TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING

September 12, 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 7:00 P.M. by **Vice Mayor Howard Harpham**.

ROLL CALL

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

Councilmembers absent: Mayor Michael Metcalf

II. PLEDGE OF ALLEGIANCE

Councilmember Trotter led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

Vice Mayor Harpham noted that the draft agenda was to have included an item for a Draft Initial Study/Mitigated Negative Declaration (MND) for the Joaquin Moraga Adobe Subdivision to be presented by Mike Olson, although Mr. Olson and his family had suffered a tragedy with the drowning death of their son. On behalf of the Town Council, he offered his condolences to the Olson family and asked for a moment of silence at that time.

IV. PROCLAMATIONS AND PRESENTATIONS

A. Presentation by Moraga Youth Involvement Committee (MYIC) Chairperson Steven Wetterholm and Vice Chairperson Mina Arasteh on MYIC's 2011-12 Accomplishments

Steven Wetterholm and Mina Arasteh described the background and purpose of the MYIC and presented the MYIC 2011-12 accomplishments which included the swearing in of seven new members; Holiday Tree Lighting in conjunction with the Moraga Parks and Recreation Department; Valentine's Day card making with residents at Moraga Royale; First Annual Bonding Extravaganza on Valentine's Day; participation at the Moraga Triathlon; volunteers at the Moraga Beautiful event; participation at the Dunk Tank at the Moraga Community Faire; Community Movie Night at Moraga Commons; Fourth of July Pancake Breakfast; and MYIC's first visit to the Contra Costa/Solano Food Bank.

MYIC long-term projects included the successful backpack drive for distribution by Shelter Inc. for underprivileged children; the formation of a Rheem Planning Subcommittee with MYIC providing input to the Moraga Planning Department on how it would like the Rheem Center to be changed as well as providing ideas on to how to get youth involved in the community; Solar Cell

Subcommittee to discuss solar cells on Moraga School District (MSD) schools; and working with the Orinda and Lafayette Youth Commissions to form an official Lamorinda Teen Association intended to assist local theaters through better advertising and assist each other with respective individual events.

Mr. Wetterholm and Ms. Arasteh expressed their appreciation to all of those who had contributed either through donations or volunteerism to the many MYIC events. They both particularly commended Councilmember Mendonca for her invaluable assistance as the Council liaison to the MYIC.

PUBLIC COMMENTS OPENED

Councilmember Mendonca expressed her appreciation and commended all of the efforts of MYIC members as well as Recreation Coordinator Kimberly Nelson for her work with the MYIC.

Recreation Coordinator Kimberly Nelson expressed her appreciation to Mr. Wetterholm and Ms. Arasteh for all of their efforts over the past year on the MYIC.

PUBLIC COMMENTS CLOSED

B. Swearing in of New Moraga Police Corporals Mary Ann Grubb, Randy Pacheco, and William Davis

Chief of Police Robert Priebe described the background and achievements of new Moraga Police Corporals Grubb, Pacheco, and Davis; and publicly thanked the Town Manager and the Town Council for their investment in the Moraga Police Department.

Town Clerk Marty McInturf presented the Oath of Office to new Moraga Police Corporals Mary Ann Grubb, Randy Pacheco, and William Davis.

The Town Council expressed its appreciation, congratulated, and welcomed Moraga Police Corporals Grubb, Pacheco, and Davis.

Town Manager Jill Keimach expressed her appreciation to Chief Priebe for his vision in managing the Moraga Police Department with the type of supervision the Town needed for the long term and for consideration of a succession plan for the future of the department. She was proud to work with such high caliber people.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

C. Proclamation Declaring the Week of September 22, 2012 to be Fall Prevention Awareness Week

Vice Mayor Harpham read into the record a proclamation declaring the week of September 22, 2012 as Fall Prevention Awareness Week.

PUBLIC COMMENTS OPENED

Pam Whitman, representing the Fall Prevention Coalition in partnership with Meals on Wheels and Senior Outreach Services for Contra Costa County, thanked the Council for the proclamation; offered a description of the many programs offered by the Coalition; announced that the Third Annual Fall Prevention Walk would be held on September 22, 2012 in Pleasant Hill; and offered the Council information on the event and programs offered by the Coalition.

