

**TOWN OF MORAGA
TOWN COUNCIL REGULAR MEETING**

**March 28, 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 7:03 P.M. by **Mayor Michael Metcalf**.

ROLL CALL

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

Councilmembers absent: None

II. PLEDGE OF ALLEGIANCE

Vice Mayor Harpham led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

There were no special announcements.

IV. PROCLAMATIONS AND PRESENTATIONS

A. Proclamation Declaring March 2012 as American Red Cross Month

Mayor Metcalf presented a proclamation declaring the Month of March 2012 as American Red Cross Month.

Ruth Rosenberg, a member of the Red Cross Board of Directors Bay Area Chapter and Chair of the Red Cross Leadership Council for Contra Costa County, thanked the Council for the proclamation and introduced Ken Tom, a volunteer and liaison for the Moraga Red Cross. She identified the Red Cross programs offered in the Town that ensured a safer community better prepared in the event of a disaster, and advised that additional information on Red Cross services, programs, and volunteer efforts were available at redcrossbayarea.org.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

B. Proclamation Recognizing Brad Noggle as Moraga's Business Person of the Year 2012

Mayor Metcalf presented a proclamation recognizing Brad Noggle as Moraga's Business Person of the year 2012.

Brad Noggle, Moraga, introduced and thanked his wife Gloria; thanked the Town Council and community for the recognition and proclamation; and clarified that 5A Rent-A-Space was a sponsor of Saint Mary's Athletics in its entirety and free tickets were given away to all sporting events.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

V. PUBLIC COMMENTS AND SUGGESTIONS

There were no public comments and suggestions.

VI. ADOPTION OF THE CONSENT AGENDA

A. Approval of the Consent Items

Consent Agenda Item 2 was removed from the agenda.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Chew/Harpham) to approve Consent Agenda Items, 1, 3, 4, 5, 6, 7, and 8. Vote: 5-0.

- | | | |
|----|---|----------------|
| 1) | Accounts Payable Claims for 3/7/12 (\$5,523.78);
3/9/12 (\$144,601.39) | Approved |
| 2) | <i>Approve Minutes for Town Council Regular Meeting on
February 22, 2012</i> | <i>Removed</i> |
| 3) | Accept and Authorize Town Manager to File Certificate of
Completion for the LED Streetlight Upgrades Installed by
Pacific Gas and Electric of San Francisco, CIP No. 11-101 | Approved |
| 4) | Adopt Resolution 18-2012, Establishing the Service
Authority for Abandoned Vehicle Abatement in Contra
Costa County and the Imposition of a One Dollar (\$1.00)
Vehicle Registration Fee for Another Ten Years | Approved |
| 5) | Adopt Resolution 19-2012, Ordering Engineering
Assistance to Prepare and File an Annual Engineer's
Report for Fiscal Year 2012/13, Town of Moraga Street
Lighting District 1979-1 | Approved |

- 6) Adopt Resolution 20-2012, Awarding a Consultant Services Agreement for Assessment District Engineering Services Related to the Fiscal Year 2012/13 Town of Moraga Street Lighting District 1979-1 to Leptien, Cronin, Cooper, Morris & Poore, Inc., for an Amount Not to Exceed \$10,400 Approved
- 7) Approve by Motion Requests from the Friends of the Moraga Library to: 1) Install Lighting for the Library Flag; and 2) Apply for Final Design Approval from the Design Review Board Approved
- 8) Approve by Motion "Community Event Signs" for the Community Faire from April 20 to May 14, 2012 and Waive the Sign Permit Fee Approved

B. Consideration of Consent Items Removed for Discussion

- 1. Approve Minutes for Town Council Regular Meeting on February 22, 2012

Councilmember Chew requested an amendment to the comments under Mayor's and Councilmembers' Reports, as shown on Page 4 of the minutes, as follows:

***Councilmember Chew** - Reported that he had attended the Town Gown Breakfast; and the Tri City meeting in the City of Orinda with a discussion on Lamorinda cities working together on future infrastructure maintenance.*

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Chew/Harpham) to approve the Minutes for the Town Council Regular Meeting on February 22, 2012, as amended. 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 Contra Costa Transportation Authority (CCTA) Board meeting when a number of agenda items had been

discussed including the Hercules Intermodal Transportation Center, the potential use of Measure J funds, and another iteration of the Sustainable Communities Strategy (SCS) for One Bay Area Grant. Information on the plan was available on the Association of Bay Area Governments (ABAG) website.

Vice Mayor Harpham - Reported that he had met with the Moraga Planning Director to discuss a proposed development in the preliminary stages at the former bowling alley site and thereafter had met with two representatives of the proposed development to review the project drawings.

Councilmember Chew – Reported that he had attended the BART Rust, Dust and Rail Tour on March 23 intended to showcase the maintenance of BART cars and future plans; and a workshop as the East Bay Municipal Utility District (EBMUD) Liaison on "Water Supply Master Plan MP 2040" on March 27 which was scheduled for adoption by the EBMUD Board of Directors on April 14.

Councilmember Mendonca - Commended the Mayor for the proclamation in recognition of outgoing Contra Costa Board of Supervisor Gayle Uilkema which had been read on March 23 during the Lafayette Citizen of the Year Celebration; she had attended an Audit and Finance (AFC) Committee meeting on March 17; a Central Contra Costa Solid Waste Authority agenda planning meeting on March 22; and the Saint Mary's College Sesquicentennial Committee Galabration meeting on March 28.

Councilmember Trotter - Reported that he had participated in a breakfast meeting with the Vice Mayor, the Chief of Police, and the Moraga-Orinda Fire District (MOFD) Emergency Preparedness Director to discuss the emergency operations plan for the Town, and had attended the Lafayette Citizen of the Year Celebration in honor of outgoing Supervisor Gayle Uilkema on March 23.

