



**TOWN OF MORAGA
REGULAR MEETING**

**May 26, 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 May 26, 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 6:30 p.m. by **Vice Mayor Steve Woehleke**.

ROLL CALL

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

Councilmembers absent: Mayor Mike McCluer

2. PLEDGE OF ALLEGIANCE

Councilmember Stromberg led the Pledge of Allegiance.

3. SPECIAL ANNOUNCEMENTS

There were no special announcements.

4. PROCLAMATIONS AND PRESENTATIONS

There were no proclamations or presentations.

5. PUBLIC COMMENTS AND SUGGESTIONS

Vice Mayor Woehleke reported no comments had been received for this item.

6. ADOPTION OF CONSENT AGENDA

A. Acceptance of Consent Items

Vice Mayor Woehleke advised that redline revisions had been provided for Consent Items 6.2 and 6.5.

PUBLIC COMMENTS OPENED

Vice Mayor Woehleke reported no comments had been received for this item.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Onoda/Stromberg) to adopt Consent Agenda Items 6.1, 6.2, (as amended), 6.3, 6.4 and 6.5 (as amended). Roll Call Vote: 4-0-1. Absent: McCluer

- 6.1 Receive Accounts Payable Claims for: 05/07/2021 (\$189,056.92) Approved
- 6.2 Approve Minutes for the Town Council Special and Regular Meetings on April 14, 2021 Approved as Amended
- 6.3 Moraga Street Lighting Assessment District
Consider Resolution 22-2021 Approving the Engineer’s Report for the Town of Moraga Street Lighting Assessment District 1979-1; and Consider Resolution 23-2021 Declaring the Town of Moraga’s Intention to Levy and Collect Assessments Under Assessment District 1979-1, Town of Moraga Street Lighting in Fiscal Year 2021/22 and Setting a Public Hearing Date of June 23, 2021 Approved
- 6.4 Measure J Biennial Compliance Checklist
Consider Resolution 24-2021 Authorizing the Submission of the Biennial Compliance Checklist for Measure J Calendar Years 2018 and 2019 Growth Management Program (GMP) for Allocation of Fiscal Years 2019/20 and 2020/21 Local Street Maintenance and Improvement Funds to the Contra Costa Transportation Authority Approved
- 6.5 Proclamation Honoring James A. Donahue
Proclamation Honoring James A. Donahue for his Service as President of Saint Mary’s College Approved as Amended

B. Consideration of Consent Items Removed for Discussion

No items were removed from the Consent Agenda for discussion.

7. ADOPTION OF MEETING AGENDA

PUBLIC COMMENTS OPENED

Vice Mayor Woehleke reported no comments had been received for this item.

PUBLIC COMMENTS CLOSED

8. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor McCluer – No report.

Vice Mayor Woehleke – Reported he had represented the Moraga Town Council at the Moraga-Orinda Fire District (MOFD) Board of Directors meeting and briefed the Council on the discussions when the MOFD had decided not to pursue potential dissolution/consolidation; watched a portion of the Livestream of the May 25, 2021 Special Planning Commission meeting; and had presented a proclamation on behalf of the Town Council to outgoing Saint Mary's College (SMC) President James Donahue.

Councilmember Onoda – Reported she had attended the Girl Scouts Award Ceremony when two Girl Scouts had been awarded the Gold Award and had received recognition from the President of the United States and State and local representatives. She had also attended the Art in Public Spaces Committee meeting; MOFD Board of Directors meeting; Central Contra Costa Solid Waste Authority (CCCSWA) Training Session; Marin Clean Energy (MCE) meeting; watched the Livestream of the May 25, 2021 Special Planning Commission meeting; and watched the Vice Mayor express his appreciation to outgoing SMC President James Donahue.

Councilmember Sos – Reflected on the anniversary of the death of George Floyd and the events of the past year, which had led to the formation of the Council Ad Hoc Committee to participate in the communitywide conversation about how the Town could do better with respect to inclusivity. She referenced the number of different community meetings, all part of the effort to create a shared vision for the Town as a place where everyone felt welcome, respected and safe. She also referenced Moraga schools and community service organizations that had expressed their commitment to inclusion in the Town with more work to do and with the members of the Ad Hoc Committee committed to contributing meaningfully to the ongoing effort. She encouraged everyone to keep an open mind and ask what could be done better and engage in small but intentional acts of kindness whenever possible.

Councilmember Stromberg – Reported he had attended the final meeting for the Moraga Youth Involvement Committee (MYIC) for this term and briefed the Council on the discussions. He had also watched via Livestream the complete proceedings of the May 25, 2021 Special Planning Commission meeting.

