

**TOWN OF MORAGA
TOWN COUNCIL SPECIAL MEETING**

**February 16, 2011
MINUTES**

7:00 P.M. Special Meeting

Joaquin Moraga Intermediate School Auditorium
1010 Camino Pablo, Moraga, California 94556

I. CALL TO ORDER

The special meeting was called to order at 7:06 P.M. by **Mayor Karen Mendonca**.

ROLL CALL

Councilmembers present: Mayor Karen Mendonca, Vice Mayor Michael Metcalf, and Councilmembers Howard Harpham and Dave Trotter

Councilmembers absent: Councilmember Chew

II. PLEDGE OF ALLEGIANCE

Councilmember Trotter led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

There were no special announcements.

IV. PROCLAMATIONS AND PRESENTATIONS

A. Introduction of New Community Librarian for the Town of Moraga

David Kruegel, Friends of Moraga Library, introduced Beth Girshman as the new Librarian for the Town of Moraga and identified her many accomplishments and experience in all areas of library services.

Beth Girshman expressed her appreciation for the ability to address the Town Council and Moraga residents and looked forward to working in the Moraga library.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

B. Proclamation Recognizing Grant Stubblefield as Moraga's Business Person of the Year 2011

Mayor Mendonca read into the record the proclamation recognizing Grant Stubblefield, owner of Neighborhood Computers, as Moraga's Business Person of the Year 2011.

PUBLIC COMMENTS OPENED

Grant Stubblefield, Moraga, thanked the Council for the proclamation, thanked all of his customers, and commended Moraga as a great place to live and conduct business.

Edy Schwartz, Moraga Chamber of Commerce, congratulated Mr. Stubblefield on his award, recognized his passion for the community, and expressed her appreciation for his past work and efforts in getting Saint Mary's College more involved with the Town.

Jay Ingram, Moraga Parks and Recreation Director, also commended Mr. Stubblefield for his assistance in community programs and sponsoring Parks and Recreation Department activities.

Ellen Beans, Moraga, congratulated Mr. Stubblefield on the honor received, commented on her association with Mr. Stubblefield as part of volunteer work with the Community Faire, and expressed her appreciation for his contributions to the community.

Rob Stubblefield, Moraga, commended Grant's many accomplishments and stated that he was proud of his son.

PUBLIC COMMENTS CLOSED

V. PUBLIC COMMENTS AND SUGGESTIONS

There were no public comments and suggestions.

VI. ADOPTION OF THE CONSENT AGENDA

A. Approval of the Consent Items

No Consent Agenda items were removed from the agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Harpham) to approve the Consent Agenda, as shown. Vote: 4-0-1. Absent: Chew.

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|----|---|----------|
| 1) | Accounts Payable Claims for 1/28/11 (\$271,018.46);
1/28/11 (\$2,423.88) | Approved |
| 2) | Approve Minutes from the Town Council Meeting of
January 12, 2011 | Approved |
| 3) | Approve Minutes from the Town Council Meeting of
January 26, 2011 | Approved |
| 4) | Adoption of Community and Council Identified Goals | Approved |

B. Consideration of Consent Items Removed for Discussion

No Consent Items were removed for discussion.

VII. ADOPTION OF MEETING AGENDA

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Harpham) to adopt the Meeting Agenda, as shown. Vote: 4-0-1. Absent: Chew.

VIII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Mendonca - Reported that the Town Council had identified its Council goals and priorities on February 9; the Town had hosted the Tri-City meeting on February 10; she had attended a recent meeting at Saint Mary's College (SMC) for the Sesquicentennial Celebration; a Lifelong Learning Committee at SMC; the Audit and Finance Committee meeting, and had participated in the California Independent Film Festival (CAIFF).

Vice Mayor Metcalf - Reported that he had attended two recent Revenue Enhancement Community Outreach to Neighborhoods (RECON) meetings and had attended the first meeting of the Audit and Finance Committee to review the budget.

Councilmember Harpham - Reported that he had attended two recent RECON meetings; a meeting at SMC regarding the Sesquicentennial Celebration; a meeting on Emergency Preparedness with the Chief of Police; and a recent Traffic Safety Advisory Committee (TSAC) meeting.

