TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING

February 8, 2012
MINUTES

7:00 P.M.

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

I. CALL TO ORDER

The regular meeting was called to order at 7:14 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
Councilmembers absent:	None

II. PLEDGE OF ALLEGIANCE

Mayor Metcalf led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

There were no special announcements.

IV. PROCLAMATIONS AND PRESENTATIONS

A. Proclamation Honoring Campolindo High School Football Team

Mayor Metcalf read into the record a proclamation honoring the Campolindo High School Varsity Football Team for its successful 2011 Season, identified each of the team members led by Head Coach Kevin Macy, and proclaimed February 8, 2012 as "2011 Campolindo Varsity Football Team Day."

PUBLIC COMMENTS OPENED

Dick Callahan commented that he had announced games for professional sports teams in the Bay Area as well as for local teams, recognized the great accomplishments of the Campolindo High School faculty and sports programs, and commended the accomplishments of the athletes of the Campolindo High School Varsity Football Team.

Kevin Macy, Head Coach for the Campolindo High School Varsity Football Team, commended the athletes, the student body, and the local community for its support.

PUBLIC COMMENTS CLOSED

B. Proclamation Honoring Campolindo High School Boys Cross Country Team

Mayor Metcalf read into the record a proclamation honoring the Campolindo High School Boys Varsity Cross Country Team for its successful 2011 Season, identified each of the team members led by Head Coach Chuck Woolridge, and proclaimed February 8, 2012 as "2011 Campolindo Boys Varsity Cross Country Team Day."

PUBLIC COMMENTS OPENED

Chuck Woolridge, Head Coach for the Campolindo High School Boys and Girls Varsity Cross Country Teams, expressed his gratitude to the athletes, the Campolindo High School Administration, parents, and the Town Council for its recognition.

PUBLIC COMMENTS CLOSED

C. Proclamation Honoring Campolindo High School Girls Cross Country Team

Mayor Metcalf read into the record a proclamation honoring the Campolindo High School Girls Varsity Cross Country Team for its successful 2011 Season, identified each of the team members led by Head Coach Chuck Woolridge, and proclaimed February 8, 2012 as "2011 Campolindo Girls Varsity Cross Country Team Day."

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

The entire Town Council expressed its appreciation and recognition for the success of the Campolindo High School football, boys cross country, and girls cross country teams.

D. Proclamation Honoring Carrie Verdon, Diablo Foothill Athletic League, North Coast Section and State Champion

Mayor Metcalf read into the record a proclamation honoring Carrie Verdon, Diablo Foothill Athletic League, North Coast Section and State Champion, and proclaimed February 8, 2012 as "Carrie Verdon Day."

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

E. Proclamation Honoring Thomas Joyce, Diablo Foothill Athletic League, North Coast Section Champion

Mayor Metcalf read into the record a proclamation honoring Thomas Joyce, Diablo Foothill Athletic League, North Coast Section Champion and proclaimed February 8, 2012 as "Thomas Joyce Day."

PUBLIC COMMENTS OPENED

Carol Kitchens, Principal of Campolindo High School, took the opportunity to thank the Town Council, the parents who supported the Campolindo High School athletic programs, and all of the Campolindo High School students for their efforts and achievements.

Coach Woolridge announced that a video of the Town Council presentation of proclamations for the February 8, 2012 Town Council meeting would be available at www.chslapuma.com.

PUBLIC COMMENTS CLOSED

V. PUBLIC COMMENTS AND SUGGESTIONS

Tina Brier, Moraga, noted that she was pleased to see the Town Council honor Campolindo High School students. She expressed concern with the Mayor's remarks during the recent Council Goal Setting Session regarding speaking about Rancho Laguna Park as related to the potential litigation; the playground issue at Rancho Laguna Park; and issues with the playground equipment's compliance with Americans with Disabilities Act (ADA). She urged the Town Council to consider more bids for the replacement of the equipment.

Town Attorney Karen Murphy requested that there be no discussion about the Rancho Laguna Park project given pending litigation.

Barry Behr, Moraga, understood that the litigation involving Rancho Laguna Park did not involve the playground equipment. He emphasized the community support and funding in place for the replacement of the playground equipment and urged the council to find a solution which would allow the playground equipment to be replaced. He understood that the Town would lose funds for the project if paperwork was not submitted by a specific deadline.

Graig Crossley, Moraga, also spoke to the lawsuit based on the Town Council's direction to provide spatial separation at Rancho Laguna Park which had led to the Park and Recreation Commission taking no action to replace the playground equipment. He asked the Town Council to consider prohibiting dog owners from using Rancho Laguna Park until the situation was resolved and identified alternative locations that dog owners could use in the community.