B. Town Manager Update – Town Manager Cynthia Battenberg reported the Audit and Finance Committee (AFC) had been scheduled to review the Town's Operating and Capital Improvement Program (CIP) budgets on June 2. The Local Sales Tax Oversight subcommittee had completed its audit of the Measure K revenue and uses, to be presented to the entire committee on June 8. Wedgewood Weddings, the prospective service provider for events at the Hacienda de las Flores, had been scheduled for Town Council consideration at the meeting on June 9, with a community Zoom meeting scheduled for 6:00 p.m. on June 7. Most of the COVID-19 restrictions would be lifted by the State on June 15. All Town

summer camps were full with staff working on ways to accommodate more children; Hacienda Nights had been scheduled for July 15 and August 12; the new Recreation Coordinator Donald Scully would be helping with the summer camps and had 10 years' experience in other cities; and the City of Lafayette had a road project on Moraga Road scheduled this summer which would impact traffic. More information would be posted on the Town website.

9. DISCUSSION ITEMS

There were no Discussion Items.

10. PUBLIC HEARINGS

There were no public hearings.

11. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

A. Contra Costa County Library Commission Appointment

Consider Interviewing and Appointing an Applicant to the Contra Costa County Library Commission; and Consider Re-Appointing the Alternate Library Commissioner to an Additional Four-Year Term

Town Clerk McInturf presented the staff report and recommended the Town Council interview and appoint an applicant to the Contra Costa County Library Commission to serve through June 30, 2024, the remainder of a four-year term, and re-appoint the Alternate Library Commissioner to a four-year term.

The Town Council conducted interviews with applicants Gary Lansman and Sarah Morgan, who both introduced themselves to the Town Council, detailed their backgrounds and experiences and answered questions from the Town Council.

PUBLIC COMMENTS OPENED

Vice Mayor Woehleke reported no comments had been received for this item.

PUBLIC COMMENTS CLOSED

Councilmember Sos thanked each candidate for their willingness to contribute to the community. She recognized their records of community service and enthusiasm for the library, in particular for the youth of the community. She acknowledged the Town Council could only choose one candidate. She encouraged Mr. Lansman to consider applying in the next year to another Town Committee given his extensive background in financial services and his knowledge of the Town. She recognized Ms. Morgan's extensive library experience given her background as teacher-librarian at Campolindo High School. She supported Ms. Morgan's appointment to the Contra Costa County Library.

Councilmember Onoda thanked both Mr. Lansman and Ms. Morgan for their enthusiasm for the Town. She too encouraged Mr. Lansman to apply for another position in the future.

Councilmember Stromberg also thanked both candidates and appreciated their recognition of and enthusiasm for libraries. He agreed the Town needed additional citizens to come forward and serve and found Mr. Lansman's financial experience would be a benefit to the Town. He commended Ms. Morgan's skills and knowledge of libraries and supported her appointment to the Contra Costa County Library Commission.

Vice Mayor Woehleke was impressed with Mr. Lansman's experience but agreed the preference should be given to Ms. Morgan given her library background. He encouraged Mr. Lansman to consider all opportunities that may be of interest and available in the Town. He verified with Ms. McInturf that Janette Maher was willing to continue to serve as the Town's Alternate Library Commissioner.

ACTION: It was M/S (Sos/Onoda) to appoint Sarah Morgan as the Library Commissioner for the remainder of the four-year term ending June 30, 2024, on the Contra Costa County Library Commission as the Town of Moraga's Representative and re-appoint Janette Maher for another four-year term as the Alternate. Roll Call Vote: 4-0-1. Absent: McCluer

B. West Commons Park Trail Design

Consider Approval of the Revised Trail Design for the West Commons Park Camino Ricardo Landscape Improvements (Park/Open Space) for Subdivision 9321; a Project Being Developed by SummerHill Camino Ricardo, LLC (*CEQA Status: Class 1 Exempt: Existing Facilities*)

Public Works Director/Town Engineer Shawn Knapp provided a PowerPoint presentation of the West Commons Park Trail Redesign Update, which included photographs of the pre-park conditions consisting of natural grasslands and some foliage; an overview of Planning Commission Resolution No. 02-14; and pursuant to Conditions of Approval No. 14-18 for West Commons Park dedication of a 2.53-acre parcel to the Town for a passive park or open space, with pedestrian bridge and pathway, and landscaping.

Mr. Knapp explained that SummerHill Homes had originally proposed asphalt pavement that would meander through the park, with areas of decomposed granite, and with the use of compacted grade, six inches of Class II aggregate base, and four inches of asphalt paving. Two-foot wide by two inches deep mulch would be provided on each side of the pathway. There would be no drainage features.