- B.** Town Manager Update – Town Manager Jill Keimach reported that the minutes of the meeting when the Town Council had previously discussed the SCS had reflected the Council's opinions on the SCS, to be reflected in correspondence to ABAG; however after the Council meeting ABAG had made a decision on its preferred plan. The Town's Planning Director had attended the ABAG Executive Board meeting and had verbally expressed the Town Council's position on the SCS and a Priority Development Area (PDA) which the Town could not secure until it had bus routes with 20-minute headways. She also reported that interviews would be conducted on March 29 for vacancies on the Park and Recreation Commission and the Design Review Board (DRB); approximately 20 members of Moraga staff had been trained in emergency preparedness, a first in a series of trainings, and that the Town Council would receive the same training after the first of the New Year. In addition, staff had been contacted by CGI, a community video program used by the National League of Cities, with Moraga identified as one of the towns to conduct video promotions to consist of six one-minute videos on the Town of Moraga at no cost to the Town but with a request for Moraga businesses to prepare videos promoting its businesses. She suggested this was an opportunity for the Town to conduct the one-minute videos on economic development in the business community, relocation and education with a focus on Saint Mary's College, the successful local school programs, and a welcome video to the community.

IX. DISCUSSION ITEMS

- A. Communication and Discussion by Moraga-Orinda Fire District Chief Randy Bradley

Ms. Keimach reported that MOFD Fire Chief Bradley had requested that the agenda item be postponed until such time as the Fire Chief was able to report to the Town Council on the MOFD's future plans.

X. PUBLIC HEARINGS

There were no public hearings.

XI. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

- A. Adoption and Second Reading of Ordinance No. 236 Amending Moraga Municipal Code (MMC), Section 12.08.180, Regarding Exceptions to Prohibition of Off-Leash Animals at Rancho Laguna Park

Ms. Keimach reported that the Town Council had introduced Ordinance No, 236, Amending Moraga Municipal Code (MMC) Section 12.08.180, Regarding Exceptions to Prohibition of Off-Leash Animals at Rancho Laguna Park on March 14, 2012. The primary purpose of this meeting was to hear public comment and have the Town Council consider the ordinance.

In response to a disruption in the audience, Town Attorney Karen Murphy explained that while a member of the public had the right to videotape the Town Council meeting, the Mayor as the Chair had the authority to manage the meeting to limit disruption.

Ms. Keimach reported that on March 14, 2012, the Town Council had considered five alternatives: Retaining the project as it was; reducing the hours of off-leash dogs; morning or evening hours only; eliminating off-leash hours in Rancho Laguna Park except in a fenced-in dog park approved by the Town Council, or to eliminate off-leash hours altogether. The Town Council had voted 3-2 to approve Option 3 which allowed off-leash dogs during all open park hours in a fenced-in dog park with the hope that the community would work together on a fenced-in dog park that would be brought back to the Town Council for approval. Ordinance No. 236 was introduced on March 14 and was open for a second reading and adoption at the current meeting. If approved, the ordinance would go into effect 30 days later.

PUBLIC COMMENTS OPENED

Judy Evans, Moraga, supported Moraga resident Jeanne Moreau's proposed division of Rancho Laguna Park for a separation of dogs and people.

Barry Behr, Moraga, opposed any changes to Rancho Laguna Park other than improved communications; and spoke to the mandate of the Park and Recreation Commission over the past four years on this issue, the money spent for work done by Callander Associates, the time and money spent by Lamorinda Dogs, Inc., the community, and Town staff and noted that Option C was what the Town Council had requested four years ago.

Mr. Behr asked the Town Council to adopt Option C since it could be achieved rapidly and a deer type of fence material could be installed and would allow views through the park. He asked the Town Council to impose a 90-day moratorium on the prohibition of off-leash hours until Option C could be achieved and stated that the issue had gone on too long. As to the potential impacts to existing wildlife and the potential for a lawsuit as a result of Option C, he urged the Town to move forward and not worry about "what ifs."

Tom Westhoff, Moraga, was surprised that the Town Council had taken action to stop an activity that had been allowed for so long absent consideration of other solutions with no demonstrated data for use of the park during off-leash hours by any other group. He suggested that on-leash dogs were more dangerous than off-leash, questioned a change in tradition with no demonstrated need, and expressed concern with unnecessary action by a majority of the Town Council. He asked the Town Council to reconsider its decision.

Lori Edelstone, Moraga, a long-time resident who had used Rancho Laguna Park prior to its use for off-leash dogs, noted that she had a friend who had been hospitalized as a result of an incident in the park, and she and her dog had experienced dog bites at the park, and as a result, she no longer used the park. She suggested that families with children should not have to worry about off-leash dogs and recommended consideration of a spatial separation which would allow everyone to use the park at all hours of the day. She urged a compromise to stop the waste of time and resources and eliminate the lawsuit which would impact the Town financially. In response to the Council as to her opinion of Option C, she suggested that anything with a spatial separation providing an area for dogs would be wonderful.

Tina Brier, Moraga, pointed out that even with a fenced-in dog park children could be exposed to a dog bite since children were oftentimes brought into dog parks. She asked the Town Council to hold the item in abeyance and postpone any decision pointing out that the action taken by the Town Council on March 14 was too vague, absent design guidelines, with no commitment to create a usable dog park area. She emphasized that she, along with over 460 people, had signed petitions expressing the opinion that the changes proposed by the Town Council would remove a right enjoyed by the citizens of Moraga for many years, with no viable substitute. She suggested that there were less drastic measures and alternatives available to the Town Council. If the Council were to proceed with its March 14 action, she urged them to consider a grace period of six months to allow interested citizens to work together to create a plan that would accommodate all park users.

Remy Smith-Lewis, Moraga, commented that he had frequented Rancho Laguna Park, was familiar with dogs and had been bitten by dogs in the past. He was aware of only one recorded dog incident at the park. He urged the Town Council to leave Rancho Laguna Park as it was, questioned the lack of factual evidence to support the changes to the park, and suggested that existing off-leash hours had worked in the past.

Lee Lawrence, Moraga, thanked the Council for allowing a continued discussion of the off-leash hours and, while she would prefer to allow the off-leash hours to continue as they had in the past, she supported Options B and C. She also supported a grace period during construction allowing the dog users to have at least morning off-leash hours and possibly allow off-leash hours in the evening starting at 6:00 p.m. on different days during the week. She had not experienced any safety issues but referenced an incident which had resulted in a dog being put down with the owner of that dog no longer frequenting the park. She urged the Town Council to consider Options B or C, provide a grace period, or leave the park as it was.

