

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**March 14, 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 7:11 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

Mayor Metcalf reported that there were no Special Announcements although the Town Council had held a Closed Session prior to the regular meeting with nothing to report out.

IV. PROCLAMATIONS AND PRESENTATIONS

A. Proclamation Acknowledging Girl Scouts of America's 100th Anniversary

Mayor Metcalf read into the record a proclamation acknowledging the 100th Anniversary of the Girl Scouts of America and presented the proclamation to Thama Brentano.

The Town Council expressed its appreciation and recognition of the Girl Scouts of America and its efforts for the entire community.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

V. PUBLIC COMMENTS AND SUGGESTIONS

Graig Crossley, Moraga, asked that the Town Council remove Item 6, *Adopt Resolutions Authorizing the Town Manager to Sign Contracts with RJ Planning, Douglas Herring & Associates, Donaldson Associates, Amy Skewes-Cox and Jerry Haag for Planning and*

Environmental Review Services from the Consent Agenda given the associated costs and questioned its consideration on the Consent Agenda as a routine item.

Seth Freeman, Moraga, referenced the Town Council's role as elected Councilmembers, questioning whether the Council was needed to protect its citizens. He offered statistical information to support that assertion and spoke to his opinion on the ineffectiveness of some Town staff. Having reviewed previous years' agenda items, he noted that many meetings had spoken of the Revenue Enhancement Community Outreach to Neighborhoods (RECON) although the Town Council remained distracted by many trivial things.

VI. ADOPTION OF THE CONSENT AGENDA

A. Approval of the Consent Items

Consent Agenda Items 2 and 6 were removed from the Consent Agenda.

For Item 2, Approve Minutes for Town Council Special interview Meetings on February 8, 2012; February 21, 2012 and February 22, 2012, **Councilmember Trotter** asked that the minutes of the February 8, 2012 meeting be amended to reflect that the second motion on Page 2 be shown as two separate actions with the Town Council agreeing 5-0 to appoint Stacia Levenfeld to serve on the Planning Commission with a term of office until March 2013; and a vote of 4-1 to appoint David Killam to serve a term of office until March 2013, with Councilmember Trotter opposed as he had supported another candidate to serve that one-year term.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Mendonca/Chew) to approve Consent Agenda Item 2, Approve Minutes for Town Council Special Interview Meetings on February 8, 2012 (as amended); February 21, 2012; and February 22, 2012. Vote: 5-0.

ACTION: It was M/S (Mendonca/Metcalf) to approve Consent Agenda Items 1 and 3 by a vote of 5-0 with Items 4 and 5 a Vote of 4-0-1 with Vice Mayor Harpham abstaining due to his connection with the Park Foundation.

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|----|--|----------|
| 1) | Accounts Payable Claims for 2/24/12 (\$146,117.35) | Approved |
| 2) | Approve Minutes for Town Council Special Interview Meetings on February 8, 2012 (as amended); February 21, 2012 and February 22, 2012 | Approved |
| 3) | Approve Minutes for Town Council Regular Meeting on February 8, 2012 | Approved |
| 4) | Adopt Resolution 12-2012 Authorizing the Town Manager to Sign a Memorandum of Understanding (MOU) with the Moraga Park Foundation Regarding Use of Moraga Commons Park Bandshell for Upgrade Project | Approved |
| 5) | Adopt Resolution 13-2012 Awarding a Contract for Construction Services not to exceed \$30,000 to David | Approved |

Mellroy Construction for Interior Work on the Commons
Park Bandshell

- 6) *(1) Adopt Resolution 16-2012 Authorizing the Town Manager to Sign Contracts with RJ Planning, Douglas Herring & Associates, Donaldson Associates, and Amy Skewes-Cox for Planning and Environmental Review Services in an Amount Not to Exceed \$250,000 each for a Total Contract Period of Three Years, with the Sole Source of Funding Derived from Funds Provided by Applicants; and* *Removed*
(2) Adopt Resolution 17-2012 Authorizing the Town Manager to Sign Amendments and Contract with Jerry Haag for Planning and Environmental Review Services in an Amount Not to Exceed \$150,000 for a Total Contract Period of Two Years

B. Consideration of Consent Items Removed for Discussion

Consent Agenda Item 6 was moved to Agenda Item XI. Ordinances, Resolutions and Requests for Action as Item D.

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: 5-0.

VIII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Metcalf - Reported that the Revenue Enhancement Community Outreach to Neighborhoods (RECON) continued to conduct community outreach sessions; he encouraged those interested in hosting a presentation to contact the Town Manager. He also reported that he had attended a meeting of the Board of the Lamorinda School Bus Program, had learned that overall ridership was down although the percentage of enrollment was steady, with the Board to consider limited service in the mornings to the Sanders Ranch area.

Vice Mayor Harpham - No report.

Councilmember Trotter - Reported that he had represented the Town on March 7 to celebrate the return of the Saint Mary's College Basketball Team and its West Coast Conference Tournament win; attended the Mayors' Conference on March 1 and prior to that meeting had attended the Executive Committee of the Mayors' Conference with a discussion on the speakers and other events for the conference in 2012.

Councilmember Mendonca - Reported that she had attended the Mayors' Conference on March 1 in the City of Pittsburg; participated in the Doctor Seuss Read Aloud Program at Los Perales School on March 2; had been asked to participate on a political women's panel for the Wo/men's Conference at Saint Mary's College on March 3; attended the Casino Night fundraiser for the children's playground equipment on the same evening at the Hacienda; attended the Town Gown Subcommittee at the Hacienda on March 8; and attended the Liaison meeting on March 9, at which time Jerry Meyer was honored for creating the Moraga Liaison meetings, where she served as Moderator for the last 38 years.

Councilmember Chew - Reported that he had attended the Town Gown Subcommittee meeting at Saint Mary's College; the monthly meeting at the Hacienda honoring the Moderator of the liaison meetings; and invited everyone to attend a RECON presentation on April 1 at the Moraga Library.

- B. Town Manager Update – Town Manager Jill Keimach reported that another community meeting would be held on Thursday, March 15, at 6:00 p.m. in La Sala at the Hacienda to discuss two proposed crosswalk projects, which would be considered by the Town Council on March 28.

IX. DISCUSSION ITEMS

There were no discussion items.

X. PUBLIC HEARINGS

There were no public hearings.

XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

- A. Consideration of Options and First Reading and Introduction of an Ordinance Amending Moraga Municipal Code (MMC) Section 12.08.180, Regarding Exceptions to Prohibition of Off-Leash Animals at Rancho Laguna Park

Ms. Keimach explained that the item was a continuation of a discussion the Town Council had on December 14, 2011, regarding a dog park at Rancho Laguna Park which was the culmination of 40 months of a democratic process, 34 public meetings, and participation of numerous user groups who had been involved in the process. In November 2011, the Town Council had continued its meeting to December 14, 2011 with two options considered at that time. The Park and Recreation Commission had recommended Town Council consideration of Option A which had been crafted in two design workshops in which all user groups were involved. An Option B had also been offered as part of the December 2011 staff report which had a fence through the grass area giving part of that area to the off-leash dogs and the other half of the grass area to soccer and other activities for the user groups. During that process, most of the public comment requested that the park be kept "as is" with little support for Option B, which had been presented during a previous meeting from an individual from Lamorinda Dogs Inc. The Town Council had voted 3-2 during the December 14 meeting to approve Option A, a two-phased project with Phase 1 the completion of the south side playground renovation and fencing, as well as fencing along the north and east sides along the pathway extending as far as possible toward the amphitheater to accommodate off-leash dog activity during all open hours of the park; and Phase 2 improving the drainage on the existing turf area when funds were available and allowing the Town Council to address the temporal separation issue. During the December 14 meeting, the Town Council also requested that staff return with options around March 2012 for a temporal separation.

After the December 14, 2011 Town Council decision and within the statute of limitations, Steve Smith, a Moraga resident, filed a lawsuit against the Town of Moraga on Option A based on California Environmental Quality Act (CEQA) grounds citing the Dusky Footed Wood Rats, Cooper's Hawks, Barn Owls, raccoons, and other wildlife in the area. As a result, staff had returned to the Town Council with several options for consideration.

Staff had developed five alternatives for Council consideration including: (1) morning hours only for off-leash dogs which would encourage youth groups and children to use the park in the afternoon; (2) evening hours only for dog owners to allow barbecue and social activities; (3) off-leash permitted only in a Town Council designated fenced-in dog park of no more than 1.5 acres in size at Rancho Laguna Park or other Town park or facility and with all the user groups to work on a plan that would work for all involved that could be brought to the Park and Recreation Commission for consideration and a recommendation to the Town Council; (4) no off-leash dogs allowed at the park at all; and (5) a do nothing status quo alternative.

Ms. Keimach explained that options 1, 2, and 4 reduced potential impacts from an environmental point of view to a potential impact on the wildlife cited in the lawsuit as of special concern. The first part of Option 3 was exempt from CEQA Section 15.601(b) 3 and, in the future, when an application came through, the extent of CEQA review would depend on the location, size, and design of a dog park.

In response to the Council, Ms. Keimach commented that Option 3 would be similar to Option 4 until a dog park was developed. She added that Option 3 specified that it could be at Rancho Laguna Park or at any park or facility in the Town of Moraga. Option 3 would allow the park user groups to consider a park design from the start and would be subject to CEQA review, a process that involved an Initial Study. As part of an Initial Study, any potential environmental impacts would be evaluated such as grading or the potential for impacts to an animal of special concern. If potential impacts were identified, the Town would then hire an expert to address the potential impact and either a Mitigated Negative Declaration (MND) or a full Environmental Impact Report (EIR) would be required. The staff time and cost involved would vary dramatically with whatever path was chosen, depending on the range of issues. An Initial Study could be prepared at staff level, an MND could cost up to \$10,000, and a full EIR could cost up to \$100,000.

Planning Director Shawna Brekke-Read explained that the length of time involved in a full EIR would depend on the community process and the level of environmental review required, could take as long as two years, and could cost in the range of \$50,000 to \$100,000.

Ms. Keimach explained that when an application was submitted for a plan for a dog park as part of Option 3, Town staff would return to the Town Council to discuss who would pay for the cost of the environmental review. Applicants were typically required to pay for environmental review unless the Town Council decided otherwise and it would be a policy question for the Council to consider at that time.

PUBLIC COMMENTS OPENED

Trish Bare, Moraga, expressed concern with costs of potential improvements to Rancho Laguna Park while the Town's roads and other infrastructure were in need. She commented on the amount of staff time spent on this issue, suggested that the off-leash hours at Rancho Laguna Park had worked well for the past 30 years, expressed her hope that the Town Council would not make any decision to eliminate or reduce the hours for off-leash dogs, suggested that if the Council were to take such action there would likely be a large community backlash, and believed there were no recorded incidents of dogs attacking people in the park. She expressed

concern that the Town Council might be making a decision based on public safety, a concern she did not see as an issue.

Shivaun Wraith, Moraga, questioned when it became an issue that children and dogs could not co-exist at Rancho Laguna Park. She presented photographs from past birthday parties at Rancho Laguna Park illustrating generations of families enjoying the park. She read into the record quotes from her husband describing Rancho Laguna Park as a Norman Rockwell activity enjoyed by law-abiding Moraga citizens. She described Rancho Laguna Park as the Town square and asked that it not be eliminated.

Lee Lawrence, Moraga, commented that she had patronized the park daily for the past 15 months benefitting her and her dog's health. She was pleased that the Town Council would be considering alternatives to eliminating off-leash dog hours and appreciated the experience of community at the park, having met more Moragans in the past year than in the previous 12 years she had lived in the Town. She urged the Town Council to consider adding to its goals "sustaining community" which the off-leash hours provided, commented on the number of people using the off-leash hours, and noted that after 9:00 a.m. the park was essentially empty.

Graig Crossley, Moraga, expressed concern that the Town had been intimidated by a lawsuit to the point that the Town Council would be considering rescinding its prior action. He supported Attachment F (Option 4) to the March 14, 2012 staff report, noted that Orinda Oaks Park had posted "Dogs must be on leash and under control at all times" signs and stated that if it was good enough for Orinda it should be good enough for Moraga as well.

John Williams, Moraga, found Rancho Laguna Park to be a great social outlet for people and their dogs. He questioned the potential expense for an EIR or a sports field, stated that Rancho Laguna Park had worked well for years and emphasized that people and their dogs utilized the park more than those who used the playgrounds or sports fields. He asked that Rancho Laguna Park be left as it was.

Seth Freeman, Moraga, suggested there was no evidence that even if there was a dog park that the Town had the budget or management capacity to maintain a dog park. He presented photographs of a water fountain located in Rancho Laguna Park which had been "out of order" and which had taken a week to be repaired; photographs illustrating the condition of the deteriorated pathway; and photographs of numerous cracks in the pathway which had not been maintained for years. He also expressed concern with wildlife in the park, offered a photograph of signage in the park which included information on the off-leash dog hours but which was in small print and set back away from where people usually congregated. He further expressed concern with the non-replacement of the playground equipment.

