

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**June 27, 2012
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 7:05 P.M. by **Mayor Michael Metcalf**.

ROLL CALL

Councilmembers present: Mayor Michael Metcalf, Vice Mayor Howard Harpham, and Councilmembers Ken Chew*, Karen Mendonca and Dave Trotter
*(Councilmember Chew arrived at 7:06 P.M.)

Councilmembers absent: None

II. PLEDGE OF ALLEGIANCE

Councilmember Mendonca led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

There were no special announcements.

IV. PROCLAMATIONS AND PRESENTATIONS

- A.** Presentation on Status of Hacienda de Las Flores Projects by Hacienda Foundation of Moraga Boardmembers Graig Crossley and Sharon Metcalf

Graig Crossley, Hacienda Foundation Boardmember, thanked those who had assisted the Foundation including the Parks and Recreation Director and his staff; introduced Foundation Boardmembers present in the audience; and described the history of Hacienda de Las Flores prior to its deed to the Town. He added the Hacienda Foundation was established for the purpose of enhancing, protecting, and preserving the Hacienda for the Town of Moraga and offered a brief slide presentation of the activities hosted by the Foundation in the Hacienda's facilities.

Judy Dinkle, Hacienda Foundation Boardmember, identified the improvements and enhancements principally to the Hacienda's main building through the assistance and funds from the Park and Hacienda Foundations.

Sharon Metcalf, Hacienda Foundation Boardmember, reported on the upgrades to the La Sala building. She also presented the floor plan for the Pavilion with individual men's and women's restrooms constructed compliant with the Americans with Disabilities Act (ADA) requirements and future projects to include the remodel of the existing Pavilion. The main lobby area baffles would be removed and the chandelier would be replaced with a more period-appropriate chandelier.

Mr. Crossley reported that the Hacienda Foundation had discussed its strategic goals for the future in January 2012 which included 30 percent increased citizen access to the Hacienda; 17 percent increased rental income at the Hacienda; investigating the feasibility of incorporating a conference center into the Hacienda acreage; and ensuring that the Hacienda Foundation was viewed as a key stakeholder in the Moraga community.

In response to the Council on flooding risks and what measures the Hacienda Foundation or the Town needed to take to ensure that the work being done was not damaged, Ms. Metcalf noted that a French drain was intended to be provided at the ADA entrance which would drain across the front of the walkway stopping any water flow into the main area.

Mr. Crossley added that the absence of an ADA accessible elevator in the Hacienda had been discussed for at least 30 years and the Hacienda Foundation had not yet found a solution to that issue. He noted that the conference center was envisioned to be within the existing structure of the La Sala building or the ground floor of the Hacienda.

Town Manager Jill Keimach reported that the Town of Moraga had received some State Emergency Management Agency (Cal EMA) funds in response to the past flooding occurrences to repair some of the creek embankment and the Town had recently met with Cal EMA staff for the purpose of combining the creek project, upper and lower portions, adjacent to the Pavilion to prevent future flooding. The Town had also been working to obtain permits from the U.S. Fish and Wildlife Service due to the proximity of the Red-Legged Frog. Once approval from that department was obtained, Cal EMA would provide the Town with permits. The project was also part of a Capital Improvement Project (CIP) the Council had recently adopted. The Cal EMA money was to be used to replace what had been destroyed in the storms of 2005/06.

The Town Council commended the efforts and work of the Hacienda Foundation and expressed its appreciation and recognition of the generosity of the Bruzzone family toward those efforts.

PUBLIC COMMENTS OPENED

Joan Bruzzone, Lafayette, commended the Hacienda Foundation and recognized the Foundation's efforts, sacrifices, and volunteerism benefitting the Town of Moraga.

PUBLIC COMMENTS CLOSED

V. PUBLIC COMMENTS AND SUGGESTIONS

Joan Bruzzone, Lafayette, referenced the Town Council's plans to increase fees to raise revenues and expressed concern with the potential impacts to the middle class and future growth.

Bill Durkin, Moraga, reported that there would be a living history celebration at the Moraga Barn scheduled for September 15, 2012, with additional information to be posted in the Lamorinda Weekly in the next week.

Barbara Simpson, Moraga, expressed her appreciation to the Town Council for the preparation of a letter she had asked for in recognition of the bravery of Kristen Cunnane. She reiterated her request that the Town Council urge the Moraga School District (MSD) to conduct an outside independent investigation of the abuse of students in the MSD school system over the years.

Bill Cosden, Orinda, asked that the Town Council consider a public apology to Steve Smith regarding his lawsuit against the Town, as confirmed by the biologist's report, as related to the existence of the Dusky-Footed Woodrat. He also asked for a public apology to Cherie Grant

and her committee which had done an extraordinary job when asked to work with the dog park stakeholders.

VI. ADOPTION OF THE CONSENT AGENDA

A. Approval of the Consent Items

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Harpham/Chew) to adopt the Consent Agenda, as shown. Vote: 5-0.
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| 1) Accounts Payable Claims for 6/15/12 (\$135,576.38); | Approved |
| 2) Approve Minutes for Town Council Special Meeting on November 21, 2011 | Approved |
| 3) Approve Minutes for Town Council Regular Meeting on May 23, 2012 | Approved |
| 4) Approve Minutes for Town Council Special Meeting on May 30, 2012 | 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 (Harpham/Chew) to adopt the Meeting Agenda, as shown. Vote: 5-0.
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VIII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Metcalf - Reported that he had attended a meeting of the East Bay Regional Communications System Authority (EBRCSA) with a discussion on its budget and a presentation from the EBRCSA Executive Director on the system to the Moraga Kiwanis Club, and had extended an invitation for a presentation to be made to the Town Council after the system was operational.