Councilmember Trotter - Reported that he had also attended a meeting with the Chief of Police on Emergency Preparedness; participated in the CAIFF; had attended the February 8 City of Orinda Planning Commission meeting regarding the proposed Moraga Adobe project; and the Mayors' Conference on February 3 in Richmond; and the Executive Meeting of the Mayors' Conference with the local legislative delegation on February 11 to discuss the State budget and proposals to eliminate Redevelopment Agencies.

Councilmember Chew - No report.

- B. Town Manager Update – Town Manager Jill Keimach acknowledged the many meetings that had been held during the month of February, as described by the Council.

IX. DISCUSSION ITEMS

- A. Update on the Conceptual Plans of the Camino Pablo Elementary School Field Renovation Project, CIP Project No. 11-401

Public Works Director/Town Engineer Jill Mercurio reported that in December 2010 the Town Council had awarded a design contract to Callander Associates as the landscape architect for the Camino Pablo Elementary School Field Renovation Project. Callander Associates had submitted 30 percent plans which had been presented to the Moraga School District (MSD)

Board of Directors. The Town Council would be presented with the alternatives proposed by Callander Associates for the field layouts.

Matthew Gruber, Callander Associates, described the background and effort expended by Town staff, the MSD and local sports organizations involved with the proposal. He acknowledged that the Town had worked to obtain East Bay Regional Park District (EBRPD) Measure WW funding for park improvements. Three alternatives had been identified and were described at this time; a preferred alternative had been selected and supported unanimously by the MSD and local sports organizations. There would be no change to the orientation of the existing ballfields with the preferred alternative although there would be new irrigation and improvements to the on-site drainage to maximize the use of the field, installation of more durable turf, replacement of dilapidated equipment, and the provision of more durable pathways and hardscape. He acknowledged concerns raised by the MSD with the type of turf and maintenance requirements, which would be addressed during the design process. The project was scheduled to be put out to bid soon with the contract awarded by the Town Council in May.

In response to the Council, Mr. Ingram identified the numerous sport user groups that had been involved in the process and which had offered unanimous support for the proposal.

When asked, Mr. Gruber referred to recent correspondence from a resident and stated that the trees proposed as part of the design would involve a 50 to 60-foot maximum growth. He did not foresee any issues with potential view impacts given that the trees would be planted away from the property lines of adjacent residential properties. A solid fence shown on the plans was only intended as a visual reference regarding the size of the baseball and softball fields in that there would be no fence between the fields. He emphasized the amount of research that had been done regarding the type of turf with three different turf types having been considered. The turf material chosen would be decided jointly by the Town and the MSD given that the MSD would ultimately be responsible for its maintenance. Additionally, given the drainage issues on the site and in order to alleviate those concerns, a French drain would be installed at the edge of the blacktop area. The field would be entirely re-graded with even slopes and a subsurface drainage system which would allow drainage to occur more quickly.

Mr. Gruber also commented that if the project were to come under the \$600,000 estimated cost, any leftover funds could be used elsewhere. He emphasized that the MSD would be a major voice in the decision making process and Callander Associates would be working with the MSD. All parties had provided their input and were comfortable with the design although the selection of turf material remained to be resolved.

Ms. Mercurio described the bidding process and the addition of amenities the sports organizations might desire. She too emphasized that the MSD would be involved in the decision making process regarding the turf, and staff was trying to balance the needs of all involved parties. She anticipated that a decision would be made on the turf material in the next couple of weeks.

Mr. Ingram emphasized that the sports organizations had been involved in the discussions on the turf material.

Mayor Mendonca referenced correspondence that had been received from a local resident who had asked for the planting of smaller trees, and correspondence from another neighbor expressing concern with the lack of public notification of the item. She requested public notification for those who lived closest to Camino Pablo Elementary School.

Mr. Gruber affirmed that the use of a shorter tree species could be considered.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Ms. Mercurio clarified that the item had not been noticed to the public since at this stage of design for a Capital Improvement Project (CIP) there was little public involvement.

Ms. Keimach added that the item was not a normal public hearing which would have typically included public hearing notification although everyone who lived within 300 square feet of the site could be notified. The item would return to the Council for the award of contract in May.

The Town Council offered the following comments on the Conceptual Plans for the Camino Pablo Elementary School Field Renovation Project:

- Council urged the Sports Alliance to be involved in the selection of the turf material; and
- Council requested that public notification be provided to all residents within 300 feet of the Camino Pablo School Field Renovation Project.

The Council unanimously received the report on the Conceptual Plans for the Camino Pablo Elementary School Field Renovation Project.

