting in the Palos Colorados Developer Fund. These changes were not imposed by the Town following CDP approval.

Councilmember Arth offered a motion to adopt Resolution 77-2016, granting the Appeal and Approving the General Development Plan and Vesting Tentative Map for the Moraga Town Center Homes Project, Subject to Conditions of Approval.

Mayor Metcalf seconded the motion.

On the motion, **Councilmember Wykle** commented that given the issues with the MCSP; concerns with the building separation; whether it was the best development for the Town; concerns raised by a member of the Planning Commission with the procedures that should be followed pursuant to the MMC; and that additional conditions could be considered in the GDP and CUP; he would vote to deny the appeal.

Vice Mayor Trotter suggested the additional language proposed in Attachment B, Draft Conditions of Approval, as shown on Page 11, revising Conditions 63 and 64, as shown on Page 14 of the August 24 staff report, would be appropriate. He asked that the maker of the motion and second agreed to those revisions. He disagreed with the

recommendation to revise the first sentence of the first paragraph under General Development Plan Finding (d) on Page 7 of Attachment A, as shown on Page 14 of the staff report, and asked that the motion not include that revision.

Councilmember Arth as the maker of the motion and **Mayor Metcalf** as the second to the motion accepted the changes.

ACTION: It was M/S (Arth/Metcalf) to adopt Resolution 77-2016, Granting the Appeal and Approving the General Development Plan (GDP) and Vesting Tentative Map (VTM) for the Moraga Town Center Homes project, Subject to Conditions of Approval; with Modification to Attachment B, Draft Conditions of Approval, as Shown on Page 11, Revising Conditions 63 and 64, as shown on Page 14 of the August 24, 2016 staff report. Vote: 3-2. Noes: Onoda, Wykle

Mayor Metcalf declared a recess at 9:42 p.m. The Town Council meeting reconvened at 9:51 p.m. with all Councilmembers present.

11. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

A. Community Needs and Priorities Survey

Receive Report on Results of Community Needs and Priorities Survey
Conducted by Godbe Research and Provide Direction to Staff

Planning Director Ellen Clark presented the staff report and asked that the Town Council receive the report from Godbe Research on the Community Needs and Priorities Survey and provide direction to staff.

Charles Hester, Vice President, Godbe Research, presented a PowerPoint on the Town of Moraga Community Priorities Survey dated August 2016; outlined the overview and research priorities; the methodology used; and detailed the key findings/responses to the series of questions contained in the survey. He also identified Appendix A, Demographic Information, used for cross tabulations to ensure the survey results were representative of the larger Moraga community and not those who had been contacted as part of the survey. In addition, he commented that Godbe Research had not tied willingness to pay to the importance of services, which was typically done as part of a revenue measure survey.

Responding to the Council, Mr. Hester advised he could relay through staff the cross tabulation information on the age groups for the demographics in terms of some of the questions that had been asked; and acknowledged the survey had taken longer than expected due to other community surveys, and concerns with fatigue in the community and the need to ensure a good response rate and representation. He clarified the validity and confidence level of the data, and again outlined the methodology used for the survey and the confidence the data was valid based on the algorithms used in political polling, which process had also been used by the Town for the recent sales tax measure. If the Town were to consider an initiative in the future based on the survey results and the direction of staff and the Town Council, Godbe Research would be able to track the impact in terms of increase in satisfaction, importance, or a decrease in satisfaction.

Mayor Metcalf commented that as part of the Revenue Enhancement Committee (REC) efforts, the various financial indicator performers of the peer group had been reviewed to determine that the peer group for Moraga included the cities of Lafayette, Orinda, Clayton, Piedmont and sometimes the Town of Danville. In comparison, the Town's performance measured to those communities was telling and he asked whether the survey could be compared to Lafayette and Orinda.

Mr. Hester affirmed the source could be compared to a survey done in Lafayette but which was related to a revenue measure. He could also consider analogous communities in the South Bay which were similar but a bit larger in population size than Moraga, although Moraga did not provide the same level of service as many of the other communities, with Moraga spending more money in parks and public safety but less for library services and the like. He recommended staff be provided the questions that could be asked.