Richard Ayres, Moraga, described the need for off-leash periods to maintain the health of his and other dogs, which were social animals. He recognized that children also needed the benefits of social interaction. Given that the Town had two parks and several playgrounds for children and an area for off-leash dogs, and recognizing that the Town would not eliminate any such facilities for children, he urged the Town Council to not support any option that would eliminate off-leash hours for dogs.

Larry Tessler, Moraga, emphasized his family's support for local businesses, community events and organizations, and a potential tax measure to repair the Town's roads. He asked that the Town Council not make a decision that would detract from the enjoyment of hundreds of other Moraga citizens to socialize and bond with other members of the community with their pets, and to continue to allow the posted off-leash dog hours at Rancho Laguna Park.

Barry Behr, Moraga, understood that the issue had started with two citations that had been issued in 2008 but which had later been rescinded by a judge. He reported that a petition had been signed by 350 Moraga residents requesting that Rancho Laguna Park be left alone but he acknowledged that members of the Town Council, staff, and the Park and Recreation Commission would like to make changes to Rancho Laguna Park. He questioned the expenditures for Callander Associates and why taxpayers were being asked to contribute funds for the replacement of playground equipment. He added that participants in the breakout sessions, facilitated by Callander Associates, had agreed that the safety issues in the parking lot needed to be addressed. He suggested that Rancho Laguna Park made Moraga the "village" it was and he asked that it not be changed.

David Shapiro, Moraga, spoke to the potential costs for an EIR and suggested that if nothing was done no costs would be borne by the Town since no one had suggested that CEQA had been violated with the current use of Rancho Laguna Park. He asked the Vice Mayor for clarification of his abstention from Park Foundation items and whether he would abstain on all Park Foundation related items.

Jan Gruen, Moraga, asked the Town Council to leave the park as it was which would cost the Town nothing, retaining the limited off-leash hours after which dog owners would leave the park available for use by others. She emphasized that it was an election year and she questioned why at a time when the Town's streets were in such disarray, the Town Council would consider undermining the current use of Rancho Laguna Park. She described Rancho Laguna Park as pristine and asked the Town Council to do the right thing and support the community.

Linda MacKinson, Moraga, asked the Town Council to consider what the park had meant to the Moraga residents who had signed a petition to retain the park without fences. She asked the Council to consider the impacts on the health, well being, and quality of life of those who looked forward to the camaraderie with their friends and pets before any action was taken to rescind the off-leash hours at the park. She recognized that there were competing interests for the use of the park and suggested it would be virtually empty if the dog owners were banned. She noted that the park had been designed 25 years ago to retain its natural splendor as open space and had been slated for mixed use for off-leash dogs, children, walkers, scouts, joggers, and the like.

Doug Home, Moraga, suggested that there was no evidence on the risk from off-leash dogs because there was no risk, an issue he had researched. He suggested it was a statistical fact that vehicles posed a greater safety risk than dogs being off-leash.

Jeanne Moreau, Moraga, agreed that Rancho Laguna Park should remain as it was although it appeared to her that would not be a possibility. She presented Lamorinda Dogs, Inc. Option B, which would allow dogs room to run; a path for the elderly, the disabled and others; and a space to move the picnic benches. Option B would allow for an all-day park; address the safety issues with a fence between children and the dogs; address the problems with dog waste; leave room for a sports field; a place for the picnic area; a practice area for sports; and an Americans with Disabilities Act (ADA) compliant path for those with dogs. She suggested that 1.5 acres was not adequate for the number of dogs that would be patronizing the park. She also encouraged the posting of clear signage stipulating the rules for off-leash dogs. If the Town Council insisted on breaking up the park, she urged the Council to be fair.

Responding to Council, Ms. Moreau commented that Option B was 2.7 acres but allowing for the picnic area would reduce the total acreage. The amphitheater had also been included since it was used by the Boy Scouts and could be discussed further. She suggested that close to three acres would be a fair amount for a dog park with turf and a walking path.

Brad Winegar, Moraga, who resided across the street from Rancho Laguna Park, stated that while he was not a dog owner he socialized with some of the dog owners, an asset he would like to see fostered. He understood that there were some people who would like to frequent the park but who had been deterred and scared by the dogs. He urged consideration of the most economical and reasonable approach to get the most utilization of the park and suggested that could be done by experimenting with the hours for off-leash dogs. He encouraged no changes to the morning hours although he suggested some compromise during the evening hours, particularly during the summer, and suggested an odd or even day schedule for off-leash use.

Will Mitchell, Moraga, agreed that Rancho Laguna Park was beautiful and he would like to see the park remain as it was. He opposed anything that would destroy its natural beauty and expressed hope that the Town Council would vote to do nothing, but if changes must be made, agreed that a fair compromise such as possibly sharing the park on different days should be considered.

Jon Chambers, Moraga, acknowledged that many did not want to see any changes to Rancho Laguna Park. Familiar with off-leash dog activities, he suggested that many were failing to recognize that the use of the park for off-leash dog space was negatively impacting other Moraga residents. He asked people to be aware of the different needs of users of Town park spaces; pointed out that two other Town parks provided for off-leash dog activities with no place for open lawn for youth sports; suggested that the current use pattern made it difficult for other activities at Rancho Laguna Park; referenced an incident in October 2011 when a dog had seriously mauled another dog; and suggested that Moraga could learn what other cities and towns in the country had done to provide dedicated space for off-leash dog activities and other uses. While he did not want to see the park fenced, he suggested that appropriate fencing was a way for the different park users to share the park.

Larry Beans, Moraga, disagreed with the Town Council's December 14, 2011 decision. He suggested that a separate area for the dog park may impact existing wildlife (requiring an EIR) but which he recognized may already be impacted by dogs off-leash. He supported Option 3, where a dog park could be located successfully, whether at Rancho Laguna Park or elsewhere in the Town. He did not support mixing dogs and people. As a compromise, he could support alternate days for off-leash use at the park.

Jan Monteyne, Moraga, utilized Rancho Laguna Park on numerous occasions for family events over the years and recently used the park for the off-leash dog hours. She did not see that the use of the park for off-leash dogs needed to be fixed and she opposed the Town's expenditure of its limited funds on an unnecessary issue. She urged the Town Council to consider that many people received much pleasure as a result of the off-leash dog hours.

Suellen Winegar, Moraga, resided across the street from Rancho Laguna Park, was familiar with the use of the park and the dog owners who used the park, and urged the Town Council to rescind Option A, the plan the Town Council had approved in December 2011. She was disappointed with that decision, questioned whether the Town Council had considered the unintended consequences, and noted that aerial views of the park were different from the horizontal views which would be fragmented by fencing. She pointed out that the Parks and Recreation Department had recently rehabbed the barbecue pits and boundaries which would be removed as part of the approval of Option A.

