

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**September 14, 2011
MINUTES**

7:00 P.M. Regular Meeting

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

I. CALL TO ORDER

The regular meeting was called to order at 7:02 P.M. by **Mayor Karen Mendonca**.

ROLL CALL

Councilmembers present: Mayor Karen Mendonca, and Councilmembers Ken Chew, Howard Harpham, and Dave Trotter

Councilmembers absent: Vice Mayor Metcalf

II. PLEDGE OF ALLEGIANCE

Councilmember Chew led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

There were no special announcements.

IV. PROCLAMATIONS AND PRESENTATIONS

- A.** Proclamation Declaring the Week of September 19, 2011 to be Fall Prevention Awareness Week

Mayor Mendonca presented a proclamation declaring the week of September 19, 2011 Fall Prevention Week.

PUBLIC COMMENTS OPENED

Fayne Cohen, a member of Vital Link and the Fall Prevention Coalition, thanked the Town Council for the proclamation on behalf of the County's Fall Prevention Program, Meals on Wheels, and Seniors Outreach Services. She detailed the efforts and accomplishments of the Fall Prevention Program and welcomed the Town Council and members of the community to participate in the Walk for Fall Prevention event on September 24 in the City of Pleasant Hill.

PUBLIC COMMENTS CLOSED

- B.** Proclamation Declaring September 24, 2011 as Arbor Day in Moraga

Mayor Mendonca presented a proclamation declaring September 24, 2011 as Arbor Day in Moraga.

PUBLIC COMMENTS OPENED

Parks and Recreation Director Jay Ingram accepted the proclamation declaring September 24, 2011 as Arbor Day in Moraga.

PUBLIC COMMENTS CLOSED

- C. Proclamation Declaring Support for an Informational Program Commemorating the 1991 Oakland Firestorm

Mayor Mendonca presented a proclamation declaring support for an informational program commemorating the 1991 Oakland Firestorm.

PUBLIC COMMENTS OPENED

Jonathan Goodwin, Canyon, invited the Town Council to attend the Lamorinda Wildlife Forum on October 12 in the Orinda Library Auditorium to commemorate the 1991 Oakland Firestorm and provide information for further discussions on emergency preparedness with presentations from the cities of Oakland and Berkeley.

PUBLIC COMMENTS CLOSED

V. PUBLIC COMMENTS AND SUGGESTIONS

Jonathan Goodwin, Canyon, commented on the potential closure of the Country Club Station Post Office and past discussions when suggestions had been made by Moraga residents to close the Canyon Post Office. He pointed out that residents of Canyon must pick up their mail at the post office and asked the Council to educate the public on that situation.

Claire Roth, representing the Hacienda Foundation, invited the Town Council and the entire community to attend the upcoming Oktoberfest scheduled for October 16 from 2:00 to 6:00 p.m. at the Hacienda.

VI. ADOPTION OF THE CONSENT AGENDA

- A. Approval of the Consent Items

Town Manager Jill Keimach advised that Consent Agenda Item 3 would be removed from the Consent Agenda to be brought back at a later date given the absence of the consultant to answer any questions from the Town Council.

The following changes were made to the Town Council Regular Meeting Minutes of August 24, 2011:

To the fifth sentence of the comments made on Page 4 under VIII. Reports, A., Mayor's and Councilmembers' Reports, **Mayor Mendonca** corrected the following reference:

... had been one of the founding committee members for the first Annual Jazz for Joplin Jazz Festival on August 7;

To the last paragraph on Page 12:

***Mayor Mendonca** reported that she had spoken with an aide for Congressman Garamendi during the Mayors' Conference regarding the possible closure of United States Postal Offices and the fact that the Moraga Country Club Station had been*

