



**TOWN OF MORAGA  
REGULAR MEETING**

**April 14, 2021  
MINUTES**

**6:30 p.m. Regular Meeting**

**TELECONFERENCED MEETING LOCATION ONLY**

**\*COVID-19 NOTICE\***

**THIS MEETING WAS CONDUCTED PURSUANT TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDERS N-25-20 AND N-29-20, WHICH SUSPENDED CERTAIN REQUIREMENTS OF THE BROWN ACT, AND PURSUANT TO THE ORDERS OF THE HEALTH OFFICER OF CONTRA COSTA COUNTY INCLUDING THE MOST RECENT ORDER DATED FEBRUARY 25, 2021 AND OTHER SUBSEQUENT ORDERS WHICH PERMITTED THE TOWN TO CONDUCT ESSENTIAL BUSINESS UNDER THE ORDER AS AN ESSENTIAL GOVERNMENTAL FUNCTION**

**Consistent with Executive Orders Nos. N-25-20 and N-29-20 from Governor Gavin Newsom and the Contra Costa County Health Officer Orders including the most recent dated February 25, 2021, the April 14, 2021 regular meeting was not physically open to the public.**

***All Town Councilmembers and Town staff participated in this meeting via teleconference (Zoom webinar)***

**1. CALL TO ORDER**

The regular meeting was called to order at 6:57 p.m. by **Mayor Mike McCluer**.

**ROLL CALL**

Councilmembers present: Mayor Mike McCluer, Vice Mayor Steve Woehleke, and Councilmembers Teresa Onoda, Renata Sos and David Stromberg

Councilmembers absent: None

**2. PLEDGE OF ALLEGIANCE**

**Mayor McCluer** led the Pledge of Allegiance.

**3. SPECIAL ANNOUNCEMENTS**

**Mayor McCluer** reported the Town Council had met in Closed Session and the meeting would continue after the conclusion of the Regular Town Council meeting.

**4. PROCLAMATIONS AND PRESENTATIONS**

- A.** Presentation on the Canyon Road Bridge Project Phase 2 Construction to Begin April 15, 2021

Public Works Director/Town Engineer Shawn Knapp provided a PowerPoint presentation on the Canyon Road Bridge Replacement Project Update, Season 2 Construction, which included photographs of the project site, an overview of the project background, and the details on the completion of Season 1 which included the construction of the inbound lane and approaches and continued use of the temporary bridge as the primary one-way traffic in and out of Town. In November 2020, the Phase 1 Soft Opening occurred, and the temporary bridge was removed. Season 2 construction included the start of construction of Phase 2: outbound lane and approaches, including all pedestrian amenities such as lighting, multi-use path, bike lanes, connection to the Lafayette-Moraga Regional Trail which was expected to be completed in November 2021.

Mr. Knapp added that there had been a number of landslide and slip planes from the landslides on the adjacent property which had occurred under the previous bridge. He identified that the foundation of a portion of the temporary bridge would remain in place to protect the permanent bridge from the hillside. An artist's rendering of the completed project was displayed and the grant funding which had been secured for the project identified.

**PUBLIC COMMENTS OPENED**

**Mayor McCluer** reported no comments had been received for this item.

**PUBLIC COMMENTS CLOSED**

The Town Council complimented and applauded the Project Team and Town staff on what was described as the most ambitious project for the Town of Moraga; urged staff to keep up the good work; and appreciated the continued updates and communication with the public which had been strong and transparent.

Town Manager Cynthia Battenberg clarified that staff did not expect a budget shortfall for the project and all expenses would end up qualifying for the grants secured.

Mr. Knapp anticipated that all expenses from the bridge project would be budgeted through the grant process. He clarified that Caltrans had increased their project budget amount and the Town's contribution, which was being funded by Measure J, had been reduced.