X. PUBLIC HEARINGS - None

XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

- A. Accept and File the Annual Fiscal Audit for FY2009-10, the Management Letter, and the SAS114 Letter

Interim Administrative Services Director Emily Boyd presented the Annual Fiscal Audit FY2009-10, as required by Government Code. She reported that the Audit and Finance Committee (AFC) had reviewed the Town's accounting practices and that the Town had received a clean audit from its auditing firm, Mann, Urrutia, and Nelson. The Town Council was asked to accept and file the Annual Fiscal Audit for FY2009-10, the Management Letter, and the SAS114 Letter, as outlined in the February 16, 2011 staff report. She affirmed that all comments made by the AFC had been incorporated into the documents.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Harpham) to accept and file the FY2009-10 Audited Financial Statements, the Management Letter, and the SAS114 Letter. Vote: 4-0-1. Absent: Chew.

- B. Approve and Adopt the Mid-Year Revisions to the General Fund Budget for FY2010-11

Ms. Boyd provided the Council with copies of minor corrections which had been made to Attachment A, the Summary of Fund Balance Projections, Mid-Year FY2010-11, but which had not changed the requested budget amendment. She reported that the Town Manager and Department Directors had reviewed the Mid-Year Revisions to the General Fund Budget and

had estimated revenues and expenditures for the remainder of the Fiscal Year. The proposed budget amendment had shown overall General Fund expenditures in the amount of \$40,857 less than originally budgeted and a reduction of transfers into the General Fund in the amount of \$142,285, resulting in a decrease in the General Fund revenues in the amount of \$101,429. The original budget estimate for General Fund net revenues was \$249,414 and the revised budget estimate for General Fund net revenues was now \$149,185. The AFC had reviewed and approved the Mid-Year Revisions to the General Fund Budget at its February 7 meeting. The Town Council was asked to approve and adopt the Mid-Year Revisions to the General Fund Budget for FY2010-11.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Trotter) to adopt Resolution 3-2011, Approving and Adopting the Mid-Year Revisions to the General Fund Budget for FY2010-11, as amended. Vote 4-0-1. Absent: Chew.

C. Update on Revenue Enhancement Community Outreach to Neighborhoods (RECON) Efforts and Request for Direction

Robert Kennedy, a member of the RECON committee, presented a PowerPoint presentation on the background and purpose of the Revenue Enhancement Committee (REC), intended to be presented to the focus groups that had been formed in May 2010 to provide additional information to the questions that had been asked at that time. He explained that the REC, which had been established two years ago, had identified three major challenges to the Town including rebuilding of infrastructure, re-energizing the Town's economic activities and increasing General Revenues. As a result, the Town Council had taken action and established the RECON which had conducted the six facilitated focus group sessions that had been completed in May 2010, and had included an on-line survey of residents, created an Economic Development Team consisting of three volunteers, and had hired a new Town Manager who had economic development expertise. He noted that the Town Council had chosen not to proceed with any of the tax measures that the REC had proposed at that time.

Mr. Kennedy spoke to a series of questions that had been raised by the focus groups regarding the Town's revenues and expenditures and its long-term infrastructure program relating to road and storm drain maintenance. Most of the Town's annual revenues went towards essential services. Out of the essential services budget, there was no money available for road repair or resurfacing projects. He highlighted the Town's annual expenditures which had been kept below revenues and acknowledged that the Town spent within its needs. He also explained that the Town had the lowest revenue per capita compared to the Lamorinda area and was at a minimal staffing level. He identified the arterials, collectors and neighborhood streets in the Town, noted that the Town's entire road system had been rated in pretty good shape at 54 Pavement Condition Index (PCI), and stated that the Town could apply for matching grants although grants were not available for collector or neighborhood streets, half of which were found to be in a poor or very poor condition.

Mr. Kennedy commented that the Town had a Pavement Management Program although it did not have sufficient funds to conduct all repairs. He noted that the Town financed a few road projects each year and a larger project every other year. In 2010, the Town received a one-time economic stimulus grant in the amount of \$600,000. The Town typically needed an average expenditure of \$500,000 each year for major road rehabilitation projects, most of which had

focused on arterials. At that level, he explained that roads were deteriorating faster than they could be repaired. He offered pie charts to show the road conditions at the current spending level of \$500,000 and explained that if the Town continued at that level over the next 10 years the poor category would continue to increase. A pie chart of deferred maintenance over the next 10 years was also presented, which illustrated how roads had deteriorated. He explained that an average deterioration over the next 10 years would require \$4.4 million countered by spending \$500,000 to repair the roads resulting in the Town getting behind each year.