eliminated from the expanded access study list of potential closures, it had been interpreted that that post office may not be closed.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Chew/Harpham) to approve Consent Agenda items 1, 2 (as modified) 4, 5, and 6. Vote: 4-0-1. Absent: Metcalf.
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|----|---|----------------|
| 1) | Accounts Payable Claims for 8/26/11 (\$83,328.64); 8/26/11 (\$289,497.31) | Approved |
| 2) | Minutes for Town Council Regular Meeting August 24, 2011 | Approved |
| 3) | <i>Adopt Resolution ___-2011 Adopting the ABAG Report "Taming Natural Disasters" as the Town of Moraga's Local Hazard Mitigation Plan</i> | <i>Removed</i> |
| 4) | Motion to Cancel the September 28, 2011 Town Council Meeting | Approved |
| 5) | Proclamation Declaring September 17 to 23, 2011 as Constitution Week | Approved |
| 4) | Proclamation Declaring October 2011 as Domestic Violence Awareness Month | 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 (Trotter/Harpham) to adopt the Meeting Agenda, as shown. Vote: 4-0-1. Absent: Metcalf.
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VIII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Mendonca - Reported that she had attended the 9/11 Moraga Valley Presbyterian Church Memorial Service which had been well attended by members of the community and the Lamorinda Police Departments; attended the Rheem Valley Shopping Center visioning sessions; and reported that on September 10 the Town of Moraga's team competed in the Mayors' Cook-off with Moraga having

received the 5th prize. In addition, she reported that she had a conference call with representatives from the United States Postal Service (USPS) regarding the status of the Moraga Country Club Station. She read into the record correspondence she had received regarding the USPS expanded access study list and detailed the background of the Town and community's efforts to preserve the Moraga Country Club Station, although she had been informed that the Moraga Country Club Station Post Office would officially close on October 14, 2011.

The Town Council affirmed with the Town Manager that the Town had no record of correspondence from the USPS in 2009 regarding the potential closure of the Moraga Country Club Station.

Councilmember Chew - No report.

Councilmember Harpham - Reported that he had attended the recent Revenue Enhancement Community Outreach to Neighborhoods (RECON) and Economic Development Action Committee (EDAC) meetings; and announced that the 9/11 Memorial Service held by the Moraga Valley Presbyterian Church had been attended by Lamorinda Police Departments and had been a moving and well attended service. He added that the Moraga Park Foundation was looking for volunteers for the upcoming Pear Festival and he urged the Town Council and members of the community to volunteer their services.

Councilmember Trotter - Reported that he had attended the first Rheem Valley Shopping Center visioning session on August 27 at the Rheem Theatre and had chaired the Contra Costa Mayors' Conference on September 1 in the City of El Cerrito with a presentation from the District Attorney.

- B. Town Manager Update – Ms. Keimach announced the hiring of the new Administrative Services Director, Stephanie Hom, who would start employment with the Town on October 17.

IX. DISCUSSION ITEMS

- A. Update on the Status of Emergency Preparedness in the Town of Moraga

Chief of Police Robert Priebe reported that during the January 2011 Goal Setting Session, emergency preparedness had been identified by the Town Council as a priority and staff had been directed to work with the Moraga-Orinda Fire District (MOFD) to improve the emergency preparedness of the Town. The MOFD had funded a permanent part-time position for Emergency Preparedness Coordinator Dennis Rein. Mr. Rein was working on how to move forward to improve regional response capabilities, including the transfer of CERT sponsorship to MOFD and to provide training to Town staff to meet Federal Emergency Management Agency (FEMA) standards.

Chief Priebe explained that the City of Lafayette had an emergency preparedness plan which was expected to be approved by its City Council within the next week. The goal was to adopt the same basic plan for all three of the Lamorinda agencies, but with specifics targeted toward each individual jurisdiction; the MOFD was the lead agency and would require Memorandums of Understanding (MOUs) amongst the three agencies. He added that the Town of Moraga was moving forward with a Town Hall at 329 Rheem Boulevard incorporating an emergency operations center.

Chief Priebe stated that the Emergency Preparedness Coordinator had not been able to attend the meeting since he was responding to a fire call. MOFD Fire Chief Randy Bradley was present to answer any questions from the Town Council.

MOFD Fire Chief Randy Bradley was pleased that the City of Lafayette would be adopting an emergency preparedness plan and its City Council would also be considering an MOU with the MOFD. He explained that the MOFD would work with the Town of Moraga to help with its emergency plan, work to ensure a functional emergency operations center (EOC) in the Town, and ensure that Town staff was trained to State and national levels, with drills and volunteer programs. He commended the selection of Mr. Rein as the Emergency Preparedness Coordinator who would work well with all of the jurisdictions.