**B. Presentation from East Bay Municipal Utility District (EBMUD) on the Moraga Creek Flood and Erosion Control Project**

Elizabeth Bialek, Manager of Engineering Services, East Bay Municipal Utility District (EBMUD), introduced the Project Team present via Zoom; described the services provided by EBMUD to its customers; and detailed the Moraga Creek Flood and Erosion Control Project related to the 2016 and 2017 landslides that had occurred below Augusta Drive and adjacent to Moraga Creek, involving a number of parties. In 2020, the affected property owners had reached an agreement to develop a coordinated solution to address slope movement in the area. EBMUD, in collaboration with the Town of Moraga and the East Bay Regional Park District (EBRPD), had explored the feasibility of repairing the slide area and restoring the creek by constructing an earth retaining system that spanned the slides in the area, supported the hillside below Augusta Drive, and protected the integrity of the Town of Moraga's new Canyon Road Bridge, while also providing EBRPD with an area to restore the trail in the area.

To assist with funding, EBMUD had been granted a \$3 million grant from the Federal Emergency Management Agency (FEMA). EBMUD was happy to be moving forward with the repairs with its partner agencies, including the Town of Moraga.

Samuel Gambino, Associate Engineer and Project Manager, EBMUD, provided a PowerPoint presentation of the Moraga Creek Flood and Erosion Control Project which identified the EBMUD Project Team; overview of the project site/footprint; slides of the existing conditions in June 2020; with the project intended to stabilize the hillside with the installation of a terraced earth retention structure, add the path back in a temporary condition to be completed by the EBRPD, with final grading and landscaping to be completed by EBMUD. Section and profile views of the proposed retaining system were also provided along with site access and equipment staging; construction sequencing for Season 1 (which would overlay with Season 2 of the Town's Canyon Road Bridge Project Season 2) and Season 2; the tree removal and replacement plan; environmental considerations; requirements to protect the creek; noise and vibration prevention; and the project coordination including presentations to the Town Council, Moraga Country Club Homeowners' Association (HOA), EBRPD, and meetings with the community.

Conceptual project renderings were provided with views of the slope reconstruction and a view of Canyon Road. All work would occur Monday through Friday 8:00 a.m. to 5:00 p.m. Season 1 had been scheduled for summer 2021 to fall 2021. Season 2 was scheduled for spring 2022 to fall 2022, including the restoration of the underground water main on Augusta Drive.

Next steps would include: the award of contract on April 27, 2021; conduct pre-construction surveys in May 2021; Notice to Proceed in May or June 2021; and contract permits with the Town of Moraga after the Notice to Proceed.

A separate project to restore the Lafayette-Moraga Regional Trail on the EBMUD property was being coordinated with the East Bay Regional Park District (EBRPD). The construction schedule for trail restoration had not yet been determined.

Responding to the Council, Mr. Gambino and Ms. Bialek clarified that EBMUD had been working with the Moraga Country Club HOA throughout this process with the one access point from the southern end of Westchester Street through the cul-de-sac. Throughout the design of the project, EBMUD had also met with the Moraga Country Club HOA Board of Directors and General Manager and with the Town of Moraga to address community concerns.

Mr. Knapp shared that the Town of Moraga and EBMUD had been working together for years to coordinate the project, and as part of the public outreach, EBMUD had hosted a number of meetings and had held separate specialized meetings with the Moraga Country Club HOA and the General Manager, meetings with the Town Council, and community meetings. Significant outreach had been made by both the Town and EBMUD for the project which had dedicated websites.

Mr. Gambino and Ms. Bialek further clarified the engineering methods for the project; the noise and vibration prevention methods to be used; staging area at Westchester Street; and EBMUD's discussions with the EBRPD regarding the use of the temporary bypass trail which had not yet been finalized.

#### PUBLIC COMMENTS OPENED

**Mayor McCluer** reported no comments had been received for this item.

#### PUBLIC COMMENTS CLOSED

**Councilmember Sos** thanked EBMUD for the presentation and engagement which benefitted everyone. She found the project to be a great development and looked forward to using the trail towards the staging area.

**Vice Mayor Woehleke** was also pleased to see the project move forward which was important for the Canyon Road Bridge project, the Town of Moraga and Contra Costa County. He commended EBMUD for its community engagement.

**Mayor McCluer** also thanked EBMUD for the project which was important for EBMUD, the Town of Moraga and its residents. He understood per the Public Works Director/Town Engineer that the project offered a good plan and he thanked EBMUD for its collaboration. He looked forward to Season 1 and the protection of Canyon Road Bridge.