Mr. Kennedy emphasized that the Town needed to spend more money to repair its roads. He offered an option for the Town to spend \$1 million one year, \$2 million the next, and then \$3 million the next year in addition to the \$500,000 spent each year in road repair, which would allow repairs to exceed the rate of deterioration.

Mr. Kennedy also spoke to the Town's storm drain systems which were 40 to 50 years in age and close to the average lifespan. He suggested that the Town needed to spend some time discussing its storm drains, referencing new technology that was now available which could be less invasive and should be coordinated with any road repair projects. The coordination of the two programs would be essential but would require additional engineering studies on the status of the Town's storm drains. He recommended that the Town budget consider storm drain repairs with needed road repairs. The RECON recommended that the Town consider a long-term program to address road and storm drain deterioration and repair problems and determine how to pay for such a program and engage the public on how next to proceed.

Ms. Keimach emphasized that the issue was critical for the Town and had been highlighted as the most important project for the Town during the January 8 and February 9 Council goal setting sessions. During the past 18 months of discussion with the RECON on that issue, a Special Benefit Assessment District had been recommended which would require a majority vote of the citizenry, although after review with staff and the Town Attorney regarding recent court cases, the RECON decided that was not the prudent path to take. During past discussions, the Council had recommended an engineering analysis to highlight the Town's infrastructure needs and to make the citizenry aware of where public funds were expended. It was also recommended that a statistically valid community survey be conducted in order to assess opportunities and identify the risks and viability of all sources of revenue measures. The Town Council would have to determine the best revenue model to pursue while concurrently engaging the community on fiscal storm drain and street infrastructure needs. She explained that the next steps would require additional expertise and direction from the Council on how to move forward on both Mr. Kennedy's recommendations and her recommended next steps.

Sam Sperry, Public Finance Attorney with a focus on Special Assessment Financing and Special Tax Financing, also known as Mello Roos, described his extensive background in the field with his clients; all local government agencies in the State. Based on his experience and knowledge and as a volunteer advisor to the Town of Moraga, he offered his opinion on the use of special assessment districts as related to three court decisions and as detailed in his January 12, 2011 correspondence that had been submitted to the Town. Specifically, he recommended that the Town of Moraga utilize a special tax structure through the establishment of a Community Facilities District (CFD) under the Mello Roos Community Facilities Act of 1982, rather than a Special Assessment District, which would represent a significant legal risk.

In response to the Council, Mr. Sperry clarified that as reflected in his January 12 correspondence, he had identified the three court decisions where the court had invalidated special assessments. He provided background information on recent court cases. As to the language he had referenced in his January 12 correspondence regarding the Mello Roos Act, he noted that the language had been lifted directly from the Statute and Government Code.

Mr. Sperry clarified the differences between a CFD under Mello Roos and a proposed parcel tax. A parcel tax would impose the same amount on every parcel irrespective of the status of the parcel. A CFD could be fine-tuned to match what the public determined was fair.

Ms. Keimach added that a CFD had the ability to adjust the boundaries to be more equitable depending on what the engineering analysis determined. A parcel tax would be Town-wide for everything.

Town Attorney Michelle Kenyon also encouraged the Council to opine on Mr. Sperry's recommendations and advice. If the Council would like more information and legal analysis on a CFD versus a parcel tax, she would like the Council to consider whether or not it was comfortable with Mr. Sperry's recommendation to pursue a CFD.

Ms. Mercurio clarified that the roadway data referenced during Mr. Kennedy's presentation had been a function of the Metropolitan Transportation Commission (MTC) Street Saver Program. A survey mentioned by Mr. Kennedy during his presentation as to data on the road conditions had been input into that program which had calculated the condition, how it degraded each year, and the process of rehabilitation. The program would then inform the Town each year what maintenance needed to be done. The cost data was provided by staff and input into the program based on Moraga's costs for rehab and preventative maintenance projects. The program information was up-to-date and current. She added that the number of parcels that would be assessed through a parcel tax was not currently known but would be identified through more detailed analysis.