Barbara Simpson, Moraga, referred to the Town Council's discussion at its last meeting regarding the formation of a Priority Development Area (PDA) along Moraga Road from Donald Drive past Campolindo High School in order to qualify for road and transportation grants, with the area to be allocated for high density housing through the Metropolitan Transportation Commission (MTC), the Association of Bay Area Governments (ABAG), and the State to determine the number of people who may live in the area through ABAG's Regional Housing Needs Allocation (RHNA). She stated that the Town had not considered the burden a PDA would impose on property owners along Moraga Road, expressed concern that the land owners in this area were not aware that their properties would be rezoned for high density housing which would not come with extra funds for schools, fire, police, or routine road maintenance, and asked the Town Council to make this action known to all of the property owners in the area and the entire Town before any decisions were made.

VI. ADOPTION OF THE CONSENT AGENDA

A. Approval of the Consent Items

Consent Agenda Items 1, 2, and 3 were removed from the Consent Agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Harpham/Chew) to approve Consent Agenda Items 4, and 5. Vote: 5-0.

1)	*Accounts Payable Claims for: 1/12/12 ($89,639.87)*	*Removed*
2)	*Approve Minutes for Town Council Regular Meeting January 11, 2012*	*Removed*
3)	*Confirm Appointment of Town Council Representatives to Committees and Boards*	*Removed*
4)	Adopt a Motion Authorizing the Town Manger to Deem Identified Town-Owned Utility Trailer as Surplus	Approved
5)	Authorize Staff to Continue Participation in the Small Cities Community Action Plan (SCCAP) Project and Accept a Grant of $6,000 from the Project	Approved

B. Consideration of Consent Items Removed for Discussion

1. Accounts Payable Claims for: 1/12/12 ($89,639.87)

Councilmember Chew asked that the reference to Vendor: FIA Business Card, as shown on Page 4 of the Accounts Payable Claims for January 12, 2012, be modified to read "Business Credit Card."

Administrative Services Director Stephanie Hom explained the vendor, FIA Business Card, had requested the payouts be made out to Business Card. She noted that staff could consider the use of other fields if that was the Council direction, but there were system limitations.

ACTION: It was M/S (Chew/Harpham) to approve Accounts Payable Claims for: 1/12/12 ($89,639.87), as shown. Vote: 5-0.

2. Approve Minutes for Town Council Regular Meeting January 11, 2012

Councilmember Chew asked that the dialogue he had with Barbara Simpson as shown on Page 5 of the minutes of the January 11, 2012 meeting be expanded in the meeting minutes.

Councilmember Mendonca noted for the record that she had requested the revision to the Town Council meeting minutes for the November 9, 2011 meeting (as shown on Page 2 of the minutes of the January 11, 2012 meeting).

Town Clerk Marty McInturf advised that the changes would return in the redline strikeout format. When asked by the Mayor, she noted that the changes requested by Councilmember Chew were not typically made in a verbatim format, although summary format would be provided.

3. Confirm Appointment of Town Council Representatives to Committees and Boards

The Town Council clarified for the record that the Confirmation of Appointments of Town Council Representatives to Committees and Boards would be the redline version that had been distributed to the Town Council at the dais, and the public, that evening.

ACTION: It was M/S (Trotter/Harpham) to confirm Appointment of Town Council Representatives to Committees and Boards in the redline version distributed at the Town Council dais on February 8, 2012. Vote: 5-0.

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: 5-0.

VIII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Metcalf - Reported that he had attended a Revenue Enhancement Community Outreach to Neighborhoods (RECON) meeting with another meeting scheduled for February 10; had hosted two RECON outreach meetings over the past week and encouraged interested parties to sponsor a meeting; and had attended a recent Southwest Area Transportation Committee (SWAT) meeting with discussion on the One Bay Area Grant and TLC grant programs, with the One Bay Area Grant to be discussed during the Tri-City Meeting on February 9.

Vice Mayor Harpham - Reported that he had attended a RECON neighborhood presentation hosted by Councilmember Mendonca and Renee Zeimer; and had met with Campolindo High School's Principal to discuss the Emergency Preparedness Plan and whether or not the school would be willing to align with the Town's Emergency Evacuation Plan.

Councilmember Chew - No report.

Councilmember Mendonca - Reported that she had chaired the Central Contra Costa Solid Waste Authority meeting on January 26; she and her husband had hosted a RECON neighborhood meeting at the Moraga Tennis and Swim Club courtesy of the Moraga Country Club on January 31; and had attended the Mayors' Conference in the City of Pinole on February 2.