Vice Mayor Harpham - Reported that he had been unable to attend the ribbon cutting ceremony for the new playground structure at Rancho Laguna Park since he had to pick up Larry Swindel after his successful surgery.

Councilmember Chew - Reported that he had attended the ribbon cutting ceremony for the new playground structure at Rancho Laguna Park.

Councilmember Mendonca - Reported that she had attended the ribbon cutting ceremony for the new playground structure at Rancho Laguna Park; and the Moraga Youth Involvement Committee (MYIC) had concluded its meetings for the calendar year and had organized and sponsored the recent Movie Night at the Commons Park.

Councilmember Trotter - Reported that he had attended the ribbon cutting ceremony for the new playground structure at Rancho Laguna Park.

- B.** Town Manager Update – Ms. Keimach updated the Town Council on the contributions to the Fourth of July fireworks celebration and asked Parks and Recreation Director, Jay Ingram, to provide more information about the play structure.

Jay Ingram, Parks and Recreation Director, presented photographs of the new play structure at Rancho Laguna Park, expressed his appreciation and gratitude to the volunteer efforts for the project, and acknowledged the Council request to advertise the new playground structure and post the photographs on the Town's website, the About Town newsletter, and the Lamorinda Patch.

The Town Council extended its appreciation to the Parks and Recreation Director for his work on the project.

IX. DISCUSSION ITEMS

There were no discussion items.

X. PUBLIC HEARINGS

There were no public hearings.

XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

- A.** Adopt Resolution 53-2012 Accepting the Town of Moraga Emergency Operations Plan 2012 as the Town's Emergency Plan as Required by Moraga Municipal Code Section 2.48.090

Robert Priebe, Chief of Police, described the history of the Emergency Operations Plan (EOP) when in 2007 the Town of Moraga, along with Lafayette and Orinda, had contracted with a consultant to provide services in connection with the Lamorinda Preparedness Plan Project. The Lamorinda and Town of Moraga's basic EOP had been completed in September 2007 and had been accepted by the three municipalities during a Tri-Council meeting in Lafayette in 2007, although the plan had not met the necessary Contra Costa County standards to be eligible for cost recovery under FEMA guidelines. The police chiefs of the three jurisdictions met to discuss the issue, found common concerns, and expressed a desire to create a new EOP that would serve as the guiding document for all three municipalities with flexibility to meet the specific needs of each individual jurisdiction. It was agreed that a new EOP could be prepared that would allow and encourage training among the three jurisdictions and provide Lamorinda with the ability to share resources, if needed.

Chief Priebe reported that with the guidance and expertise of Dennis Rein, the Emergency Preparedness Coordinator provided by the Moraga-Orinda Fire District (MOFD), all three jurisdictions had developed EOPs that met or exceeded the County, State, and Federal requirements, were operationally interchangeable, and promoted ongoing training among the three jurisdictions. He explained that there would be no direct fiscal impact associated with accepting the EOP although there were associated costs to provide training, facilities, and equipment with those costs currently undetermined. He asked the Town Council to adopt a resolution accepting the Town of Moraga Emergency Operations Plan 2012 as the Town's Emergency Plan as required by Moraga Municipal Code Section 2.48.090, took the opportunity to thank staff and Mr. Rein for assistance in the preparation of the EOP, and acknowledged the efforts of the Emergency Preparedness Committee.

In response to the Council, Chief Priebe noted that the City of Lafayette had already adopted its EOP and the City of Orinda would present its plan to its City Council in August. The EOP would allow the Town of Moraga to cross-train and use resources with Lafayette and Orinda in the event of a local disaster. As to the work that remained to be completed, he noted that Mr. Rein had already conducted training with all Town staff and staff understood the importance of the EOP which had been prioritized by the Town Manager. As to the implementation of the EOP, plans were being formulated for trial activation during the month of October. Mr. Rein would coordinate with all three jurisdictions to activate the Emergency Operations Center (EOC) in Moraga. He remained in communication with MOFD Fire Chief Bradley as to the work that needed to be done to Fire Station No. 42, as well as 331 Rheem Boulevard.

PUBLIC COMMENTS OPENED

Barbara Simpson, Moraga, asked whether or not there would be additional information on the Citizen Corps Council, to which Chief Priebe advised that the group would be re-activated, was responsible for coordinating the use of the Community Emergency Response Team (CERT), and would meet on the third Monday of each month at 6:30 p.m. at the Hacienda, with information to be posted on the Town's website.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Harpham) to adopt Resolution 53-2012 Accepting the Town of Moraga Emergency Operations Plan 2012 as the Town's Emergency Plan as Required by Moraga Municipal Code Section 2.48.090. Vote: 5-0.

The Town Council commended Chief Priebe for all his hard work on the EOP.

B. Adopt Resolution 54-2012 Regulating Rules for Organized Sports Use at Rancho Laguna Park

Mr. Ingram reported that there had been discussions about Rancho Laguna Park (RLP) for the past four years, with input from the public, the Town Council, and Town staff to preserve the rustic appeal of the park as much as possible amid concerns that the park was being turned into a sports complex eliminating or diminishing the park's rustic appeal. During the Town Council meeting of June 13, the Council directed staff to draft rules regarding sports activities for organized sports at RLP with the intention of dispelling rumors of turning the rustic park into a sports complex and to regulate specific sports use. He reviewed the potential rules and regulations and further detailed existing language in Ordinance No. 225 where off-leash allowances could be removed during an event sponsored or approved by the Town.