Virginia Falconer, Moraga, suggested that her use of Rancho Laguna Park had been compromised as a result of the off-leash hours during the evening periods, suggested that there were others who also did not use the park because of the off-leash dogs, and noted that many had suggested there was not a problem in the park because some people, like herself, had stopped using the park. Having tried to use the park during the day, she found that off-leash

dogs had been present then as well. She suggested that the priority should be for people and not for dogs, she recognized that there was a petition that had been signed by many people but which did not represent the entire population of Moraga, suggested that many advocates of the off-leash dogs did not live in Moraga, stated that a temporal separation should be considered with off-leash hours in the morning only, and commented that many other communities did not have dog parks because people were the priority.

Rachel Shapiro, Moraga, suggested that children would likely testify that Rancho Laguna Park was not centrally located, and middle school-aged children who did not drive were meeting friends at Commons Park since it was more centrally located. She suggested that adults needed a Town square more than children, noted that if children were concerned with the issues at Rancho Laguna Park, they would be present with their parents. She pointed out that during the December 14, 2011 meeting, it was clear that dog owners needed the park more than parents did. She asked that the park be left as it was.

Dale Walwark, Moraga, was pleased that most speakers had generally been civil and polite and that the best interests of the Town were being considered.

Tina Brier, Moraga, asked that staff clarify the agenda item which was a first reading of an ordinance amending the MMC, as shown. She questioned why the Town Council would consider Option 3, which was not a compromise, and presented a petition with 350 signatures requesting that the Town Council preserve the limited Rancho Laguna Park off-leash hours consistent with what had been in place for decades. Having spoken with various people throughout the Town, she noted that many were in agreement that there was no problem at Rancho Laguna Park and no need for a fix. If there was a problem, it should be verified by a scientific survey or a referendum. She submitted her petition to the Town Council for the record.

Blair Newel, Lafayette, suggested that rescinding the morning or evening hours for off-leash dogs would impact a number of those who worked and who used the park at that time. In the spirit of compromise, she wanted to see a goal of the best utilization of the park for all its users. She spoke to the dog population in the Town and commented that while Mulholland Ridge had an off-leash area, it was not a gathering place, was not accessible to the elderly or the disabled, and was not the optimal location for dog activities. Rancho Laguna Park was the only option for a dog owner to throw a ball. She suggested that Option B as proposed by Ms. Moreau was another option allowing both areas for picnicking and an area for people.

Nathan Bell, Moraga, lived across the street from Rancho Laguna Park and recognized the passion and sincerity of the dog users, but was convinced that the park was grossly underutilized because families with children were aware they could not bring their children to the park. He suggested that had carried itself to selfishness on the part of the dog owners. He recommended that the hours for off-leash dogs be eliminated in the morning hours but allowed in the afternoons and evenings on specific days. He asked the Town Council to stand up for the greater good of the entire Town and not just for a minority group.

Lindsay MacKinson, Moraga, explained that she had frequented Rancho Laguna Park with her dog for years, enjoyed playing sports at the park, and that allowing people to patronize the park as a family with dogs was important.

PUBLIC COMMENTS CLOSED

Councilmember Mendonca supported Option 3 because it would open a beginning conversation to bring something forward. She agreed that the park needed to be more responsive to all citizens and that there were many citizens who did not use the park although they might live close by but were not comfortable in an off-leash environment. She reported that

some seniors had expressed concern that they could be knocked over at Rancho Laguna Park, which was a real safety issue. She agreed that the use of the park should be for the highest number and most citizens of the Town, that it was critical for the Town to work together, and if there was a citizen group desirous to work on the creation of a first-class fenced-in dog park, Option 3 opened the potential for that consideration. Option 3 also maximized access and safety for all users of the park. She supported Option 3 at that time.

Councilmember Chew emphasized that the Town Council must do something about the off-leash area at Rancho Laguna Park. He spoke to the numerous discussions on the issue over the past 38 months with well over 30 meetings. He agreed with some of the comments that there was a large population in Moraga that was disenfranchised from using the park because of the unintended consequences of off-leash dog users. As a dog owner, he used the park and was familiar with many of its users, suggested that there was a genuine public safety concern and a liability issue for the Town, and acknowledged that the Town Council had been elected to look after the interests of the entire Town.

Councilmember Chew expressed disappointment that the project the Town Council had approved on December 14, 2011 had not been given the opportunity to come to fruition and was to be considered for dismissal as a result of a lawsuit further eroding the finances of the Town. He acknowledged that there were other pressing issues in the Town and that the money could be better spent on something else. He also commented that the suggestion that Rancho Laguna Park was left empty most of the time could also apply to Campolindo High School and the fields at Saint Mary's College. He suggested that was not a good reason to continue allowing dogs to be off-leash. He acknowledged that the demographics of Moraga had changed over the years with young families who had paid dearly for their homes and property taxes but who could not enjoy a nearby park, such as Rancho Laguna. He emphasized that he put people above animals and based on the options, he was torn between Options 3 and 4. He urged the Town Council not to consider a "do nothing" approach.

Councilmember Trotter expressed his appreciation for the civility of the public comments. Having sat through testimony on this issue for the past three years, he noted that the issue had arisen as a result of two citations that had ultimately been dismissed by a judge as being improperly issued. He also recognized the Moraga tradition of having off-leash hours at Rancho Laguna Park which had been allowed for the past three decades. He could not support an outcome that would take that away for even one day when Moraga had lived successfully with that balance in the community for as long as it had with no complaints or problems prior to 2008. He emphasized that the Town Council must be responsible for the fiscal management of the Town's finances, balance the budget, and ensure that the Town was well run financially which the Town by and large had done. He recognized the responsibility of the Town Council to serve its constituents in the best way possible while making the most people happy and while maximizing the use of all Town facilities. He suggested that Rancho Laguna Park was the only facility with off-leash dog hours that was meaningful in terms of usage. Mulholland Ridge was not viable or usable for anyone who was not a hiker. In terms of fostering the community and in light of those present in the audience desirous to preserve a tradition that dated back 30 years, he wanted to find a way to continue to preserve that tradition.