PUBLIC COMMENTS OPENED

Jeanette Fritzky, Moraga, asked how Town services had been described in the survey, to which Mr. Hester identified the specific question related to Town services for satisfaction importance as detailed in the survey, and highlighted the responses received.

Ms. Fritzky also asked how the survey had differentiated the question related to the Town's finances in terms of how the Town was doing financially, and questions as to how the money was being spent, with Mr. Hester explaining that the question asked of the respondents was only about the financial condition of the Town and not questions as to how Town funds were being spent.

Kymberleigh Korpus, Moraga, inquired of the estimated cost and time to conduct a survey to tie the types of features, benefits, and services residents would like to see and what they would be willing to pay for those services.

Mr. Hester explained that the cost could be in the \$25,000 to \$28,000 range, but he would like a larger discussion with the subcommittee and staff with clear direction including the election cycle and possible revenue measures that could be considered.

PUBLIC COMMENTS CLOSED

Vice Mayor Trotter thanked Mr. Hester for his services which the Town had previously used for the adoption of Measure K. He wanted to see a program in place prior to any polling consideration.

Mayor Metcalf agreed a program should be in place, with the next Town Council to determine the needs of the community and identify the price tag and then ask the community whether they were willing to pay for it.

Interim Town Manager Robert Priebe also expressed his appreciation to Mr. Hester for all of his work and effort on behalf of the Town.

B. All Access Playground Project

Consider Resolutions ___-2016 Approving the Recommendation of the Park and Recreation Commission to Complete Site Development for a Lamorinda All Access Playground, to be Located on the Moraga Commons Park, Option 3, and Authorize the Expenditure of \$133,000 from One Time Developer Fees - Fund 100 (Palos Colorados)

Parks and Recreation Director Jay Ingram presented the staff report and recommended the Town Council approve the recommendation from the Park and Recreation Commission to complete the site development for a Lamorinda all access playground, to be located in the Moraga Commons Park, Option 3, and authorize the expenditure of \$133,000 from Fund 100 – One Time Developer Fees (Palos Colorados).

Responding to the Council, Mr. Ingram clarified Option 3 and the potential for conflict with other uses such as the Veterans' Day ceremony held annually in Commons Park under the trees. He acknowledged that had been an issue raised by a community member after tours of the site options. He had reviewed the site and photographed the Veterans' Memorial Rock, and based on the measurements of the viewing area and the number of chairs that could be placed in that area for the Veterans' Day ceremony, there would still be adequate viewing space.

In response to a recommendation to reduce the square footage of the playground and shift it back away from the walk to the Veterans' Memorial Rock with a better job of dealing with potential use conflicts without taking away any utility of the playground, Mr. Ingram explained he had discussions with Moraga Rotary which wanted to stay at 5,500 square feet. Moraga Rotary had identified the specific pieces of equipment, conducted outreach, and had a good mix of equipment, and any scale back of equipment should be addressed by the Moraga Rotary.

Mr. Ingram added that the past use of the area by a kindergarten soccer group had not occurred in the park for the last two years.

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

PUBLIC COMMENTS OPENED

Kevin Reneau, Moraga, Moraga Rotary, commented that the space between equipment was a code compliance issue. He clarified that Moraga Rotary was not insistent upon a specific square footage but emphasized the aggressive fundraising campaign that Moraga Rotary would embark upon, effort to address the disabled community, and ensure the play equipment would meet a side-by-side all access playground serving the underserved element of the community. The Park and Recreation Commission had approved the project and while Moraga Rotary had no vested interest in one location, it understood the associated costs and found Commons Park would be the best location. Moraga Rotary supported the Park and Recreation Commission recommendation and sought a decision from the Town Council to allow the fundraising efforts to commence.