Jeanne Moreau, Moraga, commented that Option C might allow room at the front of the park for a possible separation from large and small dogs, although she understood from dog trainers that such separation could lead to aggression. She urged the Council to postpone its decision on the second reading of the ordinance and allow a six-month grace period to allow volunteers to reach a solution. She emphasized that Lamorinda Dogs had offered Option C for consideration and asked that it be placed on the next Town Council agenda for consideration. Phase I of Option C would allow work on the preferred fencing and the pathways and other upgrades to the park, provide ample room for sports and other users, and leave room for dogs to run and chase balls and allow a separation from off-leash dogs and walkers. She urged the Town Council to provide the time to put the plan in place.

Jan Monteyne, Moraga, urged the Town Council to consider a plan for dog owners and non-dog owners. She stated that the Town-proposed dog park approved in December would have been difficult since it was too narrow, wood chips did not provide an appropriate base for dogs to run, and it would be difficult for many to use other sites such as Mulholland Ridge. She suggested that dog waste was not an issue since dog owners policed themselves, sought to preserve the morning hours, to potentially modify evening hours such as allowing off-leash hours at 7:00 p.m. or posting signage that the dog park was closed when events were taking place, and urged a longer grace period to consider solutions.

Herb Long, Lafayette, frequented Rancho Laguna Park and suggested there were many compromises that could be considered to address safety and broaden the use of the park. He suggested that Option C proposed by Lamorinda Dogs was a great compromise meeting many needs, although a grace period should be considered. He agreed there was a lack of other users in the park during the morning off-leash hours and even if off-leash dogs were prohibited suggested that the use of the park during that time would not increase. He recommended a modification to the evening off-leash hours as a compromise.

Seth Freeman, Moraga, expressed concern that the Council continued to spend unbudgeted funds on items of low or no priority and noted that the 2011 Council priorities had not mentioned Rancho Laguna Park. He stated that the playground equipment in the park was low priority and suggested it was disingenuous for the Town Council to suggest that the action it had taken would increase the use of the park and improve safety absent a playground for children which should have been a higher priority. He questioned a change in tradition based upon beliefs and a sense of duty and suggested that such decisions should be based on research, and he questioned the lack of a crisis or emergency to justify the immediate suspension or termination of the ordinance.

Tina Chambers, Moraga, echoed the comments made by Ms. Edelstone, supported spatial separation as the best practice for the Town as it had been for other communities, and reported that as a Board Member of the East Bay Eclipse Soccer Club, the Board had an interest in ensuring that the park was available as a sports recreation area given the need for athletics and field space in the community. She suggested that other sports organizations had been absent from the process due to frustration and emphasized that there were other recreational factors that should be considered to offer as much grass space as possible. Eclipse Soccer's membership had increased over the years and she expressed her hope that the public space could be used responsibly and fairly. She suggested that Option C had too much grass area and that the spatial arrangement for the front part of the park was a more reasonable acreage.

In response to the Council, Ms. Chambers sought more grass space for sports uses, noted that the park was a viable area for teens and small practice groups, private training sessions and the like but she did not see the park as a game day location. Speaking for the Eclipse Soccer Club Board, she stated that they would advocate a specific area for soccer and other organizations that would benefit by keeping the grass the way it was. Referring to Option C, she suggested that if the fence was placed down the middle, the front portion of the southwest corner could be inadequate for a soccer field or other activities.

Jon Chambers, Moraga, commented that the issue was a classic land use planning debate. He acknowledged the comments about the 30-year traditional use of the park although having conducted some research he had found that there were many published standards about the amount of acreage for off-leash dog areas and acreage recommendations for neighborhood parks such as Rancho Laguna, with a dog park to be one to two acres. Based on that information, the staff recommendation for 1.3 acres which the Council had approved during its December 14 meeting was a prudent and well-considered approach to balance the needs of all

users although he suggested that there were more acceptable surfaces for a dog park than the use of bark, such as dirt, pea gravel, bark and infield mix. He suggested that Option C would destroy one of the key characteristics of the park, the broad expanse of lawn, by placing a fence down the middle and he urged consideration of a north off-leash dog area with possibly an improved surface, turf, or agility surfaces for the dogs.

William Carman, Moraga, offered information to the Town Council from a U.C. Davis study that a three-acre dog park was the minimum required for a successful dog park. He presented a list of those who would be upset if the off-leash dog hours were repealed and a list of those who would likely be happy if the Town Council approved Option C. He offered a copy of a plan identified as "C1," which had shown a small dog park, the division of the park which allowed a U-10 sports field in the park, and with a slight modification of the path a U-11 sports field if the tot lot was moved towards the volleyball court. He read into the record written comments describing his thoughts on the issue and discussions before the Town Council and the Park and Recreation Commission, and urged the Town Council not to rescind the off-leash dog hours at Rancho Laguna Park.

Karen Lewis, Moraga, commented that a previous speaker had reported she had been bitten by a dog, although that speaker had not indicated where the incident had occurred, and suggested that it should not be assumed it had occurred in Moraga. She suggested that such incidents could occur at a dog park as well, commented that the lawsuit had not been brought forward as retaliation but in response to the Council action in December 2011, stated that an Initial Study would not cost that much to determine what could be involved, noted that the Town Council's action in December approved a narrow strip of land that would have involved a number of dogs in an environmentally sensitive area, and urged the Town Council not to take away any chance to allow dogs to play on grass in Moraga. She was disappointed with those Councilmembers who had decided to rescind the off-leash dog hours. She suggested that the Town Council had acted in retaliation by not allowing the dogs to be off-leash on the grass and there had been no evidence over the past three years to justify the destruction of the park.

Douglas Home, Moraga, stated that he had previously provided information on statistical and cost-benefit analyses and suggested the Council had been deaf to those arguments. He introduced his son who frequented the park with his family and dog and who was very upset by the Council's decision suggesting that if Option C worked it should be considered.

Stephanie Dodson, Moraga, stated that she was outraged and frustrated by the issue and the unknowns about what action the Town Council would take. She questioned where else dog owners were expected to go, pointing out that Mulholland Ridge was not an option, particularly for the disabled. She questioned the catalyst for the Council's action and the continued discussion to fix something that was not broken, with off-leash dog owners having done everything asked of them. She urged Town Council consideration of Option C or at the least a six-month cooling off period.

Ken Cucarola, Moraga, emphasized that Rancho Laguna Park's off-leash allowance was a good thing and he supported its preservation.

Ed McCauley, Moraga, a 40-year resident, stated that for the first time he was ashamed to be a resident. He explained that he had donated many hours to the Town, had been a business owner involved with coaching high school sports for 40 years, and while not currently a dog owner his happiest moments had been taking his dog to the park. He urged the Town Council not to repeal the off-leash hours.