Councilmember Trotter - Reported that as a member of the Emergency Preparedness Committee after the Town Council Goal Setting Session on January 28, he had been contacted by the Police Chief who had provided a draft copy of the Emergency Operations Plan, with the plan to be reviewed by the committee after which it would be presented to the Town Council.

B. Town Manager Update – Town Manager Jill Keimach reported that 487 citizens had been reached through the RECON neighborhood meetings with surveys distributed for input on what was most important to community members; 87 responses had been received. The primary issue continued to be potholes, with the community desiring a good construction and expenditure plan. Staff planned to submit a plan to the Town Council for consideration in the near future. She also reported that the Traffic Safety Advisory Committee (TSAC) had discussed a

number of different items, including a revision of the TSAC guidelines and a citizen request to consider maintaining the lights which had gone out over time on the speed hump located at Camino Pablo. A special TSAC meeting on February 27 would be noticed to the public and include the neighbors and the Moraga School District (MSD). TSAC had made an interim recommendation for the replacement of the lights although there remained an issue about the pending crosswalks planned at other locations and potential driver confusion with blinking lights in the crosswalk.

As the liaison to TSAC, **Vice Mayor Harpham** was asked to advise TSAC of its limitations in terms of the Town's legal liabilities which was under the purview of the Town Attorney and Risk Management.

Ms. Murphy explained that she would work with staff on how the special TSAC meeting would be agendized to the public. She noted that TSAC would be observing the location at Camino Pablo, which would essentially be a field trip to the location, and would involve a typical Brown Act notice of the event.

Barbara Simpson, Moraga, disagreed with the need for a special meeting, stated that she was familiar with the lights at Camino Pablo, recommended the replacement of the lights, and suggested that TSAC members observe the site on their own time and then report back to TSAC on any observations.

Ms. Murphy noted that the issue would be discussed at a future TSAC meeting and could be discussed further by the Town Council under the Request for Future Agenda Items.

Vice Mayor Harpham pointed out that TSAC would not be meeting again until March 7. He encouraged staff to communicate the discussion and concerns of the Town Council and TSAC's limitations on the legal issues prior to the special meeting being considered.

IX. DISCUSSION ITEMS

There were no discussion items.

X. PUBLIC HEARINGS

There were no public hearings.

XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

A. Authorize Town Manager to Apply for East Bay Regional Park District (EBRPD) Measure WW Grant Funds for Improvements to the Commons Park and Hacienda de las Flores

Vice Mayor Harpham reported that he had spoken with the Town Attorney and would recuse himself from the discussion for the first motion for improvements to Commons Park since his wife was the Treasurer for the Park and Recreation Foundation. He stepped down from the dais at that time.

Parks and Recreation Director Jay Ingram presented the request to authorize the Town Manager to apply for EBRPD Measure WW Grant Funds for improvements to the Commons Park and Hacienda de las Flores, stated that the Town already had a master contract with

EBRPD in the amount of $737,587, and the Town had until 2018 to use the funds. The majority of the funds had been spent on the Camino Pablo Field Renovation Project. The first project would be for two contracts between the Town and two different contractors for the Commons Park improvements for bandshell improvements with the scope of work yet to be detailed. The Park and Recreation Commission had met on January 24, 2012 and recommended that the Town Council approve both agenda items.

Mr. Ingram explained that in speaking with the EBRPD Grant Manager; both projects under consideration for the Commons Park appeared to be approvable. The Town would front the money and be reimbursed when the project was completed. He asked the Town Council to approve a funding request for EBRPD Measure WW Funds not to exceed $30,000 for the Commons Park bandshell improvements, and approve a funding request for EBRPD Measure WW funds not to exceed $15,000 for ADA pathway improvements, with the total amount not to exceed $45,000.

In response to the Council, Mr. Ingram affirmed that a contractor had already been identified for the bandshell improvements although a contractor had not yet been identified for the ADA pathway improvements at the Commons Park. He noted the Town would have Measure WW funds available after both projects were submitted. He also detailed the scope of work for the $30,000 bandshell improvements and $15,000 ADA project that would both meet the Town's contracting procedures to be eligible for EBRPD funds. The ADA pathway improvements were only for that portion of the path from the parking lot area towards the band shell/playground area.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Mendonca) to authorize the Town Manager to Apply for EBRPD Measure WW funds, not to exceed $30,000 for Commons Park bandshell improvements AND approve a funding request for EBRPD Measure WW funds not to exceed $15,000 for ADA pathway improvements. Total amount requested will be in an amount not to exceed $45,000. Vote: 4-0-1. (Vice Mayor Harpham recused).

Vice Mayor Harpham returned to the dais at that time.

Mayor Metcalf reported that his wife was a member of the Hacienda Foundation and was the Project Manager for the type of work being discussed. He asked the Town Attorney whether or not he should recuse himself from the discussion of the agenda item as it related to the Hacienda de las Flores.