Mr. Ingram emphasized that RLP was to be used by all park users; clarified the potential rules and regulations would not conflict with existing Ordinance No. 225 as the correspondence had

suggested; emphasized his efforts to work with all organizations including the sports users and Lamorinda Dogs Inc. to allow all users to co-exist in RLP; and his intention to continue to work to be as flexible as possible. He had contacted the soccer group to inform them that the park would likely continue to have off-leash dogs after 4:00 p.m. after September 30. In response to a suggestion that reasonable fees be charged, he noted that staff had evaluated the fees from the surrounding jurisdictions in the Lamorinda area when considering Moraga's Master Fee Schedule.

Mr. Ingram asked the Town Council to consider the adoption of the resolution regulating the rules for organized sports use at RLP, as proposed.

PUBLIC COMMENTS OPENED

Trish Bare, Moraga, suggested that the staff report had captured the disconnect on the issue at RLP citing the first paragraph of the June 27 staff report and the list of rules and regulations for organized sports as reflected on Page 2. She expressed concern that RLP would become a full-time sports field based on the regulations for the rental of the grass fields and felt that staff was attempting to rent the area to the maximum extent possible while fencing off the entire lawn area for other users, contradictory to the Town Council's consistent statements that the park should be used for pick-up games.

Barry Behr, Moraga, emphasized that during the discussions about RLP over the past four years the Council had been clear that no organized sports would be allowed and that the park would remain rustic. He suggested that the contract with the soccer group was contradictory to the direction of the Town Council and stated the intent of the Town Council that the only sports at RLP were pick-up type games.

Patti Liberman, Moraga, expressed concern that the Town Council continued to ignore 1,800 citizens who had disagreed with the Town Council's decision. She asked that the Town Council rescind the ordinance and allow the community committee to start again to work something out.

Douglas Home, Moraga, understood that if an event was sponsored or approved by the Town, no off-leash dogs would be allowed in RLP during that time. He suggested that the Town Council may approve, not sponsor, the use by the soccer group although off-leash dogs were approved by ordinance and if the Town Council enacted something that prevented that from occurring the Town Council would once again try to change the ordinance.

Lee Lawrence, Moraga, commented that the Town Council had abolished off-leash dogs at RLP due to concerns for safety. She reported that an incident which had involved two dogs had resulted in a dog having been put down and the other dog continuing to enjoy off-leash hours at RLP. She had also researched the dangers of organized sports and reported on some of the injuries as a result of soccer.

Bill Cosden, Orinda, expressed concern with staff having referenced communications he had with Bill Carman and characterizing it as input from the community. He noted that while Mr. Carman had done a great deal of work on the issue, he was speaking for himself.

Steve Smith, Moraga, acknowledged that RLP was a rustic area but did not resemble the sports fields referenced in the cities of Lafayette and Orinda. He asked that the park remain as it was, rustic and beautiful, and expressed the willingness to walk the park with members of the Town Council to point out the nests of the Dusky-Footed Woodrat.

Scott Bowhay, Moraga, expressed his frustration with the information in the Lamorinda Patch by the opponents of the dog group and the intimation that the signatures for the referendum had

been gathered fraudulently. Since the Town Council would like to pass a sales tax referendum and not have it compete with the dog park issue, he recommended that the Town Council proceed with the sales tax measure on the ballot, rescind the ordinance, let the issue settle for a year, and not adopt the resolution before the Council at the current time.

PUBLIC COMMENTS CLOSED

Town Attorney Karen Murphy advised in response to the Mayor that the action before the Town Council was not related to the ordinance but to regulating organized sports usage at RLP which would be in place regardless of what might occur with the referendum. She emphasized that the Town Council was not acting on the ordinance at the current time.

Councilmember Chew referenced an e-mail from Liz Faoro dated June 25, which had made suggestions to the rules, which he found to be reasonable.

Vice Mayor Harpham commented that he had supported Plan D2 because of the area allowed for other users in the park, and as configured, it had shown a soccer field which he found to be a physical and mathematical way to delineate the appropriate space to be reserved for the general public. He suggested that organized sports/teams on a regular rental basis would be inconsistent with the rustic ambience and use of RLP. He suggested that the rules contained in the June 27 staff report were appropriate if there was a physical barrier to divide the park in a fair and appropriate way.

Councilmember Trotter commented that he would agree with the Vice Mayor's remarks if there was a physical barrier at the park, although he questioned adopting rules and regulations when no physical barrier was yet in place. While he agreed that the Town Council could legally adopt the rules at the current time, he questioned the wisdom of doing so and suggested that the Council revisit what rules were appropriate for RLP after the election and after resolution of the issues surrounding the referendum. He noted that he had left the last Town Council meeting prior to the discussion on future agenda items and was unaware that the item had been placed on the agenda.

Councilmember Mendonca supported the recommendations offered by Ms. Faoro with the exception of games being scheduled every one and a half hours. She requested clarification that RLP, a community park, had long been used for these activities and whether the regulations delineated in the staff report would represent a change in use.

Town Manager Keimach affirmed that there would be no change in use and that the rules were intended to provide clarity.