Town Manager Battenberg reported there were technical difficulties with the Livestream recording which staff was attempting to resolve. She shared that the meeting was being recorded and audio would be posted on the Town website, and that interested parties were still able to participate via Zoom webinar.

The Town Council proceeded with the meeting agenda at this time.

## 5. PUBLIC COMMENTS AND SUGGESTIONS

**Mayor McCluer** reported no comments had been received for this item.

## 6. ADOPTION OF CONSENT AGENDA

### A. Acceptance of Consent Items

PUBLIC COMMENTS OPENED

**Mayor McCluer** reported no comments had been received for this item.

PUBLIC COMMENTS CLOSED

**ACTION: It was M/S (Stromberg/Woehleke) to adopt Consent Agenda Items 6.1, 6.2, 6.3, 6.4, and 6.5, as submitted. Roll Call Vote: 5-0.**

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|-----|--|----------|
| 6.1 | Receive <u>Accounts Payable</u> Claims for: 03/26/2021 (\$123,813.35)  | Approved |
| 6.2 | Approve <u>Minutes</u> for the Town Council Regular Meeting on February 24, 2021   | Approved |
| 6.3 | Approve <u>Minutes</u> for the Town Council Special Meeting on April 7, 2021   | Approved |
| 6.4 | <u>NPDES Rate Per Equivalent Runoff Unit</u><br>Consider Resolution 17-2021 Continuing the Existing Rate per Equivalent Runoff Unit (ERU) for FY 2021/22 of \$35 per ERU as the Annual Assessment for Drainage Maintenance and the National Pollutant Discharge Elimination System (NPDES) Program   | Approved |
| 6.5 | <u>Accessory Dwelling Units Ordinance</u><br>Consider Waiving the Second Reading and Adopting Ordinance 296 Amending Moraga Municipal Code Section 8.04.020, Definitions and Repealing and Replacing Chapter 8.124 of the Moraga Municipal Code, Accessory Dwelling Units of Title 8, Planning and Zoning, of the Town of Moraga Municipal Code<br>(CEQA Determination: Exempt Pursuant to Public Resources Code | Approved |

**B. Consideration of Consent Items Removed for Discussion**

No items were removed from the Consent Agenda for discussion.

**7. ADOPTION OF MEETING AGENDA**

**ACTION: It was M/S (Sos/Onoda) to continue Item 8. Reports, 8. A. and 8. B. to the next regularly scheduled Town Council meeting. Roll Call Vote: 5-0.**

**ACTION: It was M/S (Sos/Stromberg) to continue Item 9. Discussion, 9. A. Discussion of Installation of Solar on the Town Hall Building at 329 Rheem Boulevard and the Moraga Library at 1500 St. Mary's Road to whatever date made sense given the press of other business. Roll Call Vote: 2-3. Noes: Onoda, Woehleke, McCluer.**

**Councilmember Sos** offered a motion, seconded by **Councilmember Onoda**, to continue Item 11. Ordinances, Resolutions and Requests for Action, 11. A. Update on the Town's New Website and 11. C. Town Council Protocols Amendment.

In response to the Mayor, Ms. Battenberg saw no problem with continuing the items as proposed.

**ACTION: It was M/S (Sos/Onoda) to continue Item 11. Ordinances, Resolutions and Requests for Action, 11. A. and 11. C. Roll Call Vote: 5-0.**

**ACTION: It was M/S (Sos/McCluer) to Retain Item 11. Ordinances, Resolutions and Requests for Action, 11. B. Lower Rheem Boulevard Stabilization and Road Repair Project on the meeting agenda. Roll Call Vote: 5-0.**

**Councilmember Sos** offered a motion, seconded by **Vice Mayor Woehleke** to continue Item 12. Council Requests for Future Agenda Items, to the next regular Town Council meeting.

**Mayor McCluer** commented it was possible after the conclusion of the discussion of Item 9. A., a Councilmember might request a future agenda item to move that discussion item to a future agenda item. As such, he recommended agenda Item 12 not be continued.