Ms. Murphy advised that she had not been able to review the matter in great detail in terms of a potential conflict and suggested that the Mayor may wish to recuse himself from this portion of the discussion in an abundance of caution.

Mayor Metcalf stepped down from the dais at that time.

Vice Mayor Harpham chaired the meeting at that time.

Mr. Ingram explained that this portion of the agenda item was for the Hacienda and Pavilion restroom renovations in an amount not to exceed $42,000. The Hacienda Foundation would like to conduct restroom improvements with the EBRPD Measure WW funds with the

Foundation drawing up plans and submitting those plans to a contractor following the Town's construction procurement process with prevailing wage, and with the work anticipated to commence later in the calendar year. He anticipated some matching funds from the Hacienda Foundation although that depended on the scope of work.

PUBLIC COMMENTS OPENED

Graig Crossley, Moraga, representing the Hacienda Foundation, advised that the Hacienda Foundation had recently discussed the Pavilion restrooms as an immediate target for EBRPD Measure WW funds. The Hacienda Foundation anticipated an estimate would be provided by the Project Architect soon which would be provided to staff when available.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Mendonca/Trotter) to authorize the Town Manager to Apply for EBRPD Measure WW funds not to exceed $42,000 for Hacienda and Pavilion restroom upgrades AND direct staff to submit application requests by March 31, 2012. Vote: 4-0-1. (Mayor Metcalf recused).

Mayor Metcalf returned to the dais at that time.

Councilmember Trotter asked that the Town Attorney clarify the recusal question for the future given that the projects were for properties owned by the Town. He saw no conflict given that the wives of the Mayor and Vice Mayor would have no financial interest in this case.

Ms. Murphy advised that she would provide additional information to the Council on the issue.

B. Receive and File Fiscal Year 2010/11 Financial Statements and Independent Auditor's Report

Administrative Services Director Hom reported that the Financial Statements and Independent Auditor's Report had been reviewed by the Audit and Finance Committee (AFC). She advised that the external auditors that had been used for the report; Mann, Urrutia, Nelson, CPAs & Associates, LLP, had performed the audit of the Town's financial records for the past six years. The AFC had reviewed the report and made some adjustments that had been incorporated into the report, including several sections to the Management's Discussion and Analysis (MD& A), a narrative of all of the numbers in the financial statements as outlined on Page 2 of the February 8, 2012 staff report. The auditors found no deficiencies or material weaknesses in the financial statements although the auditors had provided recommendations for strengthening internal controls and operating efficiency as summarized in a separate Management Report to the Town dated January 17, 2012, (Attachment B to the staff report), which she outlined. She added the Management Report included staff responses to each recommendation and that staff had implemented some of the recommendations.

Ms. Hom asked the Town Council to receive and file the Fiscal Year 2010/11 Financial Statements and Independent Auditor's Report, Management Report, and Statement on Auditing Standards No. 114 (SAS 114) Letter for the Town of Moraga.

Vice Mayor Harpham asked how the Town's liability, with respect to street infrastructure, was included. Ms. Hom explained that liability of infrastructure was a different type of liability. The need to repair roads was a liability and the money to be put aside to repair roads was not a legal financial obligation, which was why it did not appear in the financial statements. She also identified the increases in the Town's liabilities which exceeded the Town's assets, as shown on Page 1 of the Financial Statements, Statement of Assets, with the increase explained by a

combination of all of the identified items. Ms. Hom indicated she would follow up with the Town Council as to what was specifically driving the increase.

PUBLIC COMMENTS OPENED

Bob Kennedy, Moraga Town Treasurer, explained that the financial statements showed what the Town paid for its assets. He noted that the numbers had not been retained at the time roads had been built by the County or a developer and later acquired by the Town. In 2004, the Town had conducted a survey to meet Governmental Accounting Standards Board (GASB) requirements to list all of its assets and place an original value on those assets. The total of all replacement costs for Town assets was $111,000,000 in 2004 and could be $130,000,000 in 2012. He commented that when the Town had repaved roads over the past 40 years, from the County perspective those investments had been added in, but he was unsure that a simple repair should be treated as a new asset given that the Town was governed by GASB, which offered a financial approach, and explained why the Town may spend more on roads than the value shown since it represented the original cost with subsequent depreciation since that time.

Ms. Hom added that the GASB standards had changed over time and staff was looking at what was being invested today and what was being depreciated. She added that a total replacement would involve a totally different number.