Bill Cosden, Orinda, advised that two years ago the President of the Moraga Chamber of Commerce had suggested that the off-leash hours worked and allowed access to the fields. He

commented that sports and coaching activities occurred now because it had worked with the off-leash hours. He added that during the last meeting of the Town Council, testimony had been provided about an incident at Rancho Laguna Park which had been used as evidence of potential safety hazards regarding off-leash dogs although it was known that the dog involved in that incident had been put down. He suggested it was disingenuous for members of the public to use that incident as information to support the rescission of the off-leash dog hours. He otherwise disagreed that any surface other than grass was appropriate for a dog park since it was the preferred surface. He suggested that the Town Council's action on December 14, 2011, would have created a dog park that would have been unsafe, unusable, and would have removed the barbecue areas.

Michelle Dunleavy, Moraga, the owner of a smaller dog who had no yard, stated she supported the dog park as the only area where her dog could play. She expressed concern with the uncertainty of a Town-created fenced-in dog park and requested clarification of that dog park before the elimination of off-leash dog hours.

Richard Nash, Moraga, frequented Rancho Laguna Park during off-leash hours, and suggested it was appropriate to allow off-leash dog hours at the park at least some of the time, suggesting that there were other locations to allow sports activities. He urged the Town Council to allow off-leash hours to continue.

The following individuals did not speak but offered the following written comments on the Speaker Comment Cards:

Nicole Yuen, Moraga, representing the Lamorinda Soccer Club, *Would like to second many points that soccer fields are needed in our community. The Town's children would greatly benefit from converting a portion of Rancho Laguna into a sport field space. Support the change from off-leash to on-leash. Option C if supported does limit sport field space.*

Felicia Dean, Moraga, *I support the dog park existing hours at Rancho Laguna Park. The issue at hand is supporting the community; the dogs are a conduit to community.*

Kelly Dean, Moraga, *The Town Council is supposed to serve the community. It seems clear that family dog owners want and deserve time to play with their dogs off-leash. These regulations are ridiculous. You should give more time. Don't let one dog put off the privilege for hundreds of dogs. Listen to your constituents. Thanks for your time.*

James Dean, Moraga, *Please allow continued off-leash dog enjoyment late afternoon in Rancho Laguna Park. Happy dogs are good for everyone's health and happiness.*

PUBLIC COMMENTS CLOSED

Councilmember Trotter asked the Town Attorney to explain the law to table a second reading, to which Ms. Murphy explained that she was unaware of any specific limit on how long an ordinance may be tabled with no legal limit to postponing a second reading.

Vice Mayor Harpham suggested that Option C was viable and that Option B, which had been before the Council during its last meeting, was also an option. He suggested that had the option allowing a separation to occur with dogs on the north side been given a chance, with the right surface, would have worked although that solution had been dismissed as a result of the lawsuit, a lawsuit he would like to have dismissed on the same California Environmental Quality Act (CEQA) grounds because Option C invades, to some degree, what had been characterized as a protected area for some animals, such as the Dusky-Footed Woodrat.

Vice Mayor Harpham disagreed that the second reading should be continued for a six-month period. He was prepared to continue the item on a meeting-by-meeting basis until such time as the Council reached an agreement that was mutually enforceable and understandable to everyone. He was displeased that it presented a challenge for small and large dogs to mix although he suggested that could be sorted out by the dog owners. He wanted to see the Town use its monies and construct a dog park in the most expeditious way with the dog owners to share in the cost as a viable option. He noted that Option B offered a physical separation but physically divided one of the jewels of the Town. He credited Ms. Moreau for presenting Option C for consideration which fulfilled the requirement of the dog owners to bring something to the table fulfilling its initiative.

Ms. Murphy clarified that the agenda item was the second reading of the ordinance although there could be direction on the issue to bring an item back to a future Council meeting.

Councilmember Trotter questioned the practicality of continuing the hearing for a second reading of the ordinance and supported a continuance and Option C as a way to move forward although he did not support continuing the second reading from meeting to meeting. If the second reading was tabled he would like it to be tabled with the ability for the Town Council to call it back at a future date. He asked the Town Attorney and the Town Manager to discuss that recommendation.

Ms. Keimach agreed that it would be difficult to attend meeting after meeting on the same issue although she sensed an urgency to find a compromise, a plan, and a design that worked for everyone. She explained that the Council may adopt the second reading and within those 30 days the Council would have two meetings at which time a plan endorsed by the community could be brought back with the criteria the Vice Mayor had outlined, and at that time staff could be directed to indicate there would be a cooling-off period during construction which would allow a way to follow the Council's direction and still keep the process moving forward as quickly as possible. After that time, staff could prepare an ordinance and it would be better known whether or not the plan would impact the Dusky-Footed Woodrat or any other wildlife habitat.

In response to the Vice Mayor, Ms. Murphy advised that it was public record that the lawsuit had been dismissed at this point in time, without prejudice, although another action could be brought forward in the future.

Councilmember Trotter commented that there appeared to be some misunderstanding in the public forum that the lawsuit had been dismissed, without prejudice, suggesting that the Town may need more time than the 30-day period from a second reading to its effective date to resolve all the details. He suggested that the Town would not be able to accomplish definitive project planning in the next 30 days which had been confirmed by off-line communications between the Town Council and legal counsel. As a result, he supported a longer cooling-off period and a motion to table the item for six months to September. He stated he would not vote for the second reading.

Vice Mayor Harpham opposed a motion to table the item for six months given that six months would not accomplish anything in that all information had been presented and there had been numerous meetings. He suggested that if the work could be done it should be done as soon as possible. He supported an extension of the 30-day period for a very short period of time but would not support a six-month extension.

Councilmember Trotter suggested that six months would likely be needed to create a project. He wanted the issue to remain at the Council level without being sent back to the Park and Recreation Commission and pointed out that work still needed to be done as to how to pay for

the creation of a dog park. As such, he suggested that a motion to table to allow that dialogue to occur was essential.

Councilmember Mendonca was prepared to act on the second reading of the ordinance pursuant to the Town Manager's statement that significant work could be done in 30 days, there was motivation to get the work done within that time period, and many were willing to work and compromise. She also noted that many citizens were not present who would likely want to be involved in the creation of a dog park. She sought a baseline fenced-in dog area, noted that the ordinance allowed that to occur outside of Rancho Laguna Park, and the ordinance allowed that discussion to occur. With progress at the end of 30 days the Council may consider an extension at that time.