**Councilmember Stromberg** suggested an alternative motion to have Item 9. A. stipulated to be moved as a future agenda item but the Mayor noted the motion had already been made and failed by a vote of 2-3.

**Councilmember Sos** suggested for multiple reasons including a desire to have more information on solar panels and in context with the Climate Action Plan (CAP), she would be more in favor of Item 9. A. being a future agenda item than a Discussion Item, and **Councilmember Stromberg** concurred.

**Councilmember Sos** asked for a vote on her motion to continue Item 12. Council Requests for Future Agenda Items to the next regular Town Council meeting. She asked the Assistant Town Attorney to opine on Councilmember Stromberg's recommendation to put Item 9. A. as a future agenda item in lieu of this evening's discussion.

Assistant Town Attorney Denise Bazzano acknowledged Councilmember Stromberg's recommendation to move Item 9. A. as a future agenda item in lieu of tonight's discussion which would be an alternative motion to the motion already made and appropriate as a new motion.

**Councilmember Stromberg** understood an alternative motion would precede the vote on the current motion, and Ms. Bazzano clarified the maker of the motion could amend their motion or a substitute motion could be offered.

**Councilmember Stromberg** offered a substitute motion for the Town Council to table discussion on Item 9. A. and in lieu refer to it as a future agenda item where staff reports could be prepared.

**Councilmember Sos** accepted and seconded the substitute motion.

Ms. Bazzano clarified the motion was a substitute motion to the motion originally made and which negated the original motion.

On the discussion, Ms. Battenberg explained that discussion of solar on Town facilities would be a project for the Town Council to consider and discuss as part of its Five-Year Capital Improvement Program (CIP), which staff hoped to present to the Town Council on April 28, 2021. Staff would provide an outline (not a staff report) on what the project would be and the Town Council could then decide whether or not it wanted to consider that for the next year.

**Vice Mayor Woehleke** suggested there was no staff report or work required by staff since the discussion was more of a scoping session. He said it was not clear what they were pursuing and commented that his thoughts on this issue were much broader than just solar panels for the Town building at 329 Rheem Boulevard.

#### PUBLIC COMMENTS OPENED

**Mayor McCluer** reported no comments had been received for this item.

#### PUBLIC COMMENTS CLOSED

**Councilmember Stromberg** agreed the Town Manager's comments that consideration of solar on Town facilities would be brought back to the Town Council as part of the CIP information, was soon enough for him to have the item come back for Town Council's due consideration.

**Mayor McCluer** wanted to hear the original idea and discussion.

**ACTION: It was M/S (Stromberg/Sos) to table the discussion on Item 9. A. and in lieu refer to it as a future agenda item where a staff report would be prepared. Roll Call Vote: 2-3. Noes: Onoda, Woehleke, McCluer.**

Ms. Bazzano advised the substitute motion failed. The Town Council could return to the original motion, offer a substitute motion, or discuss remainder of the meeting agenda and then proceed.

**ACTION: It was M/S (Woehleke/Onoda) to retain agenda Item 12. Council Requests for Future Agenda Items, as proposed. Roll Call Vote: 5-0.**

Ms. Bazzano recommended the Town Council formalize the two remaining agenda items in a motion as the revised agenda.

**ACTION: It was M/S (Sos/Onoda) to approve the revised agenda to include Items 9. A., 11. B., and 12. Roll Call Vote: 5-0.**

**Councilmember Stromberg** offered a motion to table agenda Item 13. Communications to a future meeting.

**ACTION: It was M/S (Stromberg/Sos) to table agenda Item 13, Communications to a future meeting of the Town Council. Roll Call Vote: 5-0.**

## **9. DISCUSSION ITEMS**

### **A. Discussion of Installation of Solar on the Town Hall Building at 329 Rheem Boulevard and the Moraga Library at 1500 St. Mary's Road**

**Councilmember Onoda** explained that she had received numerous letters from members of the public regarding the agenda item. She had requested the Discussion Item due to cost and cited the Moraga Library as an example which for the past two months had cost the Town \$15,000 or more, but she acknowledged she was uncertain the costs were all electrical costs given the lack of a staff report. She also commented that Sanders Ranch had been evacuated on more than one occasion, there were residents of the Town who had medical challenges and machines they relied on, and the loss of electricity was a safety factor and evacuation may not be an option. She suggested those residents should be covered via a battery wall with solar power.