PUBLIC COMMENTS CLOSED

The Town Council discussed the Financial Statements and Independent Auditor's Report and offered the following comments and/or direction to staff:

Vice Mayor Harpham expressed concern that eventually the Town would have to replace all of its facilities. He was uncertain how long the Town Hall or Corporation Yard would last, and if there was a rational basis to be able to plan, save, and anticipate in the long term what would depreciate and need to be repaired given that the Town may be dealing with financial problems or a greater problem in the future.

Mayor Metcalf found the repair of the Town's roads to be a political obligation particularly since it was known that the Town had a backlog of repairs that must be done to bring the roads up to par, which was a long-term maintenance issue and which should be reflected in the books as a capital improvement if beyond five years.

Ms. Hom commented that a 5-Year Strategic Financial Plan would include a framework of the financial assets that needed to be replaced and what she understood the Council would like to see as to how the Town would pay and plan for such improvements.

Councilmember Trotter commended staff on the clean financial statements and audit which was a credit to Town staff. He did not want to lose sight of the replacement costs which, while not an audit function, were a political obligation that had been evaluated years ago and again within the last five years. He suggested it was time to bring that issue back and take another look at the schedules that already existed and could be augmented.

Mayor Metcalf asked Town staff and the AFC to review the Asset Evaluation Survey in terms of what the Town should be doing.

ACTION: It was M/S (Chew/Harpham) to Receive and File Fiscal Year 2010/11 Financial Statements and Independent Auditor's Report, Management Report and Statement of Auditing Standards No. 114 (SAS 114) Letter for the Town of Moraga. Vote: 5-0.

C. Accept Fiscal Year 2011/12 Mid-Year Revenue and Expenditure Report and Adopt Resolution 7-2012 Approving Mid-Year Adjustments to the Fiscal Year 2011/12 Budget

Ms. Hom advised that Attachment D, the proposed resolution, should have included an Exhibit A which had not been included in the original print but was exactly the same as Attachment C to the staff report dated February 8, 2012. She provided a new copy of the resolution with Exhibit A attached to the Town Council at that time. She also presented the February 8, 2012 staff report for the Fiscal Year 2011/12 Mid-Year Revenue and Expenditure Report, which had been reviewed by the AFC with a recommendation for the Town Council to accept the report and approve the Mid-Year Adjustments to the Fiscal Year 2011/12 Budget.

Ms. Hom detailed Attachment A, the FY 2011/12 and FY 2010/11 Revenue Report for the Period Ending December 31, 2011; Attachment B, FY 2011/12 and FY 2010/11 Expenditure Report for the Period Ending December 31; and Attachment C, the FY 2011/12 Summary of Mid-Year Budget Adjustments, as outlined in the February 8 staff report.

In response to the Council as to the reduction in PG&E franchise fees, Ms. Hom explained that the reference to 47 units not being located in the Town of Moraga were units that were located across the Town through the use of a GIS (geographic information system) inventory. The Town's Staff Engineer had validated that the properties that had been removed were not located in the Town of Moraga. Whether or not those properties were situated within the Town's Sphere of Influence (SOI) would have to be clarified with the Engineering Department. She also stated that the Town's total legal budget was at 17 percent of the $255,000 budgeted amount with the Town having spent $42,000 as of December 31, 2011. In terms of the unanticipated costs for claims, the nature of those claims was not readily available at the meeting but would be researched. She acknowledged a request that staff identify what, if any, percentage of the claims were due to the Town's road conditions.

As to the budgeted amount for the position of Economic Development Coordinator, Ms. Keimach explained that the intent was that the position be filled in the current year rather than delay four more months, which was a policy question for the Council whether the position should start on July 1 or as soon as possible. She added that given an increase in work in the Planning Department, the Town Council may also desire to consider the position as a full-time position rather than part time with that individual having both planning and economic development skills. She preferred not to wait until July 1 given that it would be difficult to announce a position that was not funded. She foresaw the position being filled in two months depending on whether or not the Council decided on a part-time Economic Development Coordinator or a full-time Planning/Economic Development Coordinator. The $25,000 expenditure would be in line with the part-time position scenario.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

The Town Council discussed the approval of the Mid-Year Adjustments to the Fiscal Year 2011/12 Budget and offered the following comments and/or direction to staff:

- The Town Council desired to see an adjustment to the $25,000 expenditure for the Economic Development Coordinator position based on a likely hire date scenario.

ACTION: It was M/S (Harpham/Chew) to adopt Resolution 7-2012, provided by staff at the dais, approving the Mid-Year Adjustments to the Fiscal Year 2011/12 Budget, as discussed. Vote: 5-0.