Chief Priebe was confident that the Town would have an Emergency Operations Plan in place within a year. The next step would be the preparation of the MOU and bringing Town personnel up to the FEMA levels of training with cross training with the cities of Lafayette and Orinda.

Chief Bradley added that the Emergency Management Coordinator was also conducting a needs assessment and would be working with all of the associated groups on emergency preparedness in the three jurisdictions. He acknowledged the Council's urgency to have an emergency preparedness plan in place.

PUBLIC COMMENTS OPENED

Jonathan Goodwin, Canyon, was pleased with the selection of the Emergency Management Coordinator. He emphasized the importance of CERT, the adoption of an emergency preparedness plan and urged the Town Council to consider an advisory group on policies which would make recommendations to the Town Council.

PUBLIC COMMENTS CLOSED

X. PUBLIC HEARINGS

- A. Public Hearing and Adopt Resolution 32-2011 Accepting and Approving the State of California's Continuation of the Citizens' Option for Public Safety (COPS) Supplemental Law Enforcement Services Fund (SLESF) Under AB 3229 for Fiscal Year 2011-12 to Fund an Additional Police Officer

Chief Priebe presented the request to hold a public hearing to accept and approve the State of California's Continuation of the COPS SLESF under AB 3229 for Fiscal Year 2011-12 to fund an additional Police Officer and noted that the Town had been notified that it was eligible for \$100,000. In the past, COPS had been funded through Vehicle License Fees (VLFs) and it would again be funded on a quarterly basis.

Chief Priebe explained that COPS funds had been previously used for an additional police officer, police equipment, and interoperable radio equipment for the East Bay Regional Communication System Authority. COPS funds must be used for front line police services and must supplement, not supplant, existing funds. He commented on the decreased Police personnel based on the Town's budget with the staff report having included information from the LAFCO [Local Agency Formation Commission] Final Law Enforcement Municipal Services Review (MSR). He recommended that the Town Council accept the \$100,000 COPS SLESF fund to add a 12th police officer position to the Police Department, annually, as funding allowed.

Chief Priebe reported that he had a number of excellent candidates for consideration for a 12th officer and if the Town Council accepted the proposal and the money was used for that officer

the officer would be informed that the position was being funded through COPS. When COPS funds were no longer available, the Town would not be obligated to retain that position. He added that the Town still had \$100,000 in COPS funds from the previous year and would not have to wait to receive those funds to hire a 12th officer since that position would be fully funded. Alternatively, the Town Council may elect not to accept the COPS funds or accept the COPS funds and use it on police equipment or programs.

In response to the Council, Chief Priebe commented that while the Police Department needed some police equipment, the Department also needed a 12th officer. A 12th officer would allow the Department to start up a Detective position and the Town had the money in its budget to cover the excess for the position of the 12th officer as outlined in the September 14, 2011 staff report.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Chew/Harpham) to adopt Resolution 32-2011 Accepting and Approving the State of California's Continuation of the Citizens' Option for Public Safety (COPS) Supplemental Law Enforcement Services Fund (SLESF) Under AB 3229 for Fiscal Year 2011-12 to Fund an Additional Police Officer. Vote: 4-0-1. Absent: Metcalf.

XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

- A. Adopt Resolution 33-2011 Authorizing Staff to Enter into an Agreement with Callander Associates of San Mateo for a not-to-exceed amount of \$7,000 for Preliminary Design Services of Rancho Laguna Park

Mr. Ingram explained that the Park and Recreation Commission had been tasked to consider additional community outreach to provide a spatial separation for Rancho Laguna Park with a recommendation to be made to the Town Council this fall. He commended the efforts of Bill Carman and Lamorinda Dogs Inc. for their efforts in working with staff.

Mr. Ingram reported that representatives from Callander Associates had visited the Rancho Laguna Park. The consultant had agreed to a request to provide pro bono preliminary design services for Rancho Laguna Park. Callander Associates had developed four alternatives as part of its pro bono work which had been reviewed by the Park and Recreation Commission in July. The Park and Recreation Commission asked that two of the conceptual designs be set aside and that two go back for further study with a recommendation that Callander Associates also consider a design that would create a fenced-in dog park and space for an Under-12 soccer field within the existing park boundaries. After the July Park and Recreation Commission meeting, the pro bono work with Callander Associates expired.