Councilmember Mendonca emphasized that it was not the intent of the Council to create organized sports other than to provide a place for practice games which had been done in RLP for many years. She supported the staff recommendation and the first two recommendations proposed by Ms. Faoro.

Mayor Metcalf stated that he had been accurately quoted as to what was appropriate for RLP and he had repeatedly stated that games akin to touch football after Thanksgiving dinner would be appropriate, suggested that RLP was a passive park inappropriate for organized sports, and expressed concern with the acrimony on the issue that could jeopardize the proposed sales tax measure for roads. He disagreed with the organized sports hours and asked the Town Council to affirm that RLP was to be a passive park. He pointed out that when the sports study had been done, all of the possible locations in the Town to accommodate organized sports had been identified, with RLP's turf, terrain, and off-leash dog use having been identified as undesirable for organized sports, which conclusion he supported. He recommended that the resolution be

crafted in such a way to ensure that RLP was to be a passive park with pick-up activities that co-existed with other activities and pointed out that the park was not for the exclusive use of dog owners for off-leash dog use.

Councilmember Chew pointed out that the discussion on the RLP usage had been ongoing for some time and that the rules and regulations had been intended to clarify false allegations as to the use of the park, with the Mayor placing the item on the agenda given the misinformation in the community and the Town Council's intent to not create a sports organization complex at RLP. He commented that one of the issues of the referendum was the misstatement that the Town Council would build a stadium and install bleachers and permanent goals if the Town Council did not support the referendum. He also understood that some people who had eventually withdrawn their signatures from the referendum were of the opinion they had been misled. He emphasized the intent of the current discussion was to clarify the rules, dispel the misinformation in the community, and clarify the use of RLP.

Mayor Metcalf stated that he had asked that the item be placed on the agenda to clarify the misunderstandings in the community and to clarify the Town Council's intentions for RLP. He had hoped the staff report would have reflected what the Town Council had discussed in previous conversations where RLP was intended for casual use when sports groups were involved with pick-up games and practices.

Councilmember Chew asked staff what had been contained in the staff report that was new and had not occurred in the past. He understood organized sports in the sense they included uniforms and coaches although it was not a competitive sport but a recreational team activity. He reiterated his understanding of the Mayor's intent to clarify misinformation to the public and have the discussion to provide correct information to the public. He emphasized that what had been occurring in RLP had been ongoing for several years.

Mr. Ingram reported that organized sports through Moraga Sports Camp and Euro Soccer had been occurring in RLP for at least the past five years.

Councilmember Trotter reiterated that he had not been present during the last Town Council meeting when the issue had been placed on a future agenda. He endorsed the Mayor's comments on the issue, stated it was not the time to adopt rules and the issue should be revisited after the November election. He asked that the Town Council focus on the Town's highest priority of the sales tax initiative.

Mr. Ingram commented that if the resolution was not adopted by the Town Council, there were already rules in place although he asked for direction whether or not to move forward with Eclipse Soccer in the fall as he would like to provide them ample opportunity to consider other facilities. In addition, he asked that the Parks and Recreation Department continue to have the ability to seek out organized sports as it had in the past (citing as an example the recent Moraga Sports Camp and Euro Soccer which had been using RLP in previous years) unless otherwise directed by the Town Council.

Councilmember Mendonca commented that the use of RLP by Moraga Sports Camp was an example of a community program using a community park of which she supported. She did not want the Town Council to take an action that would hurt the excellence developed by the Parks and Recreation Department in the park programming for its children and youth. If it was not important to approve the resolution at the current time she did not want to see it impact existing programs with the Parks and Recreation Department other than minor modifications to the rental agreement with Eclipse Soccer.

Mr. Ingram identified the current groups that had been using RLP; Euro Soccer, Eclipse Soccer, and Moraga Sports Camp (a variety of sports). When the groups completed their games the park was left in the condition it was before the games started. Based on input he had received from the public, RLP as compared to other fields, was in pretty good shape with no increase in the camp activities in the park other than the use by Eclipse Soccer which had started in 2011. The proposed rules and regulations memorialized what already existed, with the addition of specifying the time frames and dates with the intent that organized sports not use the park on every single Saturday.

Councilmember Chew agreed with the potential rules and regulations from the June 27 staff report as reasonable and appropriate. As to the potential sales tax initiative, since the Town Council had not made a decision on that issue he questioned any threats in that regard.

Mayor Metcalf expressed concern with an existing contract that was in direct conflict with the hours already established with a group of off-leash dog users.

In response to the Mayor as to the contradiction between the rules and regulations for organized sports use at RLP and the off-leash dog hours, Mr. Ingram explained that the contract with Eclipse Soccer started in January after the Town Council made its December 14, 2011 decision on the dog park in RLP and it took until March 9, 2012 for Eclipse Soccer to finalize and sign the contract. He had addressed in the June 27 staff report that he had communicated with Eclipse Soccer that they may want to consider a new venue for practice after October 1, 2012.

Ms. Keimach clarified, as reported by Mr. Ingram in his staff report, that during Town-sponsored or authorized events, off-leash dogs were not allowed in any part of RLP which was consistent with the previous ordinance, No. 236. What was not consistent was that the Parks and Recreation Director had a past practice of contacting the President of Lamorinda Dogs, Inc. to work out a mutually beneficial solution, as reflected in a series of e-mails between the Parks and Recreation Director and the President of Lamorinda Dogs, Inc.