D. Adopt Resolution 8-2012 Establishing a Policy to Commit Net Revenues from Each Fiscal Year End to the General Fund Reserve and Infrastructure Preservation and Improvement (IPI) Fund, and Rescinding Resolution No. 45-2009 and Previous Resolutions with Similar Intent

Ms. Hom advised that the Town Council was being asked to establish a policy to commit net revenues from each fiscal year end to the General Fund Reserve and Infrastructure Preservation and Improvement (IPI) Fund and rescind Resolution 45-2009 and previous resolutions with similar intent. She noted that there were two separate resolutions which appeared distinct from each other; Resolution No. 45-2009 which established a policy relating to the use of General Fund Balance and net revenues, and Resolution No. 71-2010 amending the Fiscal Year 2009/10 General Fund Budget to allow use of one-half of net revenues from the previous year for street maintenance. She explained that the two policies conflicted with each other and required discussion and clarification of the intent. The AFC had discussed the two separate resolutions and recommended that the Town Council approve a resolution rescinding Resolution 45-2009 and establishing a policy to commit net revenues from each fiscal year to the General Fund Reserve in order to maintain a reserve fund balance equal to 50 percent of General Fund operating expenditure and to commit any additional net revenues from each fiscal year to the Infrastructure Preservation and Improvement (IPI) Fund. The intent of the IPI Fund was to set aside monies for capital projects towards preserving or improving the Town's infrastructure asset such as streets, storm drains, buildings, or facilities.

Ms. Hom identified the conflicts when attempting to satisfy both Resolutions 45-2009 and 71-2010, as outlined in Attachment C to the February 8 staff report. Attachment D to the staff report outlined the anticipated outcomes to the General Fund Reserve and IPI Fund should the Town Council adopt the proposed resolution establishing net revenues from each fiscal year end to be retained in the General Fund Reserve in order to maintain a 50 percent reserve and any additional net revenues to be transferred to the IPI Fund. Should the Town Council follow the staff recommendation, implementation of the policy during the current FY 2011/12 would result in a General Fund reserve of $2,445,149 and an IPI Fund balance of $186,002, with no fiscal impacts to the current year revenue and expenditure operating and capital budgets from the action.

Ms. Hom asked the Town Council to adopt the resolution establishing a policy to commit net revenues from each fiscal year to the General Fund Reserve in order to maintain a reserve fund balance equal to 50 percent of General Fund operating expenditure and to transfer any additional net revenues from each fiscal year to the IPI Fund and rescind Resolution 45-2009 and previous resolutions with similar intent.

Ms. Hom explained, when asked, that she had seen consistency in both written and verbal comments of the Town's wishes and desires to maintain a 50 percent reserve and that it was a priority for the Town Council. She also acknowledged it was a priority to set aside funds for infrastructure, and while not a lot of money, represented a good faith effort in that direction with the Town Council to decide how to spend those funds.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Councilmember Trotter recognized that under the revised policy the Town would not specifically be putting much money into an infrastructure fund, and the question for the Town Council was whether they wanted to commit more of the Town resources into a fund that could address priorities such as the lack of funds for infrastructure replacement and repair. He stated it was a dialogue the Council needed to have as to whether that was the proper set of priorities or whether the Council should make a decision to commit more surplus into infrastructure repair.

Mayor Metcalf commented that the Council had expressed a desire to maintain a 50 percent reserve and the resolution before the Council had done well with the maintenance of the 50 percent on an annual basis with any leftover to go to the IPI Fund, which would satisfy the intent that the Town was doing all it could. He noted that the Town had been operating a small reserve in the past and a 50 percent reserve would be about right. He acknowledged that the AFC had reviewed the recommended policy and found it reasonable as a way to maintain the 50 percent reserve and a way to demonstrate a commitment of the Town to put what was left into an IPI Fund. The Council could also consider doing what it could to ensure contributions to the IPI Fund, which could be discussed during the budget discussions.

Councilmember Chew liked the proposed policy since it would address the Town Council's first priority to maintain a 50 percent reserve and place whatever was left over into the IPI Fund, which was the reason the Town Council had initially adopted Resolutions 45-2009 and 71-2010. He supported a motion in support of the staff recommendation.

Councilmember Mendonca commented that as a member of the AFC she had liked the simplicity of the proposed policy as being effective when moving forward.

ACTION: It was M/S (Chew/Harpham) to adopt Resolution 8-2012, Establishing a Policy to Commit Net Revenues from Each Fiscal Year End to the General Fund Reserve and Infrastructure Preservation and Improvement (IPI) Fund, and Rescinding Resolution No. 45-2009 and Previous Resolutions with Similar Intent. Vote: 5-0.