**Councilmember Onoda** understood as a member of the Marin Clean Energy (MCE) Board of Directors there were grant opportunities that could be considered along with the efforts of President Biden who was seeking clean sources of energy. She suggested the use of solar power would move the Town in the right direction. Based on electrical costs, potential for evacuations in the community, medical and environmental impacts, and battery storage and possible grants, she would like to see a staff report for this separate from the CIP. While solar was part of the CIP, she suggested it was bigger than that and she sought a future agenda item discussion on this topic.

Ms. Battenberg advised that in addition to exploring solar, the Town had a backup generator issue during PG&E Public Safety Power Shutoffs (PSPS) and staff envisioned combining those projects into an energy efficiency study of the four main Town buildings. She reported that Town staff currently had zero capacity at this time to take on such a project, but as part of the CIP staff would propose a Town Facilities Energy Generation Study that would review the options for solar, backup power for generators and consideration of all approaches and return with a strategy after that.

**Vice Mayor Woehleke** was completely aligned with the Town Manager on this topic and suggested it fit as the work demands on the Canyon Road Bridge project were reduced when there could be additional capabilities for staff. Having reviewed the latest report from the Lighting Assessment District, it had identified 981 street lights in Moraga of which 253 were Light Emitting Diodes (LEDs) and 118 of the Town lights were LEDS, which number had not changed since 2016. In 2019 as part of MCE, the Town had decided not to go Deep Green but focus on increasing the number of LED lights recognizing the biggest bang for the buck was the replacement of light bulbs. Per the latest Lighting Assessment District report, there had been no change in the status of LED street lights. He urged the review of generation, savings, and even potentially turning off half of the street lights in the late evening.

**Councilmember Sos** thanked the public for the information provided on this issue. She found that staff had been doing a good job following the policy direction of the Town Council to implement the Climate Action Plan (CAP) recommendations that were practicable and feasible given other constraints on Town resources and finances. She suggested that staff should continue doing that and a comprehensive look of consumption and generation down the road made sense. She looked forward to the CIP report which would include some green investment, but in the larger context of what else the Town was doing.

**Councilmember Stromberg** appreciated the comments offered by Councilmember Sos. He was an advocate for doing everything the Town could feasibly do to reduce its carbon footprint. He also appreciated Councilmember Onoda's review of the Town's electrical bills and pointed out the costs that Town facilities were consuming offered an impetus to obtain more information about the installation of solar. He understood that staff was stretched to capacity although items that may cost the Town more money, but in the long run save money, would be things that he would personally give more attention and support when moving forward.

**Councilmember Onoda** appreciated all the comments from the Town Council and the Town Manager. It was her hope that with every decision made the Town Council consider whether that decision would or would not improve the environment and make the community a better place.

**Vice Mayor Woehleke** noted pursuant to the Lighting Assessment Report that it allowed \$10,000 a month for lighting and electricity.

**Mayor McCluer** thanked Councilmember Onoda for her information and recommended goals. He shared information he received from Moraga School District (MSD) Superintendent Burns who had also investigated the use of solar panels and he provided information regarding the MSD's use of Government Code Section 4217 to work with an electric company for a turnkey installation process, which had guaranteed savings and where the MSD had taken out a loan to address water, gas, lighting, solar, HVAC and the like, with resulting savings to pay for those projects. He supported the plan laid out by the Town Manager, but added if there was more staff capacity later in the year it would be nice to proceed with this effort given the opportunities that could be realized.

**PUBLIC COMMENTS OPENED**

**Mayor McCluer** reported no comments had been received for this item.

**PUBLIC COMMENTS CLOSED**

**10. PUBLIC HEARINGS**

There were no public hearings.

**11. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION**

- A. Update on the Town's New Website**  
Receive an Update on Implementation of the Town of Moraga's New Website

The item was continued to a future date.