PUBLIC COMMENTS CLOSED

The Town Council thanked Ms. Whitman for the efforts and programs offered by the Fall Prevention Coalition.

D. Proclamation Declaring September 29, 2012 as Arbor Day in Moraga

Vice Mayor Harpham read into the record a proclamation declaring September 29, 2012 as Arbor Day in Moraga and announced that a tree planting ceremony would be held in the Commons Park on the same date as the 2012 Pear Festival. The proclamation was presented to Parks and Recreation Director Jay Ingram.

PUBLIC COMMENTS OPENED

Parks and Recreation Director Jay Ingram thanked the Town Council for its continued support and for allowing Moraga to continue to be a member of Tree City USA.

PUBLIC COMMENTS CLOSED

V. PUBLIC COMMENTS AND SUGGESTIONS

Barbara Simpson, Moraga, repeated a prior request to the Town Council to send a letter to the Moraga School District (MSD) Board of Directors requesting a full public investigation of the sex abuse within the District over the past 10 to 20 years. She acknowledged that the Town Council had drafted a letter in support of Moraga resident Kristen Cunnane. She emphasized the importance of the Town Council requesting that MSD conduct a third party investigation and advised that the same request had been made to the MSD Board during a meeting on September 11.

Fred Lopez, Lafayette, introduced himself as a candidate for the Bay Area Rapid Transit (BART) System Board of Directors for District 3. He identified his background and experience in transportation; identified his concerns regarding an increase in crime, lack of cleanliness and accessibility within the BART system; and the negative impact of recent redistricting.

Chief Priebe reported on the recent tragic shooting death of California Highway Patrol (CHP) Officer Kenyon Youngstrom and the fact that two Moraga Police Officers had responded to the scene. He reported that although the Moraga Police Department was small, it was active and reached out. He added that several of the Department's Regular and one Reserve Officer would be attending Officer Youngstrom's service on September 13, on behalf of the entire Moraga Police Department.

VI. ADOPTION OF THE CONSENT AGENDA

A. Approval of the Consent Items

Consent Agenda Items 2 and 3 were removed from the agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Chew) to approve Consent Agenda Items 1, 4, 5, 6, 7, 8, 9, 10, 11, and 12 as shown. Vote: 4-0-1. Absent: Metcalf.

1)	Accounts Payable Claims for: 7/27/12 ($63,490.31); 7/27/12 ($146,923.64); 8/10/12 ($41,978.11); 8/10/12 ($96,622.13); 8/14/12 ($118,874.11) 8/24/12 ($5,569.00)	Approved
2)	*Approve Minutes for Town Council Regular Meeting of June 27, 2012*	*Removed*
3)	*Approve Minutes for Town Council Regular Meeting of July 25, 2012*	*Removed*
4)	Approve Minutes for Town Council Special Meeting of August 28, 2012	Approved
5)	Accept Quarterly Update of Community and Council Adopted Goals for 2012	Approved
6)	Authorize Mayor to Sign Master Cooperative Agreement with Contra Costa County Transportation Authority to Utilize Measure J Transportation for Livable Communities Grant for Livable Moraga Road Project	Approved
7)	Adopt Resolution 63-2012 Authorizing the Town Manager, Public Works Director/Town Engineer, and Administrative Services Director to Serve as Agents on the Town's Behalf in Working with State and Federal Agencies Regarding Post-disaster Financial Assistance under the Natural Disaster Assistance Act	Approved
8)	Accept the Play Equipment Improvements and Authorize Town Manager to File Notice of Completion for the Rancho Laguna Park Play Equipment Replacement CIP Project No. 12-401	Approved
9)	Motion to Continue Co-sponsorship with The New Rheem Theatre and the Moraga Chamber of Commerce for California Independent Film Festival (CAIFF) Community Event Signs, Banners, Fee Waiver, and Other Associated Activities, Not-to-Exceed $500 Annually, at The New Rheem Theatre through 2015	Approved
10)	Motion to Cancel September 26, 2012 Town Council Meeting	Approved

11)	Proclamation Recognizing the Sesquicentennial Anniversary (150 Years) of Saint Mary's College of California	Approved
12)	Proclamation Declaring the Month of October 2012 as Domestic Violence Awareness Month	Approved

B. Consideration of Consent Items Removed for Discussion

1. Approve Minutes for Town Council Regular Meeting of June 27, 2012

Councilmember Trotter requested an amendment to the second sentence of the fifth paragraph on Page 2, as follows:

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.