Mr. Ingram advised that he had communicated consistently with Mr. Carman as the President of Lamorinda Dogs, Inc. for picnic rentals, grass rentals, and the like and who had the ability through e-mail contacts to make others aware of those activities.

Mayor Metcalf understood that the individual that the Parks and Recreation Director had spoken to no longer represented Lamorinda Dogs, Inc.

Councilmember Trotter asked that staff be given direction from the Town Council to maintain the status quo with Eclipse Soccer for the summer and fall and see what occurred after November; to table the rules, make adjustments to the contract with Eclipse Soccer, and then move forward.

Vice Mayor Harpham supported making a decision and did not want to wait until after the November election. He made a motion to accept the rules and regulations as provided and adopt Resolution No. 54-2012, as shown. When asked by Councilmember Chew to include the following additional rules and regulations: Monday through Friday rentals for organized sports cannot start before 3:30 p.m. and must end by 7:30 p.m., and no field rentals on any major holidays, he agreed to do so.

With that amendment, **Councilmember Chew** seconded the motion.

On the motion, **Mayor Metcalf** stated that the amendment to the motion would suggest to the off-leash dog group that it could not allow off-leash dogs before 7:30 p.m. Monday through Friday, which was inconsistent with the current off-leash dog hours.

Councilmember Chew withdrew his requested amendment and **Vice Mayor Harpham** restated his motion to adopt Resolution No. 54-2012, regulating rules for organized sports use at RLP, as shown. **Councilmember Chew** seconded the motion.

ACTION: It was M/S (Harpham/Chew) to adopt Resolution 54-2012 Regulating Rules for Organized Sports Use at Rancho Laguna Park. Vote 3-2. Noes: Metcalf, Trotter.

Mayor Metcalf declared a recess at 9:17 p.m. The Town Council meeting reconvened at 9:27 p.m. with all Councilmembers present.

- C. Discuss and Provide Direction to Staff Regarding Community Input on a New Plan Representing the Common Ground of Previous Plans for a Fenced Dog Park at Rancho Laguna Park

Ms. Keimach explained that the purpose of the agenda item was to ask the Town Council for direction for the next Town Council meeting scheduled for July 11, 2012. The County Elections Division verified there were over 1,001 signatures on the petition who were eligible Moraga voters. The Town Council could consider a number of options on July 11; whether or not to place the referendum on the November ballot, if the Town Council did not make a decision on July 11 the Council had the option to place the referendum on the ballot at a later date or place another ballot measure in partnership with the referendum showing something the Council wanted, the Town Council could rescind Ordinance No. 236, or the Town Council could consider during this time to continue working with the community on building a mutually beneficial plan.

Ms. Keimach commented on the number of items that had repeatedly come up as desires of the community and as a result she had drafted a compromise plan that met the majority of the interests expressed repeatedly over time as reflected in the June 27, 2012 staff report. Those interests included having a dog park as large as possible with a plan proposed that would be larger in acreage than the previous Option C absent the riparian corridor, which plan would go towards the parking lot and which would be 1.9 acres excluding the riparian corridor; the dog park should have natural turf that would accommodate an on-leash ball throwing area of about 200 feet; the multi-use turf area should be large enough to accommodate children running activities and practice fields of about 210 feet; picnic areas inside and outside in sun and shade; the dog park should include an accessible walking loop trail similar to what was available currently to walkers with or without dogs; the multi-use area should also have an accessible walking loop trail; the sensitive habitat area would need to be protected in conformance with the intent of the California Environmental Quality Act (CEQA); in the event a fence was needed to protect the sensitive habitat area the Town would install a fence at its cost; funding for any improvements would not come from the General Fund although the Town could provide one-to-one matching funds using Palos Colorados one-time developer fees; and the off-leash hours would remain in effect until the fenced dog park was constructed. She offered a diagram of the new plan to show the components that had been identified.

Ms. Keimach asked for input on the new plan which would be continually revised and asked that the communication with the community be conducted through the Lamorinda Weekly website, the Lamorinda Patch, Moraga Citizens Network, and a link to a survey form to be posted on the Town's website with a request that for all of the media outlets people use their real names, where they lived, and only comment once. She clarified in the event the Town Council rescinded Ordinance No. 236, the Town would go back to Ordinance No. 225 with temporal separation for at least a year with everyone working together productively on this plan.

As to how suggestions from the public on the new plan could be addressed, Ms. Keimach suggested that a grid could be placed over the diagram with suggestions made for modifications.

PUBLIC COMMENTS OPENED

Larry Beans, Moraga, suggested that the new plan addressed a lot of concerns since it included plenty of grass area for the community at large, a large lawn area for the dogs, picnic areas, it would address the concerns with sports and off-leash dogs at the same time, and may end the acrimony that had been going on in the community. He saw no modifications to the plan other than small tweaks and suggested it was a good plan.

Steve Smith, Moraga, understood that multi-use turf was part of the plan in contrast to the rustic serene atmosphere of RLP, and included organized sports on the last southernmost piece of land in Moraga which enjoyed views and habitat. He expressed concern that if multi-use turf was used it would ruin a legacy for the community.

Ms. Keimach clarified that she had intended a multi-use turf that would not be artificial but natural turf allowing all different types of users.

Lee Lawrence, Moraga, understood that the majority of the signatures that had been gathered preferred that RLP remain as it was, expressed concern with a fence running through the middle of the park since a great expanse of lawn was preferred, would like actual lawn/grass on the top of the Mickey Mouse ear design which the dogs would enjoy, and opposed the building of anything that would fence the dogs in.