Jeanette Fritzky, Moraga, Chair of the Park and Recreation Commission, clarified the Commission had discussed the potential for conflicts with the Veterans' Memorial Rock

but determined the project was still viable. She liked the full array of equipment, although having met with Mr. Ingram and some of the Moraga Rotary members, they had discussed finding a place that would best suit the playground, and then determine in that footprint the number of pieces that could be considered to benefit the community.

Mike McCluer, Moraga, member of Moraga Rotary, also spoke to the amount of time spent in speaking with special needs groups, and once those needs had been understood they had met with the equipment manufacturers to determine the appropriate equipment. While the project could be fine-tuned, he suggested changing the footprint would change the work that had been done. He emphasized the need for a special needs playground but did not see it had to be integrated with other playgrounds. He also understood the importance of the cost and as a Moraga Rotary member and Moraga citizen, given the cost estimates for the options, a frugal use of the funds would allow funds to be used for other projects. He emphasized that the Commons Park was Moraga Rotary's first choice.

Graig Crossley, Moraga, strongly supported the Moraga Rotary, its playground project, and Option 2, which would co-locate the playground with other playgrounds, would be centrally located in Town, leave intact the open area from the Veterans' Memorial Rock to the tot lot area, and would be \$22,000 more than Option 3, pursuant to the staff report. Option 2 would also not detract from the Biondi Fountain, the Veterans' Memorial Rock, and the large open space and would leave the large trees intact. He encouraged the Town Council to support Option 2.

Mr. Reneau commented that it might be possible to move the Veterans' Memorial Rock towards the flagpole, although that could add to the cost.

Mr. Ingram commented that not much additional viewing space would be gained by moving it towards the flagpole.

Kymerleigh Korpus, Moraga, opposed the option near the Veterans' Memorial Rock given the annual events held around Veterans' Day, and stated that end of the park was particularly beautiful with arching trees offering a shaded area, and open passive space. Options that placed the playground on the north side of the water feature were not a good idea either since it too would crowd the water feature and centralize the structure too much creating a walled effect. She suggested that location of the playground near the existing playground/tot lot, as shown in Option 2, was the most appropriate. She did not like the idea of the new playground being placed around the tot lot. Rather, she suggested the bulk of the area near the parking lot and the picnic area be elongated and brought more towards the front of the park rather than be stretched out back and behind.

Bill Carman, Moraga, a member of the Park and Recreation Commission who had abstained from the vote on the Park and Recreation Commission's recommendation, favored Option 3, but could also support Option 2.

Evie Michon, Moraga, a member of the Moraga Rotary, emphasized the need for an all access playground pursuant to statistics for disabled children.

In response to the Council, Mr. Ingram spoke to Option 2, and identified the usable flat area with the desire to connect the playground to the other play elements. He identified a row of existing mature oak trees in the park area, and commented that he had spoken with the playground designer as to whether those trees could be preserved, although that was not recommended given the rubberized surface of the playground and the fall zones required. He added if the area shown in Option 2 was extended, there were smaller children picnic areas and one to two adult picnic areas that could be impacted. He also clarified the disparity in cost estimates between Options 2 and 3.

Mayor Metcalf suggested the elimination of the tail in Option 2.

Councilmember Onoda disagreed that the playground should be at the Commons Park, suggesting it would be better placed at Rancho Laguna Park. She also questioned the Town spending upwards of \$154,000 given the Rheem Boulevard sinkhole repair costs and the fact the Town would not be reimbursed for the repair costs for years. She found that the option placing the playground near the Veterans' Memorial Rock was isolated. She added the all access playground would provide a structure for all abilities and did not need to be integrated. As the parent of a child with autism, her child suggested a quieter playground would work better for her than one with a lot of people.

<p>ACTION: It was M/S (Metcalf/Arth) to extend the Town Council Meeting to 11:45 P.M. Vote: 5-0.</p>

Mr. McCluer spoke to Option 2 and identified an elevational change which had increased the cost of Option 4, which had a grade differential. In addition, from the parking lot at St. Mary's Road a wheelchair would be going down a bit of a grade which should be considered as part of Option 2.