ACTION: It was M/S (Trotter/Mendonca) to approve Minutes for Town Council Regular Meeting of June 27, 2012, as amended. Vote: 4-0-1. Absent: Metcalf.

2. Approve Minutes for Town Council Regular Meeting of July 25, 2012

Councilmember Trotter requested an amendment to the first sentence of the third paragraph on Page 8:

Councilmember Trotter *suggested that the Council should discuss the proposed alternative wording of the measure as a "one-percent one-cent" or "one-percent" sales tax measure although he was inclined to support the consultant's recommendation.*

ACTION: It was M/S (Mendonca/Trotter) to approve Minutes for Town Council Regular Meeting of July 25, 2012, as amended. Vote: 4-0-1. Absent: Metcalf.

VII. ADOPTION OF MEETING AGENDA

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

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

VIII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Metcalf - No report.

Vice Mayor Harpham - Reported that he had attended a meeting of the Traffic Safety Advisory Committee (TSAC) on September 5 when there had been a discussion of the deadline for the amendments to the Traffic Calming Guide. Since TSAC had not met on a regular basis it would not be able to meet the deadline and

in discussions with the Town Manager and the Planning Director he expected that a new proposal would be made for a new Traffic Calming Guide in the near future.

Ms. Keimach explained that part of the recommendations were beyond what the full Council had directed TSAC and staff to do. As a result, an overview of the proposed changes would be presented at the next Town Council meeting and later would be refined by TSAC subject to direction from the Town Council.

Councilmember Chew - Reported that he had attended the League of California Cities Annual Conference in San Diego on September 5 through 7, 2012. He reported that Resolutions 3 and 4, under consideration by General Assembly delegates regarding environmental quality, had not made it to the floor having been declined by the policy committee. Resolutions 1, 2 and 5, regarding public safety, had passed with his votes consistent with Council direction. He offered an overview of the sessions he had attended including written information he suggested would be beneficial to Town staff. He encouraged Councilmembers to attend future League of California Cities Conferences given the benefits of the discussions.

Councilmember Mendonca - Reported that the first Sesquicentennial Mass at Saint Mary's College (SMC) would be held on Saturday, September 15 at 5:00 p.m. with a reception to follow. She reported that she had also attended the Grand Opening celebrations for New Delhi Bistro and Tangelo's Yogurt.

Councilmember Trotter - Reported that he had attended the Central Contra Costa Solid Waste Authority board meeting in July; met with the Solid Waste Authority Board franchise subcommittee in September with the jurisdictions in the JPA to provide input on the future franchise agreement; represented the Town at the Mayors' Conference on August 2 in Danville; picked pears for the annual Pear Festival on August 4; participated with the Mayor on the drafting of the ballot arguments in favor of Measure K; attended meetings for the 'Yes on K' campaign during the months of August and September; and attended the Grand Opening for Tangelo's Yogurt.

B. Town Manager Update – Ms. Keimach echoed the Vice Mayor's comments regarding the TSAC discussions; reported the Concert Series would end soon and commended all of the participants and volunteer efforts including the Park Foundation; and reported that in recognition of the 100th Anniversary of the Moraga Barn a celebration would be held on Saturday, September 15 at 7:00 p.m. She encouraged everyone to attend and offer their history and vision for Moraga.

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 64-2012 to 1) Authorizing the Town Manager to Award a Construction Contract to Bruce Corone Grading and Paving (Concord) in the amount of $199,000 for the Construction of the Moraga Commons Off-Street

Parking Project (CIP 10-301); 2) Authorizing the Town Manager to Execute Contract Change Orders up to 15 Percent of the Contract Amount; and 3) Approving a Budget Amendment from Fund 510 - National Pollutant Discharge Elimination System (NPDES) in an amount of $24,500

Public Works Director/Town Engineer Edric Kwan reported that this was the second time the project had been put out to bid; the first bid had gone over the engineer's estimate. The Town Council had adopted Resolution 44-2012 authorizing staff to reject the bids, rebid the project, and amend the MacKay & Somps contract with an additional $5,000 to re-scope the project and reduce the overall project costs. The second bid came in at $199,000, below the engineer's estimate of $210,000. Six bidders had responded with Bruce Corone Grading and Paving the lowest bidder. Staff also requested a 15 percent contract change order amount to allow staff to approve change orders without returning to Council for a contract amendment which would delay the project and subject the Town to delay claims. Further staff requests included a budget amendment in the amount of $24,500 from Fund 510 NPDES. Staff had worked with the Finance Department and determined there were eligible funds for the project in this funding source. He requested that the Town Council adopt Resolution 64-2012, as shown.