Ms. Murphy explained that if the ordinance was rescinded or if the referendum passed in an election the Council may not pass the same or substantially similar ordinance for one year. The Town Council may work with the community during that time to craft a compromise. She clarified that the agenda item at the time was not dealing with the rescission or the possible referendum ballot measure.

Tina Brier, Moraga, read into the record her written comments dated June 27, 2012, copies of which were provided to staff and to the Town Council, and suggested that if the Town Council chose to rescind Ordinance No. 236 they would have her commitment to try to work through the dispute and come to a hopefully mutually acceptable resolution.

Jon Chambers, Moraga, noted it had been a difficult debate, suggested the issue should have gone back to the committee and it was not fair for the Council to decide on something the committee had not considered, that no Councilmember had informed him of his/her belief on the issue, a compromise was the best solution for the Town, and the plan proposed by the Town Manager appeared to be a good compromise allowing the Town to move forward.

Bill Cosden, Orinda, commented on his perception of a lack of trust either from staff or the Town Council; spoke to the background of the citations; emphasized that community input had started with the community committee which was told it could only consider spatial separation; a substantive report had been prepared by the citizen committee which had surveyed people and based on that input there was a desire to leave the park alone; questioned the options provided to the Town Council by the Town Manager and objected to the comments that staff needed to focus its resources elsewhere; and noted that the Town Council had just adopted a resolution in conflict with the spirit of the law.

Trish Bare, Moraga, questioned the Town Manager's recommendation for more community input to reach a mutually agreeable park emphasizing the amount of input the Town Council had already received over the past four years culminating in the referendum and the request that the Town Council leave the park as it was. She read into the record statements made by the Town Manager during prior Town Council meetings, noting that it was the appropriate time for the Town to start using staff resources on real issues and for the Town Council to respond to the

referendum by rescinding the ordinance. She suggested that the options proposed by staff continued the contentiousness, consumed staff time and resources, leading her to have concerns with adverse effects of the possible sales tax measure and that the Town's consultant had also expressed concern having the referendum on the same ballot as the sales tax measure, which she suggested could be avoided with the rescission of the ordinance.

Gary Watts, Moraga, commented that he was a regular user of the dog park and expressed concerns with renting the park to organized sports. He urged the Town Council to consider alternatives to making money off of the park and suggested that during the off-leash dog hours the sales of coffee could be considered.

Barbara Simpson, Moraga, suggested that RLP was not a rustic park given the large expansive lawn area and picnic areas. She was disappointed that it had taken this long to resolve the issue and suggested that no one was trying to make money off of the park.

Chris Gerding, Lafayette, stated that the alleged problems with the spatial separation currently in place for the past four years was that people were unsafe because of the off-leash dogs which history had shown was not the case. If the Town Council was concerned with safety, he questioned why the Town Council continued to allow the skatepark to operate as it did. With the 1,800 signatures asking that the park be left alone, he questioned why one of the options was not just to leave the park as it was, emphasizing that for most of the day there were no off-leash dogs in the park. He expressed concern with paid soccer leagues being involved in the debate where the Town would make money with a for-fee service leveraging for public land which was not the entire community but one organization.

Ed Kovaik, Moraga, spoke to the beauty of RLP and asked that it be allowed to remain that way.

Patty Cohn, Moraga, commented that she had spent a great deal of enjoyable time at RLP with her dog and asked that the Town Council leave the park alone.

Ellen Beans, Moraga, suggested that many in the Town would like to use RLP but had stopped because of the presence of so many off-leash dogs precluding other uses. She stated that there would be issues at the park with or without the referendum and suggested that conversations with a broader spectrum of people who used the park would be more beneficial for the Town.

PUBLIC COMMENTS CLOSED

In response to a member of the audience, Ms. Murphy advised that the Town Council could set reasonable rules for the public hearing and allow each person one chance to speak consistent with the Town Council's rules and procedures.

In response to the **Vice Mayor**, Ms. Brier advised that she was willing to compromise her position, had been willing to join the community committee, and had been in communication with the Town Manager through e-mail in the past to resolve the issues. She commented that if the Town Council rescinded Ordinance No. 236, she would work towards a resolution that people would be happy with. She could not say whether or not she still supported Plan C and she could not take a position on the Town Manager's new plan.

In further response to **Councilmember Chew** as to what she hoped to accomplish for RLP, Ms. Brier stated that she had appeared before the Town Council since October 2011 stating what she wanted, had submitted substantial correspondence reflecting her opinions on this issue, and emphasized that she had been transparent with the Town Council each time she had appeared to speak before the Town Council.

Councilmember Trotter recommended that direction be provided to staff to continue the dialogue. In the interests of transparency and fairness in addition to providing direction to staff on the newest plan, he suggested that it would be useful if it were shown graphically and discussed in the same set of comments as Option C to allow for comments on the plans side-by-side. He commended the Town Manager for thinking creatively in an attempt to resolve the issues and stated that he would like to see the discussion continue.

Mayor Metcalf also wanted to find a way to heal the community and commented that RLP was an asset, captivated by sheer usage by a particular group, but there were others who would also like to use the park and were unable to do so. He suggested that the park should be a shared-use facility and that there was a danger with off-leash dogs, which must be mitigated and which was why he had supported Plan C as a reasonable compromise. He noted that leaving the park as it was did not appeal to him. He also lauded the Town Manager's effort to propose a plan that could work and agreed that a dialogue needed to continue. Ceding the park or banning the park to off-leash dogs would not work and he would like to see support for the Town Manager's efforts although those efforts might not yield what was desired.