E. Adopt Resolution Appropriating Funds and Authorizing Payment in Full of Promissory Note of $450,000 Due March 10, 2012 Related to the Town of Moraga Corporation Yard Located at 331 Rheem Boulevard After Considering Various Options

Ms. Hom reported that the Town Council had been provided with two options for consideration:

1. Adopt a resolution appropriating $450,000 from the General Fund (Fund 101) fund balance and authorizing the Town Manager to make payment on the Promissory Note of $450,000 due on March 10, 2012 related to the Town of Moraga Corporation Yard located at 331 Rheem Boulevard (Attachment A) or:

2. Adopt a resolution appropriating $450,000 from the One-Time Developer Fee Fund (Fund 100) fund balance and authorize the Town Manager to make payment on the Promissory Note of $450,000 due on March 10, 2012 related to the Town of Moraga Corporation Yard located at 331 Rheem Boulevard (Attachment B)

Ms. Hom explained that the Town of Moraga had purchased the property located at 331 Rheem Boulevard and as part of that agreement the owner of the property at the time provided a $450,000 loan to the Town at no interest which was due on March 10, 2012. The Town at the time had intended to sell surplus property to pay for that note although after several attempts and Council discussions, the Council decided not to sell its surplus property. She described the

staff efforts in attempting to renegotiate the loan with the current loan holder who desired at least 6 percent interest to continue discussions. She reported that she had also approached Mechanics Bank with respect to a commercial real estate loan, as shown in Attachment C to the staff report dated February 8, 2012, a term sheet provided by Mechanics Bank for a 10-year term loan amortized over 25 years with an approximate interest rate of 4.40 percent which was based on the most current 5-Year Treasury rates. She reviewed the details of that loan option as shown in Attachment C.

As a third option, Ms. Hom advised that the Town Council could also decide to repay the loan in full from the Town's reserve fund balance. She identified the unassigned fund balance in the General Fund (Fund 101) and the fiscal impacts to the Town if the Town Council were to adopt a resolution using existing funds to make payment on the promissory note of $450,000, and the fiscal impacts if payment was made from the One-Time Developer Fee Fund (Fund 100) as shown in the February 8, 2012 staff report. She stated that the Town was earning 0.38% interest on current reserve monies.

Ms. Hom stated that the AFC and staff recommended that the Town Council adopt a resolution for payment of the promissory note in full in the amount of $450,000 given the return on investment with the Town Council to determine from which fund to make the payment. The AFC had not made a recommendation for which fund to make the payment.

In response to the Council, Ms. Hom commented that the loan holder had desired riskier investors who would pay a better interest rate than the Town of Moraga. The note had been prepared by a Title Company and approved by the Town Council.

As an AFC member, **Councilmember Mendonca** commented that while the AFC had not discussed which fund to make payment, the AFC had discussed what would occur if it were to use the One-Time Developer Fee Fund (Fund 100) and its understanding that those funds were to be used for recreation and the Town would be preserving land by not building near the trail. If the General Fund option were used, the Town would be below the 50 percent reserve the Town identified as a priority, leading to consideration of using the One-Time Developer Fee Fund (Fund 100).

Ms.Hom clarified that the unassigned fund balance would be $2,429,061 if payment was made from the General Fund (Fund 101). In the next budget cycle, the numbers would be different since the expenditure numbers would be different.

Ms. Murphy explained with respect to the fiscal impacts to the One-Time Developer Fee Fund (Fund 100), which was the result of a settlement agreement, that it was not a typical development impact fee subject to developer fee requirements but was the result of payment for a settlement which did not specify any particular use of the funds. There were two different settlement agreements; one for a golf course to be built and in that agreement certain payments were to be made to the Town and included language without much specificity on recreational and traffic impacts. When the golf course did not materialize in 2007, the agreement was amended with a lump sum payment which had not specified any specific use of those funds. The 1999 agreement had generalized uses for park and traffic. The Town Council was not obligated to use those funds for recreational uses.

PUBLIC COMMENTS OPENED

Barbara Simpson, Moraga, understood that the Town Council had set a goal for a 50 percent reserve but had not made it a mandate. She would like to see the Town Council pay the loan in full out of the General Fund reserve fund with the Council to then proceed with the goal of rebuilding the reserve fund. If taking funds out of the Palos Colorados monies, there would

likely be public resistance since the public was under the impression that those funds would be used for recreational purposes.

PUBLIC COMMENTS CLOSED

Councilmember Chew noted the Town Council's policy of balancing the budget. He opposed the use of Developer Fee Funds since the money would not last long and may be needed for handling a natural disaster in the future. If there was the flexibility to choose between the two funds, he would like to see the loan paid off from the General Fund (Fund 101).

Councilmember Trotter agreed given the trend of having accrual net revenue contributing to the reserves in the General Fund where the Town may be back at full strength in two years with fiscal prudent management if the loan were paid by the General fund (Fund 101).