Councilmember Trotter verified with Ms. Murphy that there would be a process to suspend the ordinance although that process would take place by ordinance as well. He made a motion to table the second reading for 90 days to allow sufficient time for all the work to be done to resolve the matter. The motion **FAILED** for lack of a second.

Councilmember Chew emphasized that no Councilmember had suggested abandoning dogs at Rancho Laguna Park but having all dogs on leash due to the potential safety hazards. He pointed out that the Town Council approved a project on December 14, 2011 which would have created a dog park, although the majority of those present were not supportive of that action which had been legally challenged. He suggested that the majority of those present did not support a spatial separation which he found unacceptable given the desire of other users to use the park. He suggested that the majority of those present also appeared not to support Option C and he wanted to see someone step up, support the Town Council, and work on a fenced-in dog park. He emphasized that a fenced-in dog park did not have to be created at Rancho Laguna Park; he was open to a future plan although he supported the Town Manager's recommendation that 30 days was ample time for everyone to meet with the Town Council and staff to create a fenced-in dog park.

Mayor Metcalf declared a recess at 9:12 p.m. The meeting reconvened at 9:25 p.m. with all Councilmembers present.

Mayor Metcalf stated that he had consistently held the belief that Option B, which had become Option C (described as the Mickey Mouse plan), should be considered given that it would provide spatial separation although the lawn area would have to be divided. While he did not like the bifurcation of the lawn area, he suggested it was the only reasonable solution if the resources at the park were to be shared. He also supported a maximum of three acres given that the area inside the fence approved by the Town Council on December 14, 2011 would have been too restrictive for the number of dogs likely to use the fenced-in dog park area. He emphasized that he had never supported the use of organized sports at Rancho Laguna Park and had always objected to grid-iron use in the non-dog area. He stated the field was a practice field at best.

Mayor Metcalf suggested that suspending the elimination of off-leash hours was an incentive for everyone to create ideas for the use of the park. He expressed concern with the threatening mentality of potential lawsuits and stated that if there was an environmental risk at the park there was a question of why the Town would allow off-leash dogs in any event. He also pointed out that off-leash dogs had been allowed for the past 30 years and conceivably the Town may have been violating environmental laws during that time. Whatever project was chosen, a proper CEQA analysis would have to be prepared as the law required and would be done in any event. He explained that he had not seconded the motion to table the second reading for 90 days because he would like to hear more dialogue from the Council. He agreed that 30 days would not allow sufficient time to create a plan and suggested that in 90 days a plan could be

created to resolve the matter. If that could not be done within a 90-day period, dogs should not be allowed off-leash and he urged the motivation to reach a compromise position.

Councilmember Trotter noted that if Option C were chosen, it would have to go through the CEQA analysis process and he asked staff to offer the best case timeframe to achieve that work. He questioned whether or not that analysis could be completed in 30 days.

Ms. Keimach explained that she was speaking to the conceptual plan stage where the project description could be known to allow an environmental evaluation which would involve an Initial Study. Because there was a great deal of public record on a number of different species in the area, a biologist would have to be hired to prove there was not a Dusky-Footed Woodrat or any other species, and if it could be proven there was no endangered or animal of special concern in the area, the Town could move forward relatively quickly with a CEQA categorical exemption. If during this process an environmental species was found that needed protection, a longer process including the preparation of a Mitigated Negative Declaration with a Monitoring Plan for that species would require Planning Commission and possibly Design Review Board (DRB) review. She recommended a one-step-at-a-time approach with the community to come up with a mutually acceptable project, to then work together on the timing, process, and enforcement for a project that was viable. As to the length of time for a CEQA review process, if no endangered species or animal of concern was found, the project would be categorically exempt and the Town would file the next day after the Council adoption of the concept. She reiterated as part of the CEQA process that the Town would have to hire a biologist which could take several weeks to conduct an analysis and site visits and, if nothing was found, it could take 30 days in the best case scenario. The analysis must be done and she cautioned that there were too many unknowns to offer a concrete timeline.

Planning Director Shawna Brekke-Read advised that during the last meeting of the Town Council, the Council had authorized contracts with a number of consultants, two of which were available immediately for environmental work. The cost for a biologist would be less than \$15,000 allowing for Town Manager signing authority and she suggested that the work could be done in about 30 days for the Initial Study.

Ms. Keimach affirmed that staff could start with the environmental work for Option C and work with the groups, or the groups could work together and bring something to staff.

Councilmember Trotter made a motion to table the second reading of Ordinance No. 236 for 90 days directing staff to pursue Option C as a potential project and solution to the issues that had arisen with respect to off-leash dogs and spatial separation of the lawn area at Rancho Laguna Park.

Mayor Metcalf seconded the motion.

On the motion, **Councilmember Chew** questioned with whom staff would be working. He expressed concern that even if the Town Council were to support the pursuit of Option C, the Town could still be faced with a potential lawsuit with the sole purpose of not having anything done at Rancho Laguna Park. He expressed concern with the expenditure of Town funds on studies with nothing to show for it.

Mayor Metcalf was confident that there were people who could reach a compromised solution. If not, the second reading would occur in 90 days with no off-leash dogs.

Councilmember Chew suggested that if the second reading was adopted at this time it was possible that someone would come to the Council by the next meeting or two and express a willingness to work with the Town, which was something he fully supported although he was not

confident that tabling the item for 90 days would protect the interests of the Town. He pointed out that during the last meeting of the Council, staff had been directed that any future fenced-in dog park plan must come from the user groups and he wanted to see something concrete before irresponsibly spending Town resources.

Mayor Metcalf emphasized that an Initial Study must be done in any event. Staff had suggested an approach that was sensible, would cost around \$15,000, and could be done.

Councilmember Chew was not convinced that such direction was viable.

Councilmember Trotter pointed out that during the last Council meeting he had posed the question to the audience after the close of the public hearing whether or not there was support for Option B, which was now Option C, and he noted a large number of hands in support and amongst those in support were the litigants of the lawsuit indicating support for the project.