Councilmember Mendonca liked the looks of the plan proposed by the Town Manager, looked forward to the input from the public, and pointed out that a fence would allow more people to use the park and share the resource. She liked the idea of an ongoing dialogue and input on a fenced-in dog park which could create some excitement in the community in a positive way. She applauded the Town Manager's effort to create a compromise.

Councilmember Trotter suggested that the community committee should be invited to consider, reject, or approve the Town Manager's new plan.

Councilmember Chew agreed that the Council should support the Town Manager's suggestion to solicit more input from the community, not to finalize any plan, but was concerned with the comments from the public that there was unwillingness to work with the plan and that the park be left as it was, which the Council could not do. He referenced the history of the temporal separation discussions over the past four years with the Town Council having agreed with a condition that the Town work towards a spatial separation.

On the discussion, **Mayor Metcalf** declared a recess at 10:34 p.m. The Town Council meeting reconvened at 10:36 p.m. **Mayor Metcalf** reported that the purpose of the recess had been to discuss the meeting process with the Town Attorney.

Ms. Murphy reiterated that the purpose of the agenda item had been to provide direction to staff on decisions in the future with the actual referendum to come before the Town Council at its next meeting which would include a decision on whether or not to place the referendum on the ballot or rescind the ordinance.

Councilmember Chew supported the Town Manager's recommendation for continued dialogue from the community as a first step towards a resolution including the Lamorinda Patch and the Moraga Citizens Network, to hear public input and develop a community-acceptable plan, and to report back findings at the July 11, 2012 Town Council meeting. As to the whether or not the community committee should be invited to evaluate the new plan, he suggested that the Park and Recreation Commission could do that work.

Councilmember Trotter pointed out that the Council had previously decided not to remand the matter back to the Park and Recreation Commission.

Mayor Metcalf agreed that the matter should not be sent back to the Park and Recreation Commission.

Ms. Murphy added there were timing considerations as well since the rescission and placing the matter on the ballot would be considered at the next meeting on July 11.

Ms. Keimach commented that whether considered by the community committee or not, she was open to hear any input from anyone from the community. She recommended for this issue that people use their real names and residence to allow staff to communicate with the public through the Lamorinda Patch.

Councilmember Trotter affirmed with the Town Manager that the First Amendment allowed citizens to contact the Town Manager directly.

Councilmember Chew suggested that citizen suggestions be sent as e-mails to the Town Manager rather than through phone calls to allow any comments to be in writing.

Ms. Keimach responded to some of the comments from the public on her being inconsistent from March 2012 to the present, noting that based on her perspective in December 2011, March 2012, and the present her desire was not to have a polarized community. She tried to find a solution that both sides could live with, an effort she continued to strive for, and she had hoped when she had first recommended the community committee that the committee could find a mutually acceptable solution. She emphasized that her first priority and that of the Town Council was a focus on infrastructure, street repair, and storm drains.

Ms. Keimach affirmed that she had direction from the Town Council as to how to proceed and clarified that the questions included whether or not the community wanted a fenced-in dog park similar to the new plan, whether the new plan could be improved, whether the community wanted no fencing for off-leash dogs, or whether the community wanted another plan beyond Option C or Option D2. She expressed her hope that the community would be willing to consider a common solution.

- D. Adopt Resolution 55-2012 Authorizing the Town Manager to Award a Construction Contract to AJW Construction of Oakland in the Amount of \$161,229 for the Construction of High Visibility Crosswalk Improvements, CIP Project No. 09-103 and Authorizing the Town Manager to Execute the Contract and Change Orders up to 15 Percent of the Contract Amount; and

Adopt Resolution 56-2012 Authorizing the Town Manager to Amend the Current Design Professional Services Agreement with Harrison Engineering for No More than \$5,000 for Additional Civil Design and Coordination Services

Ms. Keimach reported that staff had gone out to bid for the design for two crosswalks at Corliss and Woodford Drives and the bids were close to the Engineer's Estimate; the low bid from a responsive bidder, AJW Construction was for the amount of \$161,229 and included change orders up to 15 percent of the contract amount. She asked that the first resolution be amended to include the 15 percent change orders with the same wording in the title in the NOW THEREFORE BE IT RESOLVED clause.

Ms. Keimach also commented that since the staff report had been distributed, staff had received a request for an additional \$2,000 for comparison engineering on site changes with a redline resolution for Resolution 56-2012 having been provided to the Town Council. She noted that the intent was that the work be completed before school started in the fall.

PUBLIC COMMENTS OPEN

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Mendonca) to adopt Resolution 55-2012 Authorizing the Town Manager to Award a Construction Contract to AJW Construction of Oakland in the Amount of \$161,229 for the Construction of High Visibility Crosswalk Improvements, CIP Project No. 09-103 and Authorizing the Town Manager to Execute a Contract and Change Orders up to 15 Percent of the Contract Amount, as amended. Vote: 5-0.

ACTION: It was M/S (Trotter/Harpham) to adopt Resolution 56-2012 Authorizing the Town Manager to Amend the Current Design Professional Services Agreement with Harrison Engineering for No More than \$7,000 for Additional Civil Design and Coordination Services, as amended. Vote: 5-0.