Councilmember Trotter referred to one of the photographs that had been presented of Rancho Laguna Park from 1997 which illustrated people enjoying the park at a time when the off-leash dog hours were less ambiguous. He spoke to Option 3 and stated that it would not maximize the use of Rancho Laguna Park since it would eliminate off-leash dog hours completely and it was unknown when those hours would be restored. He reported that he had recently visited Rancho Laguna Park early in the morning prior to 9:00 a.m., had viewed people enjoying the park including dog users, stayed past 9:00 a.m. and after that time the park had been emptied with the exception of two people with dogs on-leash. By 9:15 a.m., he and another walker were

the only people left while the park remained largely underutilized and available for anyone to use absent off-leash dog use.

Councilmember Trotter also spoke to the history of Ordinance 199 and noted that the Town Council had done a careful job with the language at that time, specifically with modification to Section 12.08.180, C1, in addition to having certain defined hours language had been added that read "Additionally, no off-leash animals will be allowed in any section of Rancho Laguna Park during the time of any event approved or sponsored by the Town and the Town will make an effort to publicize upcoming events and park rentals." The Council at that time had determined that was the appropriate balance because it would maximize the use of the park and allow for multiple uses, which was something he supported. He suggested that there were creative compromises and experimentation that could be considered. As an example, no off-leash dog hours allowed on Sundays would allow for a sports use of the park, or with off-leash hours available four times a week with the morning off-leash dog hours preserved since he had not seen anyone testify that time period was a concern. He opposed Option 3 for the reasons stated, and suggested that 1.5 acres was not adequate in size for a dog park.

Vice Mayor Harpham disagreed with a member of the public that safety could not be taken into consideration for the park unless bicycle, pedestrian, and vehicle safety was considered for the entire Town. Based on the options before the Council, he opposed the 'do nothing' approach which would result in the Town having to defend itself against litigation costing the Town time and money. Options 1 and 2 would do nothing but divide the time for morning and evening hours and would not accomplish a physical separation, which was needed. He did not want to wait until a physical injury occurred before any action was taken. He found Option 4 to be a Draconian decision and he could not support it.

Vice Mayor Harpham suggested that if the dog owners allowed the initial separation the Town Council had determined in December 14, 2011, they would have found that all of the social benefits that had been expressed would have been accomplished and the dogs would not have been harmed. While a physical separation would have resulted in a scar caused by the fencing, the dogs would have been fine. He otherwise commented that Option B presented by Ms. Moreau offered an alternative and he would have supported that option rather than the five options before the Council although he recognized that Option B would likely not be supported and the Town could be faced with another lawsuit. While a disappointment to some, he supported Option 3.

Mayor Metcalf stated that there were principles he had not heard since December 2011 or this evening that led him to believe there was a compelling reason to change his mind. Safety was an issue and a responsibility of the Town Council whereby if an unsafe condition was known the Town must do something about it. He referenced the October 2011 incident where a dog had been mauled by another dog resulting in significant injury and he did not see any difference between that incident and the potential hazard to a child, which was a problem. He acknowledged that the park was underutilized and he questioned why there could not be a physical separation to allow dogs off-leash all day separate from people. He supported a physical separation such as fencing.

Mayor Metcalf stated he was not concerned that the park would have to be split to allow a generous area for a fenced-in dog area. He had initially supported Option B which would have been similar to Ms. Moreau's proposal (identified as the Mickey Mouse plan), which plan had physically separated dogs from people and children and provided access which was better than what was allowed now. However, that plan had included grid iron sports, something he did not support at Rancho Laguna Park. He suggested that the park would be better served with a touch football game, as an example, and not formal sports use. He acknowledged the concerns

with the condition of the lawn area with dog waste and suggested that the lawn should be a recreational lawn area.

Mayor Metcalf acknowledged that some of the options before the Town Council would cost money although the Town may be able to obtain recreational funds through Palos Colorados monies, which was a policy decision for the Town Council, and if the Town Council desired something along the lines of the Mickey Mouse design, there needed to be an incentive to do so. He suggested that Option 3 would provide that incentive producing something that could be used by the dog owners and people who did not want dogs, maximizing the use of the park safely and which could be done quickly but with the cooperation of the park users. He supported Option 3 at this time.

Ms. Keimach clarified that Option 3 had identified no more than 1.5 acres and the reason that figure had been selected was because it met both Options A and B, as presented by a member of Lamorinda Dogs Inc. Staff had measured off Option B with Callander Associates and Option 3 could be revised to reflect "about 1.5 acres" if that was the desire of the Town Council, which was larger than what the Council had considered on December 14, 2011, and which excluded the amphitheater from the fenced dog park.

Councilmember Trotter recommended that Option 3 be amended to reflect "not more than 3 acres" as the upper limit with sensible planning based on a 3-acre maximum.

Ms. Keimach explained that the intent of Option 3 was to encourage park users to work together on a limited dog park that had been approved by the Town Council and was not intended to be Town initiated but to have the public work together and come up with something to meet the interests of all of the stakeholders within a reasonable period of time. She commented that the bocce ball community had prepared plans and was in the process of obtaining approval from the Park and Recreation Commission and the Town Council, and staff would like to see a similar model with all interested parties working together cooperatively.

Mayor Metcalf understood that it would always be a Council decision as to whether or not the environmental work would be paid by the Town or by the applicant, with the applicant unknown at this time. He was not wedded to the Moraga Bocce Ball model, wanted to see the Town and stakeholders come together to prepare a plan, and if reaching that point absent any lawsuits, the Town would have the obligation to get the money together to get it done.

Councilmember Chew did not support staff starting all over again on this process. He noted that Option 3 represented good intent, left the door open for a possible solution in the future, and was the intent before the lawsuit had been initiated. He opposed a revision to Option 3 at this time.

Vice Mayor Harpham could support an amendment to Option 3 to reflect that a signed and designated dog park not exceed 3 acres although he would not want to amend the language in the ordinance in order to accomplish that and stated that direction must be explicit. He was unsure how much of the park had been included within the diagram which was now Option B, and noted it was possible that additional area could impact the wildlife species habitat identified in the lawsuit, and simply changing Option 3 to 3 acres would not obviate the lawsuit.

Councilmember Trotter understood that if Option 3 was approved, even with a change from 1.5 to 3 acres for the dog park, in the intervening time it would outlaw off-leash dogs at Rancho Laguna Park. He said that the suggestion that adoption of the ordinance would incentivize people to prepare a plan for the park was overly harsh. He suggested that did not have to be done for public safety justification given that the park had functioned safely for decades. He recommended that the Town Council adopt something similar to Option 3 with a change to the

current off-leash dog hours which would not commence for a specified period of time to allow people to make an incentivized decision and coalesce around an option that offered a maximization of the welfare for all segments of the community. He sought a grace period on the status quo. He proposed that Option 3 be revised to increase the acreage from 1.5 to 3 acres with off-leash dog hours to end in 18 months and if the Town did not want to slow down staff or the Park and Recreation Commission with the project, the appropriate thing would be for the Town Council to take the project on as a Council project. He recommended that a subcommittee be appointed in which he and the Vice Mayor could serve. He suggested that a subcommittee could reach out to the community, deal with potential litigants, and reach a solution that would treat people with respect in the interim.