Councilmember Chew suggested that 30 days would be ample time to come up with a plan and the responsible thing for the Town Council would be to adopt the second reading and place the burden on the proponents to pursue Option C, which could be considered at the next Council meeting. He disagreed with a continual postponement and suggested that nothing would happen in 90 days.

Vice Mayor Harpham recommended that the second reading be postponed for 30 days where the litigants could provide, in writing to the Town Council a desire to resolve the lawsuit along with prospective suits, the equivalent to without prejudice. After that 30 days Lamorinda Dogs would indicate either in person or in writing that they had accepted Option C. And if they would be able to indicate that the larger group had also signed off on Option C, would work with the Town and would work to raise money for the project, and if that happened at the end of 30 days he had no problem extending the second reading to another 60 or 90 days since it would show progress. He recognized that there was a large consensus for Option C.

Councilmember Chew understood that many were in support of Option C although the Town Council was not aware of the boundaries or the environmental analysis. He supported a future plan and a compromise but urged the presentation of something concrete before the Town expended any more funds.

Councilmember Mendonca commented that the Town Council was balancing the protection of the Town and the lawsuit while also attempting to balance the needs of those contacting the Town wanting to use a community park at the same time as off-leash hours. She had received comments on both sides of the argument and expressed concern that Option C had not been vetted by the Town. She also expressed concern with the plan's (right ear of the design) being in the very area where the Town had been sued on the grounds of impacts to the Dusky-Footed Woodrat. As such, that could pose the threat of another lawsuit. She recognized that everyone wanted a compromise but the Council must protect the best interests of the Town and its citizens, and some wanted to use the park for children and family picnics or in the evening during the summer at times when the dogs were not off-leash.

Councilmember Mendonca stated that she had never favored the bifurcation of the lawn in terms of costs and maintenance. If the item was extended only for 30 days, she wanted to see other citizens of Moraga included, such as the seniors, who had testified repeatedly that they could no longer use Rancho Laguna Park given their discomfort with the off-leash dog use. She did not want the plan to be a Lamorinda Dogs plan since Rancho Laguna Park was a Moraga Town park. She pointed out that Rancho Laguna Park had never been a dog park but was a community park that must be shared by all equitably with users who wanted to use it differently and was only one of two community parks serving Moraga's population. She was willing to

consider a 30-day delay in order to assess whether or not people could come together, not just one group, but a balanced perspective. She noted her research on American Kennel Club (AKC) recommendations and she wanted the community to look at a design at a community park that served the off-leash users in a fenced-in area. She emphasized that the discussion on a temporal solution was over and no longer a part of the conversation.

Councilmember Mendonca emphasized that she would always consider safety and maximum usage, not by one group but by all citizens. She supported a postponement of the second reading for 30 days and, if within 30 days a group of citizens could create a fenced-in plan, that would be plenty of time for people to show that they were working in good faith.

Councilmember Chew questioned how those who still did not support the spatial separation concept would be addressed leading to his doubt that something could be accomplished and the reason he had asked for concrete evidence that the groups could work towards the solution for a fenced-in dog park. He emphasized the demand for other uses in the park, as testified by the youth soccer leagues, which was also important and could not be ignored.

Councilmember Mendonca pointed out that Rancho Laguna Park had changed considerably over the past 30 years and had become more popular as a "dog park" with Lamorinda Dogs and other groups which had affected its ability to be an effective community park. She was confident that a community park could be designed beautifully as long as there was compromise and sharing.

Vice Mayor Harpham made a motion to postpone the second reading of Ordinance 236 for 30 days.

Mayor Metcalf advised that there was already a motion on the table for consideration.

Ms. Keimach asked that a motion postponing the second reading of Ordinance No. 236 be continued to a date certain of May 9, 2012 (42 days) since the Council meeting agenda for April 25 was full and the Council meeting of May 23 would be the beginning of budget discussions.

As the maker of the initial motion, **Councilmember Trotter** modified his motion to postpone the second reading of Ordinance No. 236 for 60 days to allow progress to be made and based on the advice of legal counsel. He suggested that 60 days, which was a more realistic period, was worthy of Council consideration allowing more progress to be made.

Mayor Metcalf as the second to the initial motion seconded the modification to the initial motion as stated by **Councilmember Trotter**.

Ms. Murphy commented that the motion to table the second reading of the ordinance to 60 days was a policy question before the Council and not a legal question in terms of the timeframe.

Councilmember Chew suggested the length of time was not as important as seeing the users get organized, come forward, and be willing to work towards a solution which he suggested would not take 60 days.

Ms. Keimach reiterated her recommendation to postpone the second reading to a date certain of May 9, 2012.

On the discussion, **Councilmember Trotter** supported the continuance of the second reading to a date certain of May 9, 2012.

By consensus, the Town Council supported continuance of the second reading to a date certain of May 9, 2012.

ACTION: It was M/S (Trotter/Metcalf) to postpone the second reading of Ordinance No. 236, Amending Moraga Municipal Code (MMC), Section 12.08.180 Regarding Exceptions to Prohibition of Off-Leash Animals at Rancho Laguna Park, for 60 days. The motion FAILED by the following Vote: 2-3. Noes: Chew, Harpham and Mendonca.

ACTION: It was M/S (Harpham/Mendonca) to continue the second reading of Ordinance No. 236, Amending Moraga Municipal Code (MMC), Section 12.08.180 Regarding Exceptions to Prohibition of Off-Leash Animals at Rancho Laguna Park for 42 days to a date certain of May 9, 2012. The motion CARRIED by the following Vote: 3-2. Noes: Metcalf, Trotter.

After the motion, Ms. Keimach stated that it was good advice from the Town Council to have the attorneys work out a solution together and to encourage groups to volunteer to help and create a plan.

Councilmember Chew recommended that prior to the end of the 42-day period staff allow itself ample time to prepare the May 9 agenda item, either the second reading of the ordinance or other options the users may propose.

Ms. Keimach expected to hear from the community as soon as possible and staff would conduct the biological analysis and hire a biologist and bring that information back to the Town Council, regardless, on May 9. If the costs for a biologist were significant it would be brought back to the Town Council for action; however, time was of the essence and the intent was to find a solution and work with the community. If staff had a plan from the community it too would be brought back to the Town Council for consideration on May 9 at which time more information on the environmental issue would be known.

Mayor Metcalf allowed a speaker to address the Town Council at this time.

