

## Moraga Ordinance to Enforce Development Impact Fee Moves Forward

By Sophie Braccini

It took twenty-eight months of work and discussion among the stakeholders for Moraga's Town staff to finalize an ordinance adding Development Impact Fees to the Municipal Code. The text would require developers to pay their share of additional costs to the Town generated by new residents.

The areas of impact defined by staff are: general government facilities (Town Hall, Public Works, Library), public safety, storm drainage, traffic and park development. For a single family detached home the total would amount to approximately \$24,500. In spite of the opposition of Moraga's largest property owner, the Bruzzone family, the text was moved forward.

Newcomers have impacts on roads, police, schools, library capacities, staff time etc. The task of staff, led by the Town's Public Works Director Jill Mercurio, was to calculate a dollar value per resident for all the infrastructure, parks and services and collect it from developers to have the new residents pay "their fair share" of these services.

It was everyone's opinion that development impact fees are a normal occurrence for a jurisdiction. In her document, Mercurio included a comparison chart of our neighboring cities that all apply such a fee, ranging from \$11,600 in Pinole to \$43,500 in Pleasanton.

Dave Bruzzone, representing the Bruzzone family which owns most of the land left to develop in Moraga, concurred: "If there are impacts, any developer should contribute to mitigate it." However, his agreement stopped there, when he added, "there are major structural defects in this study." He illustrated his point by stating that he would admit that the report was reasonable "when the consultants can demonstrate that water can run uphill!"

The Moraga resident couldn't agree that the development of a 20-acre parcel belonging to the family, located behind the Moraga Center, should include a drainage fee to fix inadequate drainage at the Rheem Center.

Mercurio replied by explaining that drainage fee apply to the whole watershed: "We apply the drainage fee to all the lots in a given watershed. It is the same fee whether they are located in the middle, the top or at the bottom of the watershed. The improvements serve all the constituents."

Bruzzone reminded staff of a State law that requires all developers to mitigate their drainage impact on site, making it unfair to charge newcomers with problems they are not responsible for.

Jill Mercurio concluded by commenting, "Differences of opinion

between a town and a developer are normal. After our discussions and compromises, we are left with some technical professional differences of opinion."

An attorney for the Bruzzone family had sent a letter to the Council listing all the issues that they felt had never been responded to. Drainage was one area of concern, and others included possible redundancy in calculating the size of public parks (which is used to calculate the general government facility fee).

Vice-Mayor Dave Trotter noted the risk of litigation against the Town by the Bruzzone family based on their letter and called on the Town's consultants to address the arguments that the fees were unreasonable.

Other Council members also asked staff to respond to the Property owner's allegations. Town Manager Phil Vince, Mercurio, the Town's attorney and the consultants all stood by the text.

"There is no such thing as a bullet-proof text, but this is a very good document," said Vince. Vice-Mayor Trotter insisted that language should be added to the text to explicitly exclude residential remodels and additions from imposition of the new impact fees. Mayor Deschambault would have liked to see exemptions added for developers who would include green building, shuttles, water recycling or any elements that would reduce the impact on the Town. Mercurio reminded the Council that impact fees could be waived when specific development agreements are negotiated.

The Council unanimously approved the first reading of the ordinance. The second reading of the text should occur on May 28th.