Vice Mayor Harpham respectfully declined to serve on a subcommittee, suggested that an 18-month grace period would be too long and would not solve anything, and could not support Councilmember Trotter's recommendation, suggesting that would be an invitation to start the entire process all over again.

Councilmember Trotter asked for a show of hands for his compromise proposal, as stated.

ACTION: It was M/S (Metcalf/Trotter) to re-open public comments and allow for a show of hands for Councilmember Trotter's recommendation for Option 3 to be revised to increase the acreage from 1.5 to 3 acres with an 18-month grace period for off-leash dog hours, and with the appointment of a subcommittee to work on a compromise. Vote: 5-0.

Based on the show of hands, it appeared as if there were more in support than opposed to Councilmember Trotter's proposed recommendations.

Councilmember Trotter suggested that one of the ways to reduce the amount of time on the matter would be to have the Town Council take on the issue as a Council project that would streamline the issue, keeping the discussion at a Council level and not send it back to the Park and Recreation Commission again. He pointed out that an 18-month grace period may not even be enough time given that it was an election year and there were other issues the Town would be dealing with such as a potential tax revenue measure to repair streets and roads.

Mayor Metcalf closed the public comment.

Councilmember Mendonca commended Councilmember Trotter's efforts for a good solution but expressed concern that if the Council was serious in maximizing safety and access now the Council could not forget its obligations. In her opinion, while Option 3 would take away a benefit and would not be a popular decision it was in the spirit of the best public policy the Council could make. She encouraged the Town Council to support Option 3 and remain focused; suggested that a grace period was inappropriate in that there were senior citizens and families that did not use the park because of the off-leash dogs and the Town had received letters to that effect; supported Option 3, as shown, not extending the acreage and not allowing an 18-month grace period; and suggested that this option would be incentivizing and would allow people to look at how they could create a fenced park whether at Rancho Laguna Park or another location in the Town. She wanted the user groups to have the opportunity to propose a fenced dog park and then the Town Council could consider a partnership on that proposal.

Councilmember Chew pointed out that any possible extension of the acreage could be discussed at such time as a plan was brought forward. At this time, he offered a motion that the Town Council waive a first reading and introduce an Ordinance Amending Moraga Municipal Code (MMC) Section 12.08.180, Regarding Exceptions to Prohibition of Off-Leash Animals at Rancho Laguna Park, with Off-Leash Dogs Permitted Only in Town Council Designated

Fenced-In Dog Park of no more than 1.5 acres in size at Rancho Laguna Park or other Town Parks or Facilities (Option 3).

Councilmember Mendonca seconded the motion.

On the motion, **Vice Mayor Harpham** recommended that the acreage be increased in size from 1.5 acres to "not more than 3 acres."

Councilmember Chew reiterated that an increase in acreage could be discussed at such time as a proposal was presented. He questioned why the acreage should be increased to 3 acres.

Vice Mayor Harpham commented that the acreage did not have to be increased to 3 acres although based on what had been exhibited for Option B, as an example, he was willing to allow up to 3 acres in size but recognized it did not have to be that much. He otherwise opposed the inclusion of a grace period.

On the discussion, **Councilmember Mendonca** pointed out that Option B was a plan that had not been prepared for the Town but for Lamorinda Dogs, Inc. She was uncertain of the acreage in that plan and did not want to hold to something that did not come from the Town. She asked of the total acreage in that plan.

Mayor Metcalf allowed for public comment to allow Ms. Moreau to address the Council.

Ms. Moreau advised that Option B had previously been presented to the Town Council. The original drawing consisted of 2.7 acres with fencing all the way to the roadway not including the grove. The fence had since been moved back in response to concerns with the location of the picnic tables, with the plan now including the amphitheater but which could be given up.

Councilmember Mendonca reiterated that Option B was not a Town document and may or may not include the grove and had not been included in the Council packets.

Councilmember Chew agreed that the Town Council should not rely on the plans for Option B, which was not a Town plan, with the Council not having all of the facts on that proposal.

Councilmember Trotter suggested that the attachment of Option B as an exhibit to the ordinance was inappropriate. As part of Option 3, he liked the language "no more than 3 acres," which would not preclude fewer acres. He suggested that 1.5 acres was not sufficient and that a judgment on this could be made this evening.

Councilmember Chew stated that the question of whether or not the acreage was adequate or not had been discussed multiple times before the Park and Recreation Commission and with staff. He suggested that the outcome of the deliberations, research, and discussion over the past 38 months was that 1.5 acres was more than adequate for a town the size of Moraga. He was disappointed that the topic had been brought up again.

Ms. Keimach affirmed, when asked, that the intent for the 1.5 acres had been for Options A and B that had been presented to the Town Council in December 2011.

Vice Mayor Harpham explained that if the Council could not use Option B as an exhibit that would open the possibility of drawing 3 acres anywhere, which could encompass all of the grass area, something he was not willing to do. He suggested that Option B was a functional facsimile of what the end product could be and he could support Attachment B as a motion with an amendment with the language "no more than 3 acres."

Town Attorney Murphy commented that one of the issues with the option at this time was that the ordinance and CEQA had been reviewed based on no commitment to a specific project at this time and that the project would come into play at a later time when a review would be conducted. At this point, the ordinance had been drafted to allow a general project of a certain acreage and size at any Moraga park or facility. If there was a desire to look at something particular, that could not be incorporated as part of the ordinance as a CEQA concern but could be direction to Town staff as something to consider. Option 3, as written, included 1.5 acres and in order for the Town Council to exceed the 1.5 acres, the Town Council would have to introduce and adopt a new ordinance which would go into effect 30 days after adoption.

Councilmember Chew suggested that any plan the Town Council may accept in the future could then amend the acreage. He questioned amending the acreage now when the plan was unknown.

Councilmember Trotter pointed out that if the 1.5 acre designation was retained and the future plan had more acreage a new ordinance would have to be introduced and adopted regardless. To avoid that, Option 3 could be amended now allowing sufficient leeway for the planning process without involving more legislative action later.

Councilmember Chew remained concerned with 3 acres since it would infringe on the lawn area at Rancho Laguna Park cutting the park in half which many had testified they did not support.

Vice Mayor Harpham understood that while Option B could not be attached as an exhibit to the ordinance, it could be retained in the clear memory of staff that anything that did not substantially resemble Option B was unacceptable.