Staff issued an informal Request for Proposal (RFP) for preliminary conceptual design services for Rancho Laguna Park and the low bidder was Callander Associates. On September 20, the Park and Recreation Commission would hear the Lamorinda Dogs Inc. proposal and receive additional public input. On October 18, Callander Associates would present a phased approach with cost estimates to the Park and Recreation Commission which would then select a design to recommend to the Town Council. On October 26, Callander Associates would present the Park and Recreation Commission recommendation for the spatial separation at the park to the Town Council.

Mr. Ingram acknowledged e-mails and correspondence that had been received in response to the item. The Town Council was provided copies of late correspondence with additional copies made available to the public. He asked the Town Council to allow staff, Lamorinda Dogs Inc., and the Park and Recreation Commission to continue to receive additional public input, to hire a third party to work on preliminary design concepts, to continue to engage the community and to provide additional conceptual drawings for community review and evaluation.

Mr. Ingram recommended that the Town Council approve a resolution authorizing staff to enter into an agreement with Callander Associates of San Mateo for a not-to-exceed amount of \$7,000 for preliminary design services for Rancho Laguna Park.

In response to many of the concerns raised, Mr. Ingram commented that it was important to have a plan in place due to limited park acreage in Moraga. The Park and Recreation Master Plan addressed a site specific Master Plan for Rancho Laguna Park which could cost up to \$25,000. In his opinion, conceptual design drawings could provide a Master Plan for Rancho Laguna Park at a cost of \$7,000 for a phased approach in recognition of the Town's limited resources. The community outreach efforts would discuss the phasing approach for the future. He acknowledged that drainage would likely be the most costly item for the Town to address.

Mr. Ingram suggested that parking concerns could be addressed through Callander Associates and the scheduling of activities. He emphasized that it had not been anyone's intention to have a sports complex at Rancho Laguna Park. He acknowledged that there could be viable alternatives to Rancho Laguna Park, such as school-owned property, which required a discussion with the Moraga School District (MSD).

Mr. Ingram identified the two conceptual plans which the Park and Recreation Commission determined required further study, both of which included a soccer field.

Ms. Keimach verified that the \$7,000 would come from the Town Manager's Contingency line item. She reported that no monies had been spent from that fund at this time.

Responding to the Town Council, Town Attorney Michelle Kenyon clarified that speakers may want to limit their comments to the subject agenda item, although comments from the public did not have to be limited in terms of the subject matter.

PUBLIC COMMENTS OPENED

Stephanie Dodson, Moraga, expressed hope that the Council would delay any move to change the heritage character of Rancho Laguna Park to a sports complex, noted that the park served many groups in many ways, and expressed concern that each of the Park and Recreation Commission's proposals would dramatically change the nature of the park. She suggested that broad-based community input should be provided before committing Town funds for soccer fields at the park which had not been done. She asked the Town Council to reject the recommendation to authorize \$7,000 in funds for preliminary design work. She urged a community-based stakeholder meeting with one or two representatives from each group in addition to an architectural firm and mediator to assist in the development options.

Scott Bowhay, Moraga, suggested that the process on the item had not been seamless with a plan having been recently launched with no prior discussion for a phased approach. He described the process as a reaction between the Park and Recreation Commission and the Town Council, emphasized that all of the conceptual plans included a soccer field with no other sport consideration, leading to concerns that the park would become a soccer field, and expressed concern with what he characterized as one narrow interest. In addition, he had been a member of a previous subcommittee which had already discussed spatial separation.

Graig Crossley, Moraga, agreed that the project would have to be phased given the Town's limited funds. He was uncertain the direction the Town Council wanted the project to take based on the studies and did not particularly care for a dog park where children also played given there was a location on Mulholland Ridge where dogs were unrestricted from the Orinda border to just above the Hacienda.

Ann Kletz, Moraga, representing East Bay Eclipse Soccer Club, an organized sports group user of Rancho Laguna Park, supported the continuation of the plan, understood that there had been a lot of thought and consideration over the past three years, and was confident a space could be created for both people and dogs. The club valued diversity and would work with the Town to ensure that practice times were tailored around other needs and access to a diverse group of people and dog owners would be maintained at Rancho Laguna Park.