Photographs of the trail construction in May 2016 were displayed and it was noted that after the construction of the project there had been a number of drainage issues. The site sloped toward the creek but the trail itself had been built on the existing topography and was higher than the soils. Rain had accumulated over the top creating a drainage issue. In other locations, water had been running off the trail or washing the decomposed granite off of the trail and the slopes. Photographs of the pedestrian bridge closest to West Commons Park and Moraga Road were displayed showing the decomposed granite being washed off the sides, or off the trail. Other issues that had been identified included the soil under the trail was highly expansive clay and during the summer and winter months it would contract or expand excessively. Cracking had formed throughout the trail in many locations, particularly along the edges which did not have adequate drainage.

SummerHill Homes' contractors had made numerous attempts at localized repairs, including crack sealing along portions of the trail, and repairs to the trail where the existing asphalt had been dug out. The trail had been slurry sealed to provide another continuous appearance and provide additional protection against the weather; however, those repair attempts had been unsuccessful and the underlying issues with the pavement structure and the expansive underlying soils remained. As a result, SummerHill Homes, Town staff, and geotechnical consultants had considered a change in the actual trail design, as documented in the staff report, which detailed the changes from the initial to the current design. The redesign features were outlined for the pavement and shoulder structures along with the drainage improvements. Based on the new design features, staff and the consultants were confident the developer's contractor would be successful if the improvements were built according to the plans.

Mr. Knapp recommended the Town Council approve the trail redesign, direct staff and SummerHill Homes to coordinate work to ensure necessary inspection and testing occurred during the reconstruction of the trail, and SummerHill Homes provide inspection reports and test results to document the redesign had been built pursuant to the plans.

Responding to the Council, Mr. Knapp clarified there was still a one-year warranty on the overall park which had not come into effect since the Town Council had not accepted or approved the park. Once that had occurred, the one-year warranty on the entire park would commence. As to the initial thickness (16 inches) of the subgrade, he commented that the park had been designed with pedestrian bridges which had a certain width and weight capacity. The contractor had been unable to bring in heavy equipment to grind up the material in place and rather would remove the bad material and start anew, which was a better more robust design. The contractor would treat what was left with nine inches of subgrade and add another nine inches on top with new asphalt paving.

Councilmember Onoda reported she had been a member of the Planning Commission at the time the project had been considered. The passive park had been recommended by the Planning Commission and Preserve Lamorinda Open Space (PLOS). She was pleased the project was under the watch of the Public Works Director/Town Engineer given past issues with the project. She asked whether weed abatement would be done prior to the Town's acceptance of the park.

Mr. Knapp advised that at this time they were only discussing the redesign of the trail. There were a number of items the developer must still complete, which would all come back to the Town Council when the project was ready for acceptance.

Councilmember Stromberg reported he had discussed his concerns with Mr. Knapp and had asked how staff would monitor the work and inspections required to ensure the work was performed in accordance with the applicable standards and consistent with the project. He stated that Mr. Knapp and the Town Manager had assured him that would be the case. He sought similar assurance from SummerHill Homes.

Denise Cunningham, Vice President of Development, SummerHill Homes, reported that Brady Stevenson, Senior Vice President of SummerHill Homes, was also present via Zoom to respond to any questions. She thanked the Town Council and staff for their efforts and acknowledged that staff had worked diligently with SummerHill Homes on the best program to replace the trail and minimize future cracking. While there was no solution that would eliminate all cracking given the expansive soil in the area, SummerHill Homes and Town staff believed the plan before the Town Council provided the best solution for the trail replacement while maintaining the passive nature of the park. The work could commence as early as two to three weeks upon approval from the Town Council, with the work to be completed in approximately four weeks.

Ms. Cunningham stated SummerHill Homes supported the approval of the trail redesign and once installed and final inspections and dedication were complete, the project could be accepted by the Town of Moraga. She added that SummerHill Homes had new staff who would provide oversight of the work, the developer supported Town oversight of the work, and they all wanted success for the park and the replacement trail. Responding to the Council, she explained that weed abatement had been done on the site at least a couple of times after the issue had first been raised. She did not know the current status of the weeds and recommended once the work was complete for the trail that issue be monitored again. If weeding and additional planting were needed it could be addressed at that time.

Councilmember Onoda encouraged the developer to complete weed abatement on the property as soon as possible so that acceptance of the project could proceed smoothly.

Ms. Cunningham clarified there was a firm maintaining the park and it was fully open to the public. SummerHill Homes would continue to maintain the park to ensure it was turned over appropriately.