Mr. Crossley pointed out the elimination of the tail eradicated a number of the differences in grade and eliminated much of the fencing.

Mr. Reneau commented that the Commons Park had been considered because of the strong public sentiment for a centralized location. It also helped from a fundraising standpoint for the Rotary since no one was aware of the Rancho Laguna Park location and the Commons Park offered a wider access to Lamorinda users. In response to the Vice Mayor, he agreed that if Moraga Rotary were able to raise monies above and beyond the cost for the installation of the equipment, as a group it might be willing to discuss whether those additional funds could be donated to the Town to assist in the cost of site preparation.

Councilmember Onoda added the area near the Veterans' Memorial Rock was where the high school students had their prom pictures taken and it would not be picturesque to have the photographs near play equipment.

Vice Mayor Trotter recommended that the Town Council direct staff to work with the Moraga Rotary on the possibility of revising Option 2, and sought assurance the access would be sufficient, with potential revising of the tot lot area and moving equipment around so that it could be integrated in an optimal way.

Mr. Ingram commented that access from where people accessed the lower tot lot now would have to be reviewed, and that access from the Lamorinda Trail might have to be regraded or sloped down.

Mr. Crossley expressed the willingness to work with Mr. Ingram to address any issues on the Lamorinda Trail but understood that access from the loop side of the trail would not be an issue; he did not see that as a significant grade difference.

Councilmember Arth strongly preferred Option 2, did not like the long tail design, commented that placing equipment there with the remainder of the equipment in the main bulb and a fence was unworkable, and he wanted to see more work done on Option 2 to remove the tail, and preferred the location at the Commons Park as opposed to Rancho Laguna Park.

In response to Councilmember Onoda, Mr. Ingram acknowledged the preference if the tail was eliminated for the trees to be preserved since they provided shade for both playgrounds if placed next to one another.

PUBLIC COMMENTS CLOSED

Mayor Metcalf reiterated the direction of the Town Council to work with Option 2, and minimize incursions on trees and existing amenities, with the elimination of the tail, which would allow the Rotary to proceed.

Vice Mayor Trotter supported the staff recommendation for the use of One Time Developer Fees - Fund 100, although he would like to find a way to reduce those costs which was why he was confident that Rotary would raise more funds than needed.

ACTION: It was M/S (Trotter/Metcalf) to offer Town Council support for modifications to Option 2, to do a better job of integrating the proposed location of the All Access Playground with the existing tot lot; possibly move the area a bit further to the south so that it did not interfere or cause problems with accessibility; the Town Council authorizes expenditures from the One Time Developer Fees - Fund 100 (Palos Colorados) not to exceed \$155,000 to pay for the site preparation estimate of costs as set forth in the August 24, 2016 staff report; subject to the proviso that the Town Council may have a future dialogue with Moraga Rotary as to possibly defraying the cost in the future; and direct staff to bring the matter back with a modified Option "2A," based on the input received both from the Town Council and from the public. Vote: 4-1. Noes: Onoda.

12. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Councilmember Wykle reported that he had received an e-mail about the SummerHill Homes/Camino Ricardo Project and violations related to unauthorized work on a Saturday, and asked that a future agenda item consider the ongoing violations by SummerHill Homes.

Mayor Metcalf suggested the matter was a code enforcement issue to be handled by staff.

Ms. Clark reported that fines had been issued to contractors who had violated the no work on Saturday regulations and the same would apply to SummerHill Homes.

13. COMMUNICATIONS

The Town Council acknowledged the receipt of the following:

- A. Letter Regarding Donation Towards Gateway Signage from the Moraga Movers dated August 4, 2016
- B. Press Release Regarding the 30-Year Transportation Expenditure Plan from the Contra Costa Transportation Authority (CCTA) dated July 27, 2016

14. ADJOURNMENT

ACTION: It was M/S (Arth/Onoda) to adjourn the meeting at 11:42 P.M. Vote: 5-0.

Respectfully submitted by:



Marty C. McInturf, Town Clerk

Approved by the Town Council:



Michael Metcalf, Mayor