Karen Lewis, Moraga, stated that she was also speaking for another resident who had been unable to attend the meeting and who opposed more soccer fields. She opposed the expenditure of \$7,000 in Town funds for preliminary designs, urged the Town Council to expend the \$7,000 in dog waste bags, and commented on the quality of life at the park on a daily basis. Given the limited park area in Moraga, she asked about the short- and long-term efforts of the Town to provide park land, and urged that Rancho Laguna Park be left as it was.

Seth Freeman, Moraga, expressed disappointment with the process. He spoke to the content of the plans, and suggested that it had been a multi-year railroading to establish a design in a narrow range based on a narrow number of people's vision. He liked the off-leash dog hours at Rancho Laguna Park which were posted and which did not conflict with anything else, with no evidence to support another soccer field. He referenced information from the 2010 Census and stated he would rather see the \$7,000 spent on repairs to the playgrounds. He suggested that it was naive to believe a firm would design infrastructure in a City for \$7,000 and pointed out that the design included a dedicated dog park with no demand for such a use.

William Cosden, Orinda, questioned the inclusion of a dedicated dog area in the schematics. He commented on the versatility of activities at Rancho Laguna Park which did not conflict with the hours of off-leash dog use. He suggested if there was an increased demand for soccer, or other athletics, that should not be a problem given the temporal separation in the park which had dealt with that issue for years.

Lisa Johnson, Moraga, explained that there were several working parents who had not been able to attend the Town Council meeting. She expressed her hope that the voices of parents of young children would also be included in the discussions, emphasized the need for parks in Moraga to include play structures for children, and stated she had concerns with dogs running through the play structures. She did not want the children fenced in given the diversity of people who used the park and the bike path. She added that she did not bring her children to the park during the evening hours because of the off-leash dogs although she was confident that something could be done to accommodate everyone. She urged appropriate outreach to the community to ensure that everyone was heard.

Stephen Spleiss, Orinda, commented on his experience as a youth soccer coach and his experience playing on fields with poor drainage. He suggested that it was imperative that a dog park area was open for people to also interact with the dogs, and that any soccer field needed to address the issues of parking and turnover during a regular soccer season.

Steve Smith, Moraga, stated that he had evaluated Rancho Laguna Park and its slope would not allow for a soccer field unless there was a great deal of compacted fill to level the area, which in addition to addressing the drainage would be cost prohibitive. He suggested there

would likely be environmental issues with the Department of Fish and Game given the proximity to the creek.

Ms. Keimach stated that during the Park and Recreation Commission meetings, the consultant had discussed the drainage for a potential soccer field and securing a cost estimate for a proposed flat field which was why the scope of work had included a cost estimate for that work.

Douglas Home, Moraga, as the parent of young children and a dog who routinely used Rancho Laguna Park, urged that the park be preserved in its current state and that the Town not waste \$7,000 or more monies to change something he characterized as close to perfection.

Cherie Grant, Moraga, a member of the National Parks Service Planning Team for six years, a member of the Moraga Park and Recreation Commission twice, and a member of the Park Foundation, preferred that the park be kept in its current state. She commented on the fact that Rancho Laguna Park allowed for many uses and was multi-generational. She spoke to the history of Rancho Laguna Park over the past 20 years and read into the record excerpts of actions from prior Town Councils. She quoted a December 1992 article from the Contra Costa Times regarding its opinion as to the inadequacy of Rancho Laguna Park for athletic events. She expressed concern with no close proximity of emergency services to the park.

Barry Behr, Moraga, acknowledged that the Town needed a multi-use sports field, although he stated that Rancho Laguna Park was the wrong location for such activities. He suggested that the jewels of Moraga included the Rheem Theatre, Rancho Laguna Park, Commons Park, and the Hacienda. He stated that parking, inadequate emergency and MOFD access to the park were also concerns. He opposed the expenditure of \$7,000 for preliminary designs and suggested using the Commons Park for soccer which could provide adequate parking.

Christopher Gerding, Moraga, representing Lindsay Carr, an Environmental Attorney, read the letter from Ms. Carr asking that the Town Council continue the item and not expend the \$7,000 for a preliminary design until the issue had a full public hearing. Ms. Carr cited the importance, beauty, and value of Rancho Laguna Park used by a diverse group of people and she urged that everyone be allowed to be heard.