- B. Lower Rheem Boulevard Stabilization and Road Repair Project**  
Consider Resolution 18-2021 Accepting Improvements by SummerHill RL, LLC for Lower Rheem Boulevard Stabilization and Road Repair Off-Site Improvements (Rheem Boulevard Slide and Roadway Repairs – CIP Project No. 16-103); and Authorizing the Town Manager to Record this Resolution with the County (*CEQA Determination: Categorically Exempt*)

Public Works Director/Town Engineer Knapp reported prior to the meeting a redline version of the staff report had been distributed to the Town Council and the public on the April 14, 2021 agenda located on the Town's website. He clarified that Page 2 of the April 14, 2021 staff report had included typographical errors: Line 15 of Page 2 included a reference to a waiver of fees in the amount of \$329,000 and had been corrected to read \$390,000; and the table as shown on Page 4 included incorrect numbers that had been corrected in the redline version.



Mr. Knapp presented the revised staff report. He recommended the Town Council adopt the resolution as shown in Attachment A to the staff report.

Responding to the Council, Mr. Knapp clarified that without the official acceptance of the project, the one-year warranty had not started. SummerHill Homes had been maintaining the area and ensuring it was functioning correctly all this time, staff had walked the site, and the developer had given notice they wanted the Town to consider acceptance after which staff had again walked the site with a punch list to ensure it was intact and functioning as it should. Pursuant to the agreement, the Town must respond to the developer that the work had been completed in accordance with the agreed upon plans and the Town would then file a Notice of Completion upon acceptance by the Town Council.

Mr. Knapp also clarified the amount of the bond the Town would receive would be ten percent of the value of the project, which had been estimated at \$2.812 million.

#### PUBLIC COMMENTS OPENED

John Hickey, Director of Development, SummerHill Homes, appreciated the opportunity to help the Town with the repair of the roadway and do the stabilization work. He recognized the complex process and agreement, and stated they were all happy with the outcome which would be a great public benefit for the community and the development's homeowners. He added that the EBMUD presentation on stitch piers was the same technique used for the repair of the roadway. He was pleased to have the formal acceptance at this time.

#### PUBLIC COMMENTS CLOSED

**Vice Mayor Woehleke** reported he had a discussion with staff regarding the project. He found the improvement to Rheem Boulevard to be a benefit given its past history as a "rough" road with at least one fatality. Since the road had been repaired, it was lovely to drive and while it may need speed bumps in the future given it was a nice straight stretch of road, he commended the past Town Council for approving the project and the developer for sharing the costs. He otherwise commented that the cost of the project equated to approximately \$40,000 for each of the 27 homes in the Bellavista Subdivision which reflected the high cost of development, and that the Town would receive approximately 150 acres of permanent open space. He supported the acceptance of the improvements as complete.

**Councilmember Sos** agreed and thanked the SummerHill Homes development team and their continued collaboration with the Town. She also thanked Town staff for a concise and informative staff report. She found the time had come to accept the project as complete and she supported the item.

**ACTION: It was M/S (Stromberg/Onoda) to adopt Resolution 18-2021 Accepting Improvements by SummerHill RL, LLC for Lower Rheem Boulevard Stabilization and Road Repair Off-Site Improvements (Rheem Boulevard Slide and Roadway Repairs – CIP Project No. 16-103); and Authorizing the Town Manager to Record this Resolution with the County, and in the form included in the April 14, 2021 staff report. (CEQA Determination: Categorically Exempt). Roll Call Vote: 5-0.**

**C. Town Council Protocols Amendment**

*Consider Town Council Protocol 6.1 Order of Business, Specifically Whether or Not to Move the Discussion Items Section of the Agenda to the End of the Meeting and Provide Direction to Staff*

The item was continued to a future date.

**12. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS**

There were no Council requests for future agenda items.

**13. COMMUNICATIONS**

The item was continued to a future date.

**14. ADJOURNMENT**

**ACTION: It was M/S (Sos/Onoda) to adjourn the Town Council meeting at 8:33 p.m. to a Continued Closed Session of the Town Council. Roll Call Vote: 5-0.**

Respectfully submitted by:

  
\_\_\_\_\_  
Marty C. McInturf, Town Clerk

Approved by the Town Council:

  
\_\_\_\_\_  
Mike McCluer, Mayor