PUBLIC COMMENTS OPENED

Vice Mayor Woehleke reported no comments had been received for this item.

PUBLIC COMMENTS CLOSED

Councilmember Stromberg was pleased that Ms. Cunningham had acknowledged his concerns. He understood that SummerHill Homes and the Town wanted to see the completion of the project. He would reserve judgment and his vote after the necessary testing and inspections had been performed to provide assurance of completion. He was cautiously optimistic based on the comments offered by Ms. Cunningham but would monitor the project to ensure the engineering work required was appropriately constructed.

Vice Mayor Woehleke questioned whether staff sought direction and guidance from the Town Council whether to move forward with the design.

Ms. Battenberg advised this was a project the Public Works Director/Town Engineer could have approved but SummerHill Homes had requested Town Council consideration as a courtesy.

Councilmember Sos understood the Town Council was being asked to approve the trail redesign and provide direction to staff. She emphasized the Town Council had the history and record on this issue and confirmed with Mr. Knapp that the Town Council would be free to reject or accept the construction when complete.

Councilmember Sos was confident that if staff found the redesign to be solid, she should accept that determination. The key was not to repeat the mistakes of the past and construct the trail as designed. She expected and encouraged close cooperation between SummerHill Homes and Town staff, in particular with respect to staff's ability to monitor and inspect the construction of the project. She urged SummerHill Homes to make its staff and documentation available to Town staff so that the project could be done in the most efficient and successful way possible. She also appreciated that SummerHill Homes was present and had provided assurance that the intention was to do the work the right way. She supported the staff recommendation.

Councilmember Onoda reiterated her comments and supported the trail redesign.

Vice Mayor Woehleke also supported the trail redesign.

ACTION: It was M/S (Sos/Stromberg) to approve the Revised Trail Design for the West Commons Park Camino Ricardo Landscape Improvements (Park/Open Space) for Subdivision 9321; a Project Developed by SummerHill Camino Ricardo, LLC; and instruct Town staff to work collaboratively with SummerHill Homes on scheduling of construction, inspections and monitoring. Roll Call Vote: 4-0-1. Absent: McCluer

ACTION: It was M/S (Sos/Onoda) to modify the meeting agenda and consider Item 11. D. prior to Item 11. C. Roll Call Vote: 4-0-1. Absent: McCluer

C. Employment Agreement for Town Manager

Consider Resolution 25-2021 Approving and Authorizing the Mayor to Execute the Third Amendment to Employment Agreement between the Town of Moraga and Cynthia Battenberg

Assistant Town Attorney Denise Bazzano presented the staff report, and advised that after the meeting agenda had been published an edit had been made to the third amendment to the Employment Agreement between the Town of Moraga and Cynthia Battenberg to further revise Page 1, Section 6. Compensation and Benefits, (a), to read:

Salary. TOWN agrees to pay MANAGER for her services rendered pursuant hereto as Town Manager the annual sum of Two Hundred Forty-Seven Thousand Nine Hundred Eighty-Three dollars (\$247,983) plus any cost of living adjustments that are provided to all existing department heads after the Effective Date, which shall be payable as of January 1st of each successive year that the adjustment is provided to department heads. This annual salary shall be payable in installments at the same time as other employees of the TOWN are paid.

Vice Mayor Woehleke described the process with the Ad Hoc Subcommittee consisting of he and Councilmember Sos who had spent extensive time working on the Town Manager Employment Agreement with multiple meetings with Town Counsel, Town Manager Battenberg and consideration of a number of alternative offers, benchmark comparables from other municipalities, particularly the cities of Lafayette and Orinda, and the incorporation of the results of performance evaluations relative to the refined responsibilities and consideration of differentiating impacts, and ultimately proposed the agreement before the Town Council. The Town Manager had not received a salary adjustment since March 2019, with Town/City Manager salaries generally considered annually. It was appropriate for the salary adjustment to be considered now.

Councilmember Sos provided an overview of the Ad Hoc Committee's analysis of the Town Manager's salary and benefits with reasonably comparable jurisdictions to better understand whether the Town Manager's current compensation and benefits package was within range of comparable city managers, and to determine how the Town Manager compared with those comparables with the three-percent salary increase and with a focus on Lafayette and Orinda, both of which had recently negotiated compensation packages with their respective city managers. She highlighted the city manager compensation and benefits packages for the cities of Lafayette and Orinda as compared to what was provided to the Town Manager for the Town of Moraga. The Ad Hoc Committee had determined the comparison analysis was useful since it offered a sense of whether the Town of Moraga was in the range of reasonableness.