Blair Newell, Lafayette, commented on the immediate need to replace the playgrounds at Rancho Laguna Park given the families who lived around the area and noted that absent the playground the character of the park would be changed. Recognizing the need for sports fields in the Lamorinda area, she questioned whether any studies had been done to consider the best location for new soccer fields and suggested the use of MSD properties or the former bowling alley property.

Boyd Smythe, Orinda, President of the Lamorinda Soccer Club, emphasized the need for more sports fields since youth sports had expanded in the Lamorinda area. He suggested that Rancho Laguna Park would work well for a sports field and noted that soccer fields did not need anything but a flat field with grass. He suggested that the expenditure of \$7,000 for the preparation of preliminary designs was a worthy investment for the Town of Moraga.

Jim Renton, Moraga, expressed concern with the Town expending \$7,000 for a preliminary design for Rancho Laguna Park which would call for development, essentially changing the nature of the park which was currently pleasant and peaceful.

Diane Renton, Moraga, opposed the expenditure of \$7,000 for a preliminary design for Rancho Laguna Park which led her to believe that a decision had already been made for development. She also expressed concern with the inclusion of a soccer field which would be used by private and exclusive clubs and which would not benefit the entire Town. She suggested that the

\$7,000 be used to replace the play structure. She opposed fencing for the dog park which would impact other users of the park and asked that the Town Council allow the park to remain as originally intended.

Jeanne Moreau, Moraga, opposed the Town entering into an arrangement with Callander Associates in the amount of \$7,000 and noted that she had worked on a proposal which had been rejected and had been directed to prepare another proposal. She emphasized the benefits of Rancho Laguna Park which was not fenced-in and which was enjoyed by many. She questioned why new development had not included parks given the lack of parks in the Town, understood that by law tot lots must be fenced in to protect children, and commented that she had Town plans from 2009 which had shown the installation of bleachers and lighting which led her to believe that such development would be done. She asked the Town Council to postpone action on the item and not expend the \$7,000 at the current time.

William Carman, Moraga, representing Lamorinda Dogs Inc., reported that on September 20 a presentation would be made to the Park and Recreation Commission on a spatial separation in Rancho Laguna Park. He noted that the issue of the removal of the tot lots involved details that remained to be resolved by the Park and Recreation Commission. He suggested that the Town Council should not take action until after the presentation was made by Lamorinda Dogs Inc. to the Park and Recreation Commission.

The following individual did not speak but offered written comments on the speaker comment card:

Elena Beck, Orinda, "Leave Laguna Park as it is - especially during the limited budget considerations. Let it be."

PUBLIC COMMENTS CLOSED

In response to the Council, Mr. Ingram explained that the Park and Recreation Commission committed to a goal of raising \$100,000 by the end of the year to replace the play structures at Rancho Laguna Park. Only \$5,000 had been raised. While it was hoped leftover Measure WW funds might be available for use after the completion of the Camino Pablo fields, the Council would ultimately make the decision as to how to spend any leftover funds. As to whether or not there had been any approved plans to add bleachers and stadium lights to the park, he noted that the Fields Committee had discussed what fields in the Town to improve and had considered a number of scenarios although he could not recall the inclusion of lights. If so, that was in error, and not appropriate for Rancho Laguna Park.

Ms. Keimach commented that the Park and Recreation Commission had considered a number of alternatives for a soccer field at Rancho Laguna Park and had not discussed any details on the cost of the removal of soils. Callander Associates' designs had included various sized fields to determine what would fit. The \$7,000 would include relative project costs. Also, Lamorinda Dogs Inc. had been asked to prepare a proposal to be presented to the Park and Recreation Commission which was to have been presented in July but which had not been ready at that time. She emphasized that the intent was to facilitate the process to allow all sides to be heard which was why the staff recommendation was to hire a third party objective consultant. She suggested that everything Parks and Recreation Department staff had done was in the interest of allowing the public to be heard. She added that she had attended the July Park and Recreation Commission meeting when both Lamorinda Dogs Inc. and Callander Associates had been present and had worked cooperatively.