Vice Mayor Harpham agreed that the loan should be paid, that the Town not borrow any funds or negotiate fruitlessly with the loan holder, that Developer Fee funds had already been used once, and he would like to see the reserve fund remain intact. He would pay for the loan through the One-Time Developer Fee Fund (Fund 100).

Councilmember Mendonca commented that based on the numbers, she could make an argument either way in terms of what fund to use. If the loan were paid out of the General Fund (Fund 101), the reserve fund would decrease but the Council could work to raise it back to 50 percent. The One-Time Developer Fee Fund (Fund 100) would remain intact but if this fund were used for payment she recognized the public perception concerns. She acknowledged the Council goal for long-range planning using fiscal resources.

Mayor Metcalf agreed that either fund could be used based on the figures in the February 8, 2012 staff report, and the fiscal impacts to either fund, if used for the payment of the loan. He recognized the public perception with respect to the use of Developer Fee funds, had been a member of the negotiating committee for that issue, and could not recall any principles that the money be used for a specific purpose which was the reason the agreements did not speak to the use of those funds. In this situation, he could make the case that the use of the One-Time Developer Fee Fund (Fund 100) would be used for recreational purposes given that the Town had removed the corporation yard from the Hacienda, and must comply with the requirements of the Clean Water Act, with the Town having to locate a new site and having purchased the property at 331 Rheem Boulevard. While the Town Council had desired to sell surplus property to pay for that purchase, an action he supported, that option had failed due to the market conditions but could be revisited in the future. He would like to see the Town Council clear out the books, recognized the goal of a 50 percent reserve which had been memorialized this evening, and did not want to send the wrong message to the public.

Councilmember Trotter pointed out that the reason Developer Fee funds had been used in 2008 was that it was the only place to go and the Town did not have any surplus at that time. Since that time, the Town's finances had improved with the Town having the funds in the General Fund reserve to pay off the $450,000 loan, and in a year or two the Town could pay back those funds.

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

Councilmember Trotter proposed splitting the payment of the loan with $225,000 to be taken from the General Fund (Fund 101) and $225,000 from the One-Time Developer Fee Fund (Fund 100) to pay for the $450,000 Promissory Note.

Councilmember Chew supported a split of funds, as proposed, but borrowing $225,000 from the One-Time Developer Fee Fund (Fund 100) to be paid back when the Town realized a surplus after reaching 50 percent.

Councilmember Trotter commented that inter-loan issues had been found to be more problematic as the Town Council had discussed in the past.

Councilmember Mendonca was not opposed to the recommendation from Councilmember Trotter.

Councilmember Trotter offered a motion to appropriate $225,000 from the General Fund (Fund 101) fund balance and appropriate $225,000 from the One-Time Developer Fee Fund (Fund 100) fund balance and Authorizing Payment in Full of the Promissory Note of $450,000 Due March 10, 2012 Related to the Town of Moraga Corporation Yard Located at 331 Rheem Boulevard.

Ms. Keimach asked that the motion also direct staff to prepare a resolution subject to the stated direction to be considered by the Town Council on the Consent Agenda at its next meeting.

Mayor Metcalf seconded the motion.

On the motion Ms. Murphy explained that a motion could take an action although she was uncertain there were other financial requirements.

Ms. Hom stated that she would need a resolution appropriating the budget expenditure out of fund balance and authorizing the full payment to the note holder.

Councilmember Trotter commented that if the motion was acceptable to the Council it did not have to come back for Council action. The Council understood the action being taken and he would delegate to the Mayor and staff to ensure the wording in the resolution was accurate to allow the matter to move forward.

Ms. Keimach stated she would prefer that the Town Council adopt a resolution which could be considered by the Town Council on the February 22 Consent Agenda.

ACTION: It was M/S (Trotter/Metcalf) to appropriate $225,000 from the General Fund (Fund 101) fund balance and to appropriate $225,000 from the One-Time Developer Fee Fund (Fund 100) fund balance and Authorizing Payment in Full of the Promissory Note of $450,000 Due March 10, 2012 Related to the Town of Moraga Corporation Yard Located at 331 Rheem Boulevard, to be brought back as a resolution for Town Council consideration on the February 22, 2012 Consent Agenda. Vote: 4-0-1. Noes: Harpham

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

There were no Council requests for future agenda items.

XIII. COMMUNICATIONS

There were no communications.

XIV. ADJOURNMENT

ACTION: It was M/S (Trotter/Chew) to adjourn the meeting at 11:09 P.M. Vote: 5-0.

Respectfully submitted by:

Marty C. McInturf, Town Clerk

Approved by the Town Council:

Michael Metcalf, Mayor