Ms. Murphy explained that could be done. The ordinance would stand on its own with the CEQA discussion in the ordinance and there could be direction to staff that Option B was a plan the Council would like staff to consider.

Councilmember Mendonca stated that many jurisdictions that had dog parks had used AKC standards which had a minimum standard of one acre. She would like to use factual data and use AKC recommended standards for a fenced-in dog park.

Ms. Keimach affirmed that such direction could be made to staff, similar to Option B, with the Council to clarify including or excluding the amphitheater area that was currently included in Option B.

Mayor Metcalf recommended that Option 3 be amended with 1.5 acres revised to read "no more than 3 acres" with direction to staff "to be in accordance with AKC standards" and with further direction to staff that the amphitheater not be included in the dog area.

Councilmember Mendonca agreed with that direction to staff.

Councilmember Chew accepted the Mayor's recommendation.

With further discussion on the original motion, **Councilmember Trotter** asked the Town Attorney if it would be possible to legally draft the ordinance, assuming there was support for a grace period, in which the exception would not commence until 18 months after the effective date of the ordinance, which the Town Attorney affirmed could be done.

Ms. Keimach spoke to the recommendation for a grace period and subcommittee, noted that the Town Council had appointed a liaison to work with the dog groups which required time of the

Council and significant staff time. From her perspective, she would rather move forward with something positive in the Town rather than something that had become so contentious. If the dog group and audience were willing to consider a plan it should only take a month since there was already a plan that could be refined, and any plan to be considered would be conceptual. She did not want to spend another 18 months of staff resources for the effort.

Councilmember Trotter suggested it would not take 18 months in staff time but time here and there. He suggested that having only one Council liaison in the past had not been effective and that legally two members could serve. He encouraged consideration of that effort which could entail getting the work done with less staff involvement, agreed the matter should not be sent back to the Park and Recreation Commission, and was willing to become involved in such an effort as a reasonable compromise to meet the needs of the majority of residents.

Mayor Metcalf asked the maker of the original motion to consider a grace period, as recommended by Councilmember Trotter.

Councilmember Chew did not accept that amendment to his motion other than revising the language to read "no more than 3 acres."

On the discussion, **Mayor Metcalf** offered an amendment to the original motion, to allow a grace period of 18 months after the introduction of the ordinance for off-leash dogs at Rancho Laguna Park. **Councilmember Trotter** seconded the amendment.

ACTION: It was M/S (Metcalf/Trotter) to amend the original motion to waive first reading and introduce an Ordinance Amending Moraga Municipal Code (MMC) Section 12.08.180, Regarding Exceptions to Prohibition of Off-leash Animals at Rancho Laguna Park, with Off-Leash Dogs Permitted Only in Town Council Designated Fenced-In Dog Park of no more than 1.5 acres in size at Rancho Laguna Park or other Town Parks or Facilities (Option 3), amended with an 18-month grace period from the effective date of the ordinance for the prohibition of off-leash dogs permitted at Rancho Laguna Park or other Town Parks and Facilities. The motion FAILED by the following vote:

Ayes:	Trotter, Metcalf
Noes:	Chew, Harpham, Mendonca
Abstain:	None
Absent:	None

ACTION: It was M/S (Chew/Mendonca) to introduce and waive a first reading of an ordinance, attached as Exhibit E to the staff report, Amending Moraga Municipal Code (MMC) Section 12.08.180, to modify the exceptions for Off-Leash Animals at Rancho Laguna Park, to only allow Off-Leash Animals in Town Council Designated Fenced-In Signed Dog Park of no more than 3 acres in size at Rancho Laguna Park or other Town Parks or Facilities (Option 3), with additional modification to the text in Section 1, Amendment to Section 12.08.180 (C)(1), changing 1.5 to "3 acres." The motion PASSED by a Roll Call Vote:

Ayes:	Chew, Harpham, Mendonca
Noes:	Trotter, Metcalf
Abstain:	None
Absent:	None

ACTION: It was M/S (Trotter/Harpham) to extend the Town Council meeting to 11:30 P.M. Vote 5-0.

Mayor Metcalf declared a recess at 10:47 p.m. The Town Council meeting reconvened at 10:57 p.m. with all Councilmembers present.

B. Consideration of Resolution 14-2012 Rescinding Resolution No. 46-2011 Regarding Spatial Separation at Rancho Laguna Park

Ms. Murphy explained that on December 14, 2011, the Town Council had adopted Resolution 46-2011 which approved a project regarding spatial separation at Rancho Laguna Park and since that time a lawsuit had been filed against the Town regarding that project. The resolution before the Town Council rescinded Resolution 46-2011 as well as any applicable findings and determinations made in that resolution and rescinded, without prejudice, allowing the Town to return with another or similar project with additional review at another time.

PUBLIC COMMENTS OPENED

Tina Brier, Moraga, asked staff to clarify why the action before the Town Council would be allowed without prejudice since the project would be rescinded and the Town Council had just approved a new project.

Ms. Murphy clarified that without prejudice would allow the Town Council to consider components of a previously approved project, such as the dog park and playground components to the project, at a later date.

Seth Freeman, Moraga, suggested that the decision by the Town Council in December 2011 and the subsequent lawsuit had done a disservice to the Town. He cited, as an example, the Town's newsletter which had referred to litigation and which had created confusion that the litigation might have involved off-leash dogs, which was incorrect.

Jan Gruen, Moraga, pointed out that prior to the Town Council decision in December 2011, lengthy discussions and community effort had been pursued through the Park and Recreation Commission laying out diagrams to allow for opinions on the potential division of Rancho Laguna Park. She questioned why the Town Council had just made the decision to abolish a dog park at Rancho Laguna Park not for the greater good of the people, but for a project that may or may not ever be funded, may or may not be at Rancho Laguna Park, and may or may not be 1.5 or 3 acres.

Barry Behr, Moraga, asked for clarification when the prohibition of off-leash dog hours at Rancho Laguna Park would go into effect.

Ms. Murphy advised that the previous action of the Town Council was the first reading of the ordinance which would come back to the Town Council at its next meeting as a second reading, and if adopted, would become effective 30 days thereafter.

Mr. Behr speaking to the item before the Town Council, asked if the agenda item had been posted to avoid litigation costs and asked the Town Council if the adoption of Option 3 would not also trigger a lawsuit.

Ms. Murphy explained that the rescission of Resolution 46-2011 would moot the lawsuit and was the recommendation of staff to adopt the resolution, as shown. As to the questions regarding the action taken on the prior agenda item, she acknowledged that anyone could file litigation but as noted in the March 14, 2012 staff report for the previous item, staff's opinion was that the approval of Option 3 was defensible.