In response to the Council, Ms. Keimach explained that when the project had first arisen conceptually, the Director of Parks and Recreation had taken the project to the Lafayette and Orinda City Councils and received a commitment; however, Moraga did not yet have a bid amount and no bid had been accepted at that time. If the Town Council accepted and adopted the resolution, staff would go back to Lafayette and Orinda to remind them of the commitment and obtain an endorsement. If that endorsement failed, Town staff would return to the Town Council.

PUBLIC COMMENTS OPENED

Dick Ayers, Moraga, Moraga Park Foundation, urged the Town Council to approve the item. He reported that the Moraga Park Foundation had a vested interest in the project because a portion of the Snack Shop expansion project involved completion of Americans with Disabilities Act (ADA) work with pathway improvements inside the park itself. It had later been determined in discussions with the County Inspector and the Parks and Recreation Department that handicap parking spaces in the proposed new parking lot along Moraga Road would better serve the handicapped members of the community. As a result, the plans for the Park Foundation would be revised with the final inspection of the Snack Shop expansion to occur as part of the subject project. In the event the Town Council did not approve the project, he understood that the Town would be responsible for completing the original ADA pathway work.

Mr. Kwan explained that the existing path to the parking lot was not ADA compliant. To bring the path up to standard it would cost more to include handicap parking stalls in the new parking lot and use the existing path that was already ADA accessible. In this case, he affirmed that the Town would be able to combine the two different projects and use the new ADA path and the parking stalls in order to meet ADA requirements. He also affirmed that the Town had complied with its contract with the Park Foundation and the completion of the Concert Series. He saw no reason that the upcoming Pear Festival would be impacted by the project and said that all physical work should be completed by the end of the year.

Mr. Ayers confirmed that all of the improvements done by the Park Foundation at the Commons Park would be gifted to the Town of Moraga once completed.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Chew/Mendonca) to adopt Resolution 64-2012 to 1) Authorizing the Town Manager to Award a Construction Contract to Bruce Corone Grading and Paving (Concord) in the amount of $199,000 for the Construction of the Moraga Commons Off-Street Parking Project (CIP 10-301); 2) Authorizing the Town Manager to Execute Contract Change Orders up to 15 percent of the Contract Amount; and 3) Approving a Budget Amendment from Fund 510 - National Pollutant Discharge Elimination System (NPDES) in an amount of $24,500. Vote: 4-0-1. Absent: Metcalf.

B. Adopt Resolution 65-2012 Completing Sports Field Renovations to Camino Pablo School, an Elementary School within the Moraga School District and Donating the Town of Moraga's Share of $578,058.78 in East Bay Regional Park District (EBRPD) Measure WW Grant Money to the Project

Mr. Ingram reported that the item would memorialize the Town's share of $578.058.78 in EBRPD Measure WW grant money for sports field renovations at Camino Pablo School, an elementary school within the MSD. He reported that the Camino Pablo Fields renovation work had been completed and that the field was being used by the community. The intention of the donation had been to improve the play fields in the Town and to showcase the successful partnership between the Town and the MSD. The item was also tied to one of the Town Council's goals to complete the MSD and Town operating agreement for shared resources facilities. The Town currently had a Joint Use Agreement (JUA) with the MSD that memorialized the payment of $55,000 for fiscal year 2008/09, which would be reduced by $11,000 each fiscal year until fiscal year 2013/2014, at which time there would be no payment from the Town for field maintenance. The Town also donated almost $580,000 in Measure WW funds for this project. The Parks and Recreation Department was also paying a commercial rate for the use of the facilities causing the costs to escalate.

Mr. Ingram suggested that when considering a future operating agreement, the Town Council should also consider future costs when renting any public/MSD facilities. He noted concerns that members of the public could consider the rental of other facilities in the Lamorinda area and not those in the Town of Moraga as result of availability and fees.