Ms. Keimach commented that staff had spoken with potential partner consultants to provide assistance on the next phase in terms of what the residents of Moraga wanted for their community. The Town Council was asked to provide direction on the staff recommendation to eliminate the Special Benefit Assessment District as an option due to its high legal risks. The Council may direct staff to keep options open for all revenue measures that would be unique to Moraga, such as a mail-in ballot or a traditional poll ballot. Staff would return with proposals in response to the Council direction and have the consultants working on that as well.

PUBLIC COMMENTS OPENED

Dale Walwark, Moraga, commended the presentation from the RECON committee and asked that it be distributed to the public. He recommended the consideration of presentations to community groups and organizations. He otherwise asked that the presentation better clarify the funds the Town received through property taxes which were used to support Town functions given that the Town did not keep all of the property taxes raised in the community.

Vice Mayor Metcalf reported that RECON would like to hold two focus group sessions with the original six focus group participants invited to participate to discuss the presentation to the Town Council and to solicit their reaction. That effort should commence in mid-March with additional outreach to the local press. The intent was also that those individuals in discussions with staff would design what those focus group discussions would look like.

The Council asked that the RECON presentation be posted on the Town's website and that the issue related to the Town's receipt of property taxes be clarified in the presentation.

Larry Beans, Moraga, wanted to see the Town move forward. He expressed the willingness to solicit public feedback on the presentation and suggested that other members of the community would likely be willing to do so as well.

PUBLIC COMMENTS CLOSED

Ms. Keimach clarified that the Town had received three proposals for professional services for continued outreach and involvement with the community; Lew Edwards Group, which would assist with the RECON and engage with citizens; Bryan Godbe, Godbe Research who was experienced in surveys with public agencies; and a proposal for the engineering analysis from Randy Leptien, with Leptien, Cronin, Cooper, Morris & Poore, Inc. All of the proposals were under \$15,000. A package had been scheduled for submittal to the Council for consideration with more information from all three candidates which were expected to make a presentation to the Town Council at its next meeting. She emphasized that the Town had an ambitious schedule it must keep in order to be successful.

The Town Council discussed the Update from the RECON Efforts and Request for Direction and offered the following comments and/or recommendations to staff:

Mayor Mendonca - Recommended that the Town Council follow Mr. Sperry's recommendation and eliminate the option of a Special Benefit Assessment District. She thanked the RECON and staff for all of their hard work on the proposal.

Vice Mayor Metcalf - Recommended that the Town Council eliminate consideration of a Special Benefit Assessment District and focus on a potential CFD.

Councilmember Harpham - Recommended a baseline figure be identified relating to road repair costs. He was willing to listen to the experts, keep an open mind, and agreed with the problems of a Special Benefit Assessment District which may be unfeasible and which consideration should be abandoned and rejected.

Councilmember Trotter - Agreed with the elimination of consideration of a Special Benefit Assessment District. He requested more data on a judgment or choice between a CFD and a parcel tax, which had the benefit of simplicity. He offered direction to staff to conduct the engineering and put the budget into the engineering work and hire consultants with respect to the questions of a parcel tax versus a CFD, and determine the number of parcels that could be under consideration.

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

There were no Council requests for future agenda items.

XIII. COMMUNICATIONS

- A.** Letter from Central Contra Costa Solid Waste Authority (CCCSWA) regarding the RecycleBank Pilot Program dated February 1, 2011

Mayor Mendonca reported that the Central Contra Costa Solid Waste Authority (CCCSWA) correspondence had been included in the Council packet and was an excellent response to a letter from a Moraga resident regarding the RecycleBank Pilot Program.

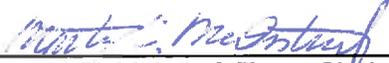
- B.** Letter from Contra Costa County Mayors' Conference Indicating Opposition to Governor's proposed Elimination of Redevelopment Agencies dated February 4, 2011

Councilmember Trotter reported that the letter had been sent after the recent Mayors' Conference where the Mayors had unanimously authorized sending the letter to the County's Legislation Delegation and to the Governor.

XIV. ADJOURNMENT

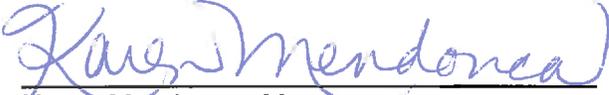
**ACTION: It was M/S (Harpham/Trotter) to adjourn the meeting at 9:42 P.M. Vote: 4-0-1.
Absent: Chew.**

Respectfully submitted by:



Marty C. McInturf, Town Clerk

Approved by the Town Council:



Karen Mendonca, Mayor