- E. Designate Town of Moraga's Voting Delegate and any Alternates at the League of California Cities Annual Meeting on September 5 to 7, 2012 in San Diego, California, for the Purpose of Voting on League Resolutions Regarding Issues of Statewide Concern

Mayor Metcalf reported that he had a conflict the week of the scheduled League of California Cities Annual Conference which resulted in him not being able to attend the annual meeting from September 5 to 7. He asked who on the Council would like to attend in his absence.

Councilmember Chew expressed the willingness to attend the annual meeting and serve as the voting delegate. Councilmember Mendonca volunteered to serve as the designated alternate if needed.

Mayor Metcalf proposed that the voting delegate be Councilmember Chew.

PUBLIC COMMENTS OPEN

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Metcalf/Trotter) to designate Councilmember Chew as the Voting Delegate to the League of California Cities Annual Meeting on September 5 to 7, 2012 in San Diego, California, for the Purpose of Voting on League Resolutions Regarding Issues of Statewide Concern. Vote: 5-0.

ACTION: It was M/S (Metcalf/Harpham) to designate Councilmember Mendonca as the Alternate Voting Delegate to the League of California Cities Annual Meeting on September 5 to 7, 2012 in San Diego, California, for the Purpose of Voting on League Resolutions Regarding Issues of Statewide Concern. Vote: 5-0.

- F. Review and Approve Proposed Town Council Letter of Opposition to Assembly Member Nancy Skinner Regarding Local Planning: Parking Spaces: Minimum Requirements dated June 28, 2012

The following revisions were made to the Letter of Opposition to Assembly Member Nancy Skinner.

To the first sentence of the first paragraph on the second page:

Finally, parking is not a matter of statewide concern; the issues of statewide concern are the budget, education, and economic growth.

To the first page to address the letter to "Assembly Member Nancy Skinner."

Mayor Metcalf pointed out that although Moraga was not a transit corridor, it had an obligation to its sister jurisdictions [Lafayette and Orinda] to make its opinions known.

On the discussion, Ms. Keimach noted that the Town of Moraga did not have a formal Priority Development Area (PDA) since it did not meet the 15-minute headway although the PDA was pending.

PUBLIC COMMENTS OPEN

Barbara Simpson, Moraga, was pleased to see that the Town would be responding to Assembly Bill (AB) 904 which she suggested was another infringement on property rights and rights as American citizens.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Mendonca) to Direct the Mayor to Sign the Draft Town Council Letter of Opposition to Assembly Member Nancy Skinner Regarding Local Planning: Parking Spaces: Minimum Requirements dated June 28, 2012, as amended. Vote: 5-0.

ACTION: It was M/S (Trotter/Mendonca) to extend the Town Council meeting to 11:05 P.M. Vote: 5-0.

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Councilmember Chew asked the Town Council to consider previous requests by Barbara Simpson to send a letter to the Moraga School District (MSD) expressing a need to address the issue of sexual abuse within the MSD and for the MSD to take action on the matter.

Ms. Murphy advised that the Council may discuss generally whether or not to place the matter on a future agenda for discussion. If it was the desire of the Town Council, one or two Councilmembers may draft a letter to the MSD for Council consideration at a future meeting, which letter would need to be carefully worded so as not to intrude on the jurisdiction of another agency. She affirmed that Councilmembers, as citizens, may have personal communications on his/her own to a MSD Boardmember which did not have to come back to the Town Council for discussion and consideration.

Barbara Simpson, Moraga, recalled that during the last Town Council meeting, the letter regarding Kristen Cunnane could not be discussed since it had not been agendaized for discussion, with a letter to be drafted and discussed during a future agenda. However, the letter had already been distributed to the Lamorinda Patch. She suggested that the Town Council had the responsibility to the Town, the parents, students, and schools within the MSD to be transparent.

Councilmember Chew expressed the willingness to draft a letter along with the assistance of the Vice Mayor to the MSD.

Vice Mayor Harpham deferred from such action.

ACTION: It was M/S (Metcalf/Harpham) to extend the Town Council to 11:10 P.M. Vote: 5-0.

Mayor Metcalf expressed the willingness to prepare a draft letter to the MSD for Town Council consideration at the next meeting on July 11. The Mayor also requested that a future agenda item include a presentation from the EBRCSA to be scheduled after the system was operational, to be determined by the Town Manager.

Councilmember Trotter asked that a future agenda item include a discussion on the fact that the City of Lafayette had extended its hours of operation for its Farmers' Market, which were the same hours as the Moraga Farmers' Market impacting Moraga's market with fewer booths and fewer choices. He encouraged a dialogue with the City of Lafayette on the issue.

Mayor Metcalf asked the Town Manager to contact the City Manager for the City of Lafayette to determine what had motivated the change in hours of operation for the Lafayette Farmers' Market.

XIII. COMMUNICATIONS

- A. Letter from Moraga Town Council to Local Media Outlets in Support of Kristen Cunnane dated June 15, 2012

ACTION: It was M/S (Mendonca/Chew) to extend the Town Council to 11:15 P.M. Vote: 5-0.

Ms. Keimach advised that the letter had been sent to the Contra Costa Times, Lamorinda Patch, and the Lamorinda Weekly.

Mr. Ingram added that the Town was short \$8,000 for the Fourth of July Fireworks Celebration and encouraged anyone to donate to the cause. The Town Council was provided with donation buckets.

XIV. ADJOURNMENT

ACTION: It was M/S (Harpham/Chew) to adjourn the meeting at 11:13 P.M. Vote: 5-0.

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Michael Metcalf, Mayor