In response to the Council, Mr. Ingram commented that many cities had a true JUA when using city or school facilities at no cost, although in this case the MSD and the Town must recover some of the maintenance costs. In the short term, one solution could be to consider Moraga Parks and Recreation similar to some of the local sports organizations where there could be some fees charged but not at a commercial rate. He noted the history of such a process within the MSD and examples throughout the county that could be used in a future operating agreement. He had been working with the MSD to consider other opportunities, and added that Camino Pablo Fields were currently being used for U-12 soccer, baseball in the spring, and a variety of different sports activities.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

The Town Council discussed Attachment A of Resolution 65-2012 and made the following revisions:

- Page 1, the NOW, THEREFORE, BE IT RESOLVED clause revised to read:

NOW, THEREFORE BE IT RESOLVED, the Town Council of the Town of Moraga hereby acknowledges the completion of the field renovations at Camino Pablo School in the Town of Moraga under budget and on schedule and the Town's expenditure of $578,058.78 in East Bay Regional Park District, Measure WW grant monies on a project located at Camino Pablo School, an Elementary School within Moraga School District.

- Page 1, the last WHEREAS clause revised to read:

  WHEREAS, this field renovation project was completed by Jensen Landscape and Construction (San Jose) during the summer of 2011 and the fields have been used by the Moraga School District, the Town and residents since that time.

- Page 1, first WHEREAS clause revised to read:

  WHEREAS, in 2008, the voters approved Measure WW, which allowed the East Bay Regional Park District to extend the tax passed by voters on Measure AA twenty years earlier; and

- Page 1, fourth WHEREAS clause revised to read:

  WHEREAS, the License Agreement was intended to expand the partnership for a mutually beneficial outcome that would benefit both parties and the community; and

- The title of Resolution 65-2012 revised to read:

  In the Matter of: Acknowledging the Completion of the Sports Field Renovations to Camino Pablo School, an Elementary School within the Moraga School District and the Town of Moraga's Expenditure of $578,058.78 in East Bay Regional Park District (EBRPD), Measure WW Grant Money to the Project

ACTION: It was M/S (Trotter/Mendonca) to adopt Resolution 65-2012 Acknowledging the Completion of the Sports Field Renovations to Camino Pablo School, an Elementary School within the Moraga School District and the Town of Moraga's Expenditure of $578,058.78 in East Bay Regional Park District (EBRPD), Measure WW Grant Money to the Project, as amended. Vote 4-0-1. Absent: Metcalf.

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Councilmember Trotter requested that the Draft Initial Study/Mitigated Negative Declaration (MND) for the Joaquin Moraga Adobe Subdivision be agendized for the first Town Council meeting in October 2012. Ms. Keimach concurred that staff would invite Michael Olson, J&J Ranch, LLC and the Friends of the Joaquin Moraga Adobe to also attend.

XIII. COMMUNICATIONS

A. Receive Response to Grand Jury Report No. 1213, "Financial Transparency With Meaning?" by the 2011-12 Contra Costa Grand Jury Dated June 6, 2012

Ms. Keimach reported that the item had been placed on the agenda for transparency and for the Town Council to see the staff's response to Grand Jury Report No. 1213. She added that the staff response had already been sent pursuant to the response deadline.

B. Receive Regional Housing Needs Allocation (RHNA) Letter from Association of Bay Area Governments (ABAG) Dated July 25, 2012

Councilmember Chew reported that the Regional Needs Allocation (RHNA) had been discussed during the recent League of California Cities Conference.

Planning Director Shawna Brekke-Read reviewed the methodology that had been used for the RHNA and acknowledged that it had been different from the methodology used in the past with Moraga's allocation lower than what the 2010 Housing Element had provided. She acknowledged that she saw no negative ramifications of the new RHNA to the Town's 2010 Certified Housing Element although the Housing Element would have to be updated around 2013.

XIV. ADJOURNMENT

ACTION: It was M/S (Chew/Trotter) to adjourn the meeting at 8:47 P.M. Vote: 4-0-1. Absent: Metcalf.

Respectfully submitted by:

Marty C. McInturf, Town Clerk

Approved by the Town Council:

Howard Harpham, Vice Mayor