Ms. Keimach added that the staff recommendation to rescind Resolution 46-2011 was in part due to the expense of defending the lawsuit.

Bill Cosden, Moraga, pointed out that no Councilmember had expressed concerns with the safety of a dog park on the north side of Rancho Laguna Park where the ground cover was wood chips with trees and the area was unsafe for people and dogs. He questioned the Town Council taking action on the prior item based on the concerns with public safety at Rancho Laguna Park and based on the existing use which had been ongoing for the past 30 years.

Linda MacKinson, Moraga, questioned whether or not it would be easier to allow off-leash dogs at Rancho Laguna Park in the mornings up to 9:00 a.m. and then divide the rest of the days; three days a week for off-leash dogs and the other days of the week for children and families. Such an option was reasonable, inexpensive, and easy.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Harpham) to adopt Resolution 14-2012 Rescinding Resolution 46-2011 Regarding Spatial Separation at Rancho Laguna Park. Vote: 5-0.

- C. Adopt Resolution 15-2012 Authorizing the Town Manager to Cast Affirmative Ballots for the 2012 Community Clean Water Initiative for all Parcels Owned by the Town of Moraga

Staff Engineer John Sherbert explained that the Town was required by State and Federal law to manage the storm water and water running into the creeks with minimal pollutants and no trash. The San Francisco Regional Water Quality Control Board (RWQCB) issued a Municipal Regional Permit (MRP) in 2009, which regulated the discharge of storm water to the Bay and other waters of the State. The Contra Costa Clean Water Program formed in 2009 analyzed the potential shortfall for funding and determined that over the next few years all of the various communities would be faced with an \$8 million shortfall in funding for management of the storm water. To resolve that and since the Town was unable to raise its storm water fees which were at a maximum, the County had determined that a property related fee mechanism was preferred.

Mr. Sherbert stated that the fees would range from \$12 to \$22 per improved residential parcel. Commercial parcels with larger amounts of impervious surfaces would be assessed at a higher rate. The County Board of Supervisors had voted on December 6, 2011 to proceed with a Proposition 218 election, and on February 7, 2012 the Board voted to proceed with mailing out ballots. Ballots were mailed on February 21 and due back on April 6. If the initiative passed, each property with some incremental impervious surface would be obligated to pay a certain fee. Residents in the Lamorinda area would be required to pay around \$22 a year, business and commercial properties would pay a higher fee. The Town had ten properties that were eligible for the ballot. The Town could gain approximately \$169,775 per year if passed to help the Town fund storm water activities. The consequences of not complying with the MRP would expose the Town to a \$10,000 per day per incident fine, and there could be additional fines per gallon of pollutant discharged. He noted that every year there were additional requirements which became progressively more stringent after that time. Any shortfall would have to come out of the General Fund.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Trotter/Mendonca) to adopt Resolution 15-2012 Authorizing the Town Manager to Cast Affirmative Ballots for the 2012 Community Clean Water Initiative for all Parcels Owned by the Town of Moraga and to submit those ballots to the proper authority by April 6, 2012. Vote: 5-0.

- D. Adopt (1) Resolution 16-2012 Authorizing the Town Manager to Sign Contracts with RJ Planning, Douglas Herring & Associates, Donaldson Associates, and Amy Skewes-Cox for Planning and Environmental Review Services in an Amount Not to Exceed \$250,000 each for a Total Contract Period of Three Years, with the Sole Source of Funding Derived from Funds Provided by Applicants; and (2) Adopt Resolution 17-2012 Authorizing the Town Manager to Sign Amendments and Contract with Jerry Haag for Planning and Environmental Review Services in an Amount Not to Exceed \$150,000 for a Total Contract Period of Two Years

Ms. Brekke-Read explained that the first resolution was for the Town Council to sign contracts with four consultants for planning and environmental review services with the costs for said services to be paid by funds provided by the applicants. She added that the second resolution was approval of a contract for planning and environmental services with Jerry Haag, with whom the Town Council had previously approved a contract for the same services for work on the Bollinger Valley and Saint Mary's College projects. Mr. Haag could do additional work for the Town but only in a fully reimbursable manner. Approval of the second resolution would allow Town staff to amend the contract with Mr. Haag because Saint Mary's College had additional work which would be fully reimbursable by Saint Mary's College, and which would actually be less than the \$150,000 figure. The intent was that the contract amounts for all of the consultants be fair with a maximum for all of the consultants.

Ms. Brekke-Read stated that the Town was already at the maximum for a contract with Mr. Haag. All monies would be fully reimbursed to the Town by the applicants. She further clarified that the Town received a deposit from the applicants which was more than the payments.

PUBLIC COMMENTS OPENED

Graig Crossley, Moraga, was pleased that the Town Council had placed the item on the full agenda as opposed to consideration on the Consent Agenda, was pleased that the monies would be fully reimbursable, and expressed his hope that this was not a side step to replacing the Town's Senior Planner.

PUBLIC COMMENTS CLOSED

Ms. Brekke-Read further clarified that the total contract amount for the four consultants would be \$1 million (4 times \$250,000 over a three-year period) with the expectation that was a high ceiling and that staff would not have to come back to the Town Council repeatedly for amendments to the contracts. As an example, she reported that the Town had received an application for environmental work at the former bowling alley site for a project proposed by Signature Homes.

ACTION: It was M/S (Chew/Harpham) to adopt Resolution 16-2012 Authorizing the Town Manager to Sign Contracts with RJ Planning, Douglas Herring & Associates, Donaldson Associates, and Amy Skewes-Cox for Planning and Environmental Review Services in an Amount Not to Exceed \$250,000 each for a Total Contract Period of Three Years, with the Sole Source of Funding Derived from Funds Provided by Applicants. Vote 5-0.

ACTION: It was M/S (Chew/Harpham) to adopt Resolution 17-2012 Authorizing the Town Manager to Sign Amendments and Contract with Jerry Haag for Planning and Environmental Review Services in an Amount Not to Exceed \$150,000 for a Total Contract Period of Two Years. Vote: 5-0.

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

There were no Council requests for future agenda items.

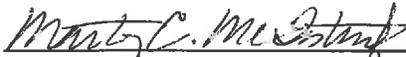
XIII. COMMUNICATIONS

There were no communications.

XIV. ADJOURNMENT

ACTION: It was M/S (Trotter/Mendonca) to adjourn the meeting at 11:30 P.M. Vote: 5-0.

Respectfully submitted by:


Marty C. McInturf, Town Clerk

Approved by the Town Council:


Michael Metcalf, Mayor