David Shapiro, an attorney, suggested that attorneys should speak to the legalities of the case while the Town Manager and citizens discussed potential plans. He offered the Town free legal advice on the issues related to "prejudice" and "without prejudice."

Vice Mayor Harpham recommended that Town Manager Keimach be the point person on this issue.

Ms. Keimach affirmed that she would be the point person along with the assistance of the Parks and Recreation Director.

- B. Authorize Town Manager to Apply for East Bay Regional Park District (EBRPD) Measure WW Grant Funds for Play Structure Replacement at Rancho Laguna Park**

Parks and Recreation Director Jay Ingram reported that an extension of Measure AA approved by both Contra Costa and Alameda County voters in 2008, now Measure WW, resulted in \$737,587 to the Town of Moraga for recreational improvements and/or land acquisitions. The majority of the funds had been spent on the 2011 Camino Pablo (CP) School Field renovations and the Town had filed a Certificate of Completion for the CP project showing a remaining balance of \$157,000 in Measure WW funds, sufficient to fund \$70,000 in play structure replacements for Rancho Laguna Park. He explained that the Park and Recreation Commission and its subcommittee had discussed this proposal, were aware of the Council

agenda item, and had been informed that additional Commission meeting(s) may be required for community outreach on the playground structures. In addition to the \$70,000, a total of \$10,000 had been privately raised and held by the Park Foundation, which total could increase as a result of final reporting from the Casino Night Foundation event.

Mr. Ingram acknowledged that the play structure replacement had been part of the larger project at Rancho Laguna Park although it had been challenged based on CEQA grounds, as discussed during the prior agenda item, with the resolution approving that project with any findings and determinations rescinded, without prejudice, on March 14, 2012. He advised that staff was moving forward with the play structure replacement as a new project and that environmental review was exempt pursuant to Section 15302 of CEQA as the replacement of the equipment would replace prior equipment on the same site and with the same purpose. He clarified that if the project was approved, the staff report should be corrected with the fiscal impact as shown on Page 2 of the March 28, 2012 staff report to reflect that a total of \$737,500 would be spent from the available Measure WW funds on the CP project, Commons Park improvements, Hacienda de las Flores improvements, and the Rancho Laguna Park play structures, leaving approximately \$87 remaining in Measure WW funds.

Mr. Ingram asked the Town Council to authorize the Town Manager to apply for East Bay Regional Park District (EBRPD) Measure WW Grant Funds for play structure replacement at Rancho Laguna Park and advised that the deadline to apply for the EBRPD funds was Friday, March 30, 2012.

In response to the Council, Mr. Ingram clarified that fencing or other barriers had been factored into the play structure cost estimates for fencing around the tot lot area. He affirmed that staff could be directed to spend all of the remaining Measure WW funds (estimated balance remaining of \$87). He added that the most recent cost estimate for the replacement of the play structure equipment was approximately \$45,000 for equipment and \$42,000 in fencing, which had been vetted by the Park and Recreation Commission and, depending on the playground design and style, that cost estimate may vary. He noted that the Upper Commons playground equipment had cost approximately \$55,000. He described the goal of the Park and Recreation Commission and staff that the new play structure at Rancho Laguna Park be in place by the beginning of summer with special meeting(s) possibly scheduled with the Park and Recreation Commission to solicit additional community input. The final design phase of the play structure would be vetted by the Park and Recreation Commission and the Town Council would award the final contract.

Mr. Ingram further acknowledged the receipt of written communication on new Americans with Disabilities Act (ADA) standards for play structures, and commented that it was unfortunate that the individual who had submitted the correspondence was not present during the January 17, 2012 Park and Recreation Commission at which time the play structure designer had identified the fact that the play structure under consideration would be ADA, American Society for Testing and Materials (ASTM), and Consumer Product Safety Commission (CPSC) compliant.

Vice Mayor Harpham stated for the record that his wife was the Treasurer of the Park Foundation although he was no longer a member of the Park Foundation Board. Having spoken with the Town Attorney on this issue, he had been advised that he need not recuse himself and he would support the staff recommendation.

PUBLIC COMMENTS OPENED

Karen Lewis, Moraga, understood that the CEQA lawsuit had not been filed against the playground equipment but against a section of the dog park design that had been approved by the Town Council in December 2011, and she emphasized that the play structures could have

been approved in December 2011. She was pleased to see that the playground structures would be replaced but understood that the fencing would fence in only a portion of the playground and urged fencing all the way around the playground. She noted that the fencing at the Commons had yet to be installed and children were not protected from the street. She added that since June 2011, playgrounds should have been a higher priority for the Town Council and she expressed disappointment that only \$10,000 had been raised over the past several months although the goal was to raise \$100,000. She otherwise commented that she had not seen a current drawing of the playground structures.

Bob Reynolds, Moraga, President Moraga Park Foundation, urged the Town Council to support the agenda item and apply for Measure WW funds. He suggested the project would go a long way to accomplish the Council goal of creating a more community park feeling and introducing small children to Rancho Laguna Park, and reported that the Park Foundation had received funds earmarked and sequestered for the replacement of the playground structures at the park and would release those funds once they proceeded to that point. He added that 30 months ago the Park Foundation had also taken a similar approach towards funding for a spatial separation at Rancho Laguna Park in order to accept donations on a tax deductible basis and make those funds available for the construction when it came to that point. He had reaffirmed that with the Park Foundation Board although it was an appropriate use of the Foundation structure in order to facilitate funding for a dog park.

Seth Freeman, Moraga, commented that he had attended the Park and Recreation Commission meeting at which time the play structures had been discussed with no specific fencing design provided although with a wide range of fencing that could be considered. He suggested it was prudent for the Town Council to explore the types and costs for fencing that could be considered since it would affect the aesthetics of Rancho Laguna Park. He also asked the Town Council to discuss the wide delta between the notion of raising funds when so little was received, and why the Town was waiting just days before the final deadline to submit an application to the EBRPD.

Bill Carman, Moraga, supported the expenditure of funds on the play structures. He asked if Option C for the dog park was ultimately approved at Rancho Laguna Park and the tot lot relocated towards the volleyball court if that would allow for the placement of a U-11 sports field which could be considered during the design phase.

PUBLIC COMMENTS CLOSED

Vice Mayor Harpham made a motion to approve the staff recommendation, as shown.

Councilmember Mendonca seconded the motion.