The Town Council discussed the staff recommendation and offered the following comments and/or recommendations to staff:

- The Council expressed concern with the scope of work proposed by Callander Associates which included a soccer field based on cost, drainage expenses, and the appropriateness of Rancho Laguna Park for a soccer field; the scope of work did not include a vision or conceptual plan that did not include a soccer field, an omission that must be addressed; suggested that to ensure an honest process there should be a no sports field option at Rancho Laguna Park; and concerns were expressed with the inclusion of only a soccer field and no other sports fields.

Mayor Mendonca allowed a member of the Park and Recreation Commission to address the Town Council at this time.

Liz Faoro, Chair of the Moraga Park and Recreation Commission, commented on her experience with sports teams as a volunteer with Lamorinda Youth Association. She explained that a grass field could be used by Peewee baseball teams, the chalk lines were not permanent, and the field could be used by many sports and not just soccer. She emphasized that there was no intent to change the character of Rancho Laguna Park.

Ms. Keimach explained that the scope of work with Callander Associates could easily be modified and could be made part of a motion from the Town Council.

Ms. Kenyon referenced Exhibit A, Item 3, Scope of Work with Callander Associates as written, and explained that the Town Council may interpret that section as part of a motion, that two refined concepts would include one with a soccer field and one without a soccer field which would be covered by the scope of work. If the Town Council made such direction clear as part of a motion, staff would make that clear to the consultant. If the consultant did not agree to sign the agreement on that basis, the consultant would not sign the agreement

ACTION: It was M/S (Trotter/Harpham) to adopt Resolution 33-2011 Authorizing Staff to Enter into an Agreement with Callander Associates of San Mateo for a not-to-exceed amount of \$7,000 for Preliminary Design Services of Rancho Laguna Park with the proviso that the scope of work attached to the draft contract be modified by the Town; with input by the Town Attorney so that Exhibit A, Item 3, the Scope of Work include one concept plan that does not have a soccer or other athletic field as part of the concept. Vote: 4-0-1. Absent: Metcalf.

- B. Adopt and Waive a Second Reading of Ordinance No. 235, Rescinding Ordinance No. 223 which Amended Section 7.12.020 and Section 7.12.135 of Chapter 7.12 Town of Moraga Municipal Code Regarding Noise Control

Ms. Keimach advised that this was the second reading of Ordinance No. 235 Rescinding Ordinance No. 223 which Amended Section 7.12.020 and Section 7.12.135 of Chapter 7.12 Town of Moraga Municipal Code Regarding Noise Control, as a result of a settlement agreement with the Town of Moraga vs. Beachem.

ACTION: It was M/S (Trotter/Harpham) to adopt and Waive a Second Reading of Ordinance 235, Rescinding Ordinance No. 223 which Amended Section 7.12.020 and Section 7.12.135 of Chapter 7.12 of Town of Moraga Municipal Code Regarding Noise Control. Roll Call Vote: 4-0-1. Absent: Metcalf.

After the vote on the motion, it was brought to the attention of the Town Council that the agenda item had not been opened allowing for public comment and a motion to reconsider the prior motion was made.

ACTION: It was M/S (Trotter/Harpham) to Reconsider Adopting and Waiving a Second Reading of Ordinance 235, Rescinding Ordinance No. 223 which Amended Section 7.12.020 and Section 7.12.135 of Chapter 7.12 of Town of Moraga Municipal Code Regarding Noise Control. Vote: 4-0-1. Absent: Metcalf.

Mayor Mendonca opened the floor to public comment at this time.

Roger Poynts, Moraga, agreed that the Town Council should follow the court order and adopt the ordinance although he inquired of the potential fiscal impacts particularly the cost of publishing the notice of approval of the new ordinance and the ongoing costs to the Town as a result of litigation. He asked that the total costs of the process be published for the benefit of citizens, including any costs incurred by other organizations such as the Moraga Park Foundation, which may also be involved in the process.