Councilmember Sos also provided an overview of two metrics of the annual salary and the overall cost to each city of the City/Town Manager position, in terms of the cost to each jurisdiction. Based on that analysis, the Ad Hoc Subcommittee was comfortable that the proposed increase would be appropriately balanced and the Ad Hoc Subcommittee also acknowledged the Town Manager's leadership in getting the Town's fiscal house in order, improving the Town's operational efficiency, and positioning the Town to meet its funding needs moving forward in a fiscally responsible and market appropriate manner.

Vice Mayor Woehleke added the Town Manager had been given a performance appraisal each year. The feedback from the performance appraisals for 2019 and 2020 found that Town Manager Battenberg had demonstrated strong leadership, and competency in achieving and exceeding defined responsibilities resulting in significant benefit to the Town. Examples included:

- The Town Manager proactively and strategically led and addressed the Town's fiscal challenges and long-term maintenance and renewal of infrastructure which was now a priority;

- Establishment of a program to better define infrastructure needs and storm drain system needs;
- Relocating surplus funds to initiate long-term infrastructure maintenance and renewal;
- Development of a five-year renewal program and cost estimates;
- Assisted the Town to achieve a reduction in the Town's interest payments by approximately \$175,000 through the early payment of debt obligations related to the Town Council Chambers improvements at 335 Rheem Boulevard;
- Initiation of a program to train existing staff in specialty work such as televising storm culverts for inspection, which served immediate needs and provided flexibility for future needs; and
- Leveraged the Town's limited financial resources.

Vice Mayor Woehleke explained for those reasons the third amendment to the Town Manager's Employment Agreement had been recommended for approval by the Town Council.

PUBLIC COMMENTS OPENED

Vice Mayor Woehleke reported no comments had been received for this item.

PUBLIC COMMENTS CLOSED

Councilmember Stromberg offered a motion, seconded by **Councilmember Onoda**, to adopt the resolution provided by staff subject to the redline edits offered by Ms. Bazzano.

Councilmember Onoda thanked the Ad Hoc Subcommittee for its work and expressed her appreciation to Town Manager Battenberg for her work on behalf of the Town of Moraga.

ACTION: It was M/S (Stromberg/Onoda) to adopt Resolution 25-2021 Approving and Authorizing the Mayor to Execute the Third Amendment to Employment Agreement between the Town of Moraga and Cynthia Battenberg, subject to the redline edits offered by Assistant Town Attorney Bazzano. Roll Call Vote: 4-0-1. Absent: McCluer

Ms. Battenberg thanked the Town Council for its acknowledgment and the Ad Hoc Subcommittee for its work. She stated it had been a pleasure working for the Town of Moraga and acknowledged each Department Head and the rest of Town staff for their work.

D. Police Dispatching Services

Consider Resolution 26-2021 Approving an Interagency Agreement with the Contra Costa County Office of the Sheriff for Police Dispatching Services Pursuant to the Town of Moraga Purchasing Policy and Authorizing the Town Manager to Execute the Agreement

Chief of Police Jon King provided a PowerPoint presentation to highlight the calls for service to the Moraga Police Department which had been generated from 2018 through 2020; the budget impact for dispatch services for Fiscal Year 2018/19, 2019/20 and 2020/21; and the total cost of the dispatch center and the percentage of use each year. He added that the Contra Costa County Sheriff's Department also provided dispatch services for the cities of Pittsburg and Oakley, Animal Control, Probation Department, District Attorney's Office, and contract cities of Lafayette, Orinda, Danville and Blackhawk. The agreement outlined dispatchers' specific tasks and the Sheriff's

Office was open to discussing any issues that may arise. In addition, orientation for new dispatchers required they come to the Town of Moraga. He recommended the Town Council adopt the resolution contained in Attachment A to the staff report.

PUBLIC COMMENTS OPENED

Vice Mayor Woehleke reported no comments had been received for this item.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Woehleke/Sos) to adopt Resolution 26-2021 Approving an Interagency Agreement with the Contra Costa County Office of the Sheriff for Police Dispatching Services Pursuant to the Town of Moraga Purchasing Policy and Authorizing the Town Manager to Execute the Agreement. Roll Call Vote: 4-0-1. Absent: McCluer

12. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

There were no Council requests for future agenda items.

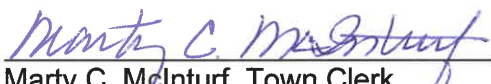
13. COMMUNICATIONS

There were no communications.

14. ADJOURNMENT

ACTION: It was M/S (Onoda/Stromberg) to adjourn the Town Council meeting at 8:19 p.m. Roll Call Vote: 4-0-1. Absent: McCluer

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Mike McCluer, Mayor