Ms. Keimach explained that this had been a long process starting with a change to the Moraga Municipal Code (MMC), separate from the motion to rescind the change to the MMC and which included mitigation measures aimed at mitigating the noise in the neighborhood and two lawsuits. Fiscal impacts of rescinding the ordinance had been identified as part of the second reading before the Town Council. She noted that it would be difficult to separate what would fall under what project and staff had taken the most limited view of what that project was. Mr. Poynts explained that he was not being critical of staff, but would like to have a discussion on the fiscal impacts to the Town given the Town's limited resources.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Harpham) to adopt and Waive a Second Reading of Ordinance 235, Rescinding Ordinance No. 223 which Amended Section 7.12.020 and Section 7.12.135 of Chapter 7.12 of Town of Moraga Municipal Code Regarding Noise Control. Roll Call Vote: 4-0-1. Absent: Metcalf.

- C. Adopt Resolution 34-2011 (A) Authorizing the Town Attorney and Town Staff to Prepare and Sign an Amendment to the 2006 Reimbursement Agreement with the Bruzzone Family (Applicant), Specifying Applicant will Reimburse the Town for All Costs Associated with Processing the Project Applications Including the EIR, Consistent with the Town's Adopted Fee Schedule; (B) Authorizing the Town Manager to Sign an Amendment to the Contract with Hauge Brueck and Associates (HBA) Approving Additional Costs in the Amount of \$48,600; and (C) Authorizing the Town Manager to Transfer \$46,445.68 from the Fund Balance of Fiscal Year 2010-2011 to the Bollinger Valley Administrative EIR Deposit Account

Planning Director Shawna Brekke-Read explained that as part of the processing of the Bollinger Valley Environmental Impact Report (EIR) and project applications, staff had been addressing contract issues and the intent was to ensure that all issues had been addressed and executed. She asked that the Town Council adopt Resolution 34-2011 (A) authorizing the Town Attorney and Town staff to prepare and sign an amendment to the 2006 Reimbursement Agreement with the Bruzzone Family (applicant), specifying applicant will reimburse the Town for all costs associated with processing the project applications including the EIR, consistent with the Town's adopted fee schedule; (B) authorizing the Town Manager to sign an amendment to the contract with Hauge Brueck and Associates (HBA) approving additional costs in the amount of \$48,600; and (C) authorizing the Town Manager to transfer \$46,445.68 from the fund balance of Fiscal Year 2010-2011 to the Bollinger Valley Administrative EIR Deposit Account.

PUBLIC COMMENTS OPENED

Dave Bruzzone, Moraga, commented that the item was staff's effort to correct past issues. He expressed his hope that the minor changes would be made to allow the Draft EIR which was ready to be released.

PUBLIC COMMENTS CLOSED

In response to the Council, Ms. Keimach explained that the action before the Town Council would allow the Town Attorney and the Bruzzone family to address any issue that may arise.

ACTION: It was M/S (Harpham/Chew) to adopt Resolution 34-2011 (A) Authorizing the Town Attorney and Town Staff to Prepare and Sign an Amendment to the 2006 Reimbursement Agreement with the Bruzzone Family (Applicant), Specifying Applicant will Reimburse the Town for All Costs Associated with Processing the Project Applications Including the EIR, Consistent with the Town's Adopted Fee Schedule; (B) Authorizing the Town Manager to Sign an Amendment to the Contract with Hauge Brueck and Associates (HBA) for additional costs for Bollinger Valley EIR that were incurred in 2009 in the amount of \$48,600; and (C) Authorizing the Town Manager to Transfer \$46,445.68 from the Fund Balance of Fiscal Year 2010-2011 to the EIR Administrative Deposit Account for the Bollinger Valley Project. Vote: 4-0-1. Absent: Metcalf.

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

There were no Council requests for future agenda items.

XIII. COMMUNICATIONS

- A. Letter from United States Postal Service (District Manager) to Mayor Mendonca dated August 25, 2011

Ms. Keimach reminded the Council that the meeting would adjourn to a regular Town Council meeting scheduled for October 12, 2011 rather than September 28, 2011.

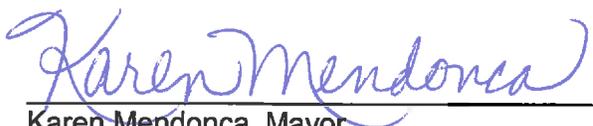
XIV. ADJOURNMENT

ACTION: It was M/S (Trotter/Harpham) to adjourn the meeting at 10:10 P.M and then to a regularly scheduled Town Council meeting on October 12, 2011. Vote: 4-0-1. Absent: Metcalf

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Karen Mendonca, Mayor