On the motion, **Councilmember Trotter** asked that the motion be amended to allow flexibility and asked that the motion reflect that the Town Manager apply for EBRPD funds for play structure equipment at Rancho Laguna Park for a total grant amount of \$70,000 or the balance of the available Measure WW funds, whichever is greater.

The maker and second to the motion accepted the amendment as stated.

ACTION: It was M/S (Harpham/Mendonca) to authorize the Town Manager to Apply for East Bay Regional Park District (EBRPD) Measure WW Grant Funds for Play Structure Replacement at Rancho Laguna Park, for a total grant amount of \$70,000 or the balance of the available Measure WW funds, whichever is greater. Vote: 5-0.

- C. Consider Adoption of Resolution __-2012 Authorizing Changes to Crosswalk Improvements Project on Moraga Road at Corliss Drive; and Resolution __-2012

Authorizing Staff to Apply for Proposition 1B Funding to Support the Crosswalk Improvements and Other Infrastructure Projects on Moraga Road at Corliss Drive;; and Resolution __-2012, Authorizing Staff to Apply for a Safe Routes to School Grant for Construction of the Crosswalk Improvements

Staff Engineer John Sherbert explained that the project had come about in 2009 when the Town had applied and received a grant to partially fund the improvements in safety at two crosswalks at Corliss and Woodford Drives. The design work began in 2009 using the assistance of Fehr & Peers, with the initial design having been reviewed by the Traffic Safety Advisory Committee (TSAC) along with community meetings which had been held in 2010. In 2011, the concept had been brought to the Town Council when the Council had approved the funding and the initial concept. During the time between taking the project to bid and initial construction, staff had the opportunity to review the design one last time and with the consultation of Fehr & Peers had identified new alternatives in technology that could offer different options rather than the use of in-pavement lights to make the crosswalks more visible which would provide better safety.

Robert Rees, Fehr & Peers, Principal Traffic Engineer Consultant, presented a PowerPoint presentation of the initial concept for crosswalk improvements at Corliss and Woodford Drives, and described the many vehicular and pedestrian threats and conflicts for both Corliss and Woodford Drives which had led to the 2009 initial concept for enhanced crosswalks that should be repainted to be made more visible with overhead flashing beacons, in-pavement flashing lights, and curb extensions. After that time Harrison Engineering, a civil engineering firm, had been retained to develop the curb, gutter, and sidewalk improvements and Fehr & Peers to design the flashing beacons. The cost estimates for the initial engineering work had escalated from the figures in the initial grant application due to drainage, sidewalk requirements on the east side of Moraga Road at Woodford Drive, and at Corliss Drive a slope failure on the creek side of Moraga Road at the southwest corner of the intersection. As a result, value engineering had been done to reduce the costs of the project rather than using sidewalks by using rubberized curbs to delineate separations between pedestrians and vehicles and other such reductions.

Mr. Rees explained that approximately six months ago the Town had reviewed the resulting project and had realized it had been value engineered to a level where it became questionable as to whether or not it was the best project. Fehr & Peers had been asked its opinion. In the ensuing period, the Federal Highway Administration (FHA) approved the interim approval of the use of rectangular rapid flashing beacons which had been tested and found to be superior to getting drivers to stop compared to the use of standard yellow flashing beacons. No study had been done to compare the effectiveness of these devices to in-pavement flashing lights. Such lights were less expensive, involved less maintenance, and had 80 plus percent compliance for vehicles to stop when the lights were visible. Different techniques for making the crosswalks more visible were also considered. The proposed method could be effective and easily maintained.

At Corliss Drive, Mr. Rees identified the recommendations for improvements to the curb ramps on either side, an overhead flashing beacon. The rectangular rapid flashing lights had not been recommended because they had not been approved for overhead installation and only approved for post-mounted installation. Yellow flashing beacons would be used along with improvement of the sidewalks with a continuous sidewalk from Moraga Road to the path to the Commons, with advanced limit lines for the drivers to stop when a pedestrian activates the flashing beacon.

Mr. Rees advised that TSAC had reviewed these improvements with a follow-up community meeting. He identified the comments raised during those discussions regarding Corliss Drive.

In response to those comments, he recommended baffling, which would diminish the effectiveness of the flashing beacon lights when a pedestrian was crossing the street.

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

Mr. Rees went on to identify the location of the two advanced limit lines at Corliss Drive which would stop traffic when a pedestrian was in the crosswalk, a common treatment for unsignalized intersections.

At Woodford Drive, Mr. Rees identified two solutions although he acknowledged that TSAC had not made any recommendations for this location. He recommended the elimination of the crosswalk on the north side of Woodford Drive since it would move the crosswalk farther away from the theater exit driveway out of Campolindo High School which would result in a pedestrian/vehicle conflict while locating a crosswalk on the south side allows a reduction in the exposure for pedestrians crossing the street. On the south side, pedestrians would stand in a curb extension, step out to cross the street, cross a bike lane, cross the vehicle travel lane, and then end up at a raised median for a distance of 10 to 12 feet, and then step across again approximately 17 feet to reach the other side. The curb at Woodford Drive would be built out to follow the alignment of the bike lane allowing a more standardized intersection curb return at the corner. He recommended a 15-foot corner return which would reduce the speed of vehicular traffic making a right turn onto Woodford Drive and also improve sight lines. Rectangular rapid flashing beacons would be used at this location rather than in-pavement flashers with the texture of the crosswalk to be painted or using standard yellow striping. The other condition would keep the crosswalk where it was located and with the curb extension on the school side would try to limit the speed of traffic turning out of the Campolindo High School parking lot but would not fully address that issue. Curb and sidewalk would be provided on the Woodford Drive side separating pedestrians and automobiles and using rectangular rapid flashing beacons.

Mr. Rees spoke to the turning radii on the crossing on the south side which would be adequate for the turning radius for garbage trucks. As to the visibility for traffic turning right onto Woodford Drive, that had been addressed with the changes that benefit those movements. The community had requested the removal of the median although he did not recommend that be done since pedestrians would be exposed to vehicular traffic in the center turn lane as it was now on the north side and drivers making a left turn out of Woodford Drive who may not be paying attention to the crosswalk. As to whether or not something else could be used rather than the median, he recommended "Botts' dots" or "Watch for Pedestrian" signs which could be evaded by drivers since they were not a physical impediment. He recommended that if such measures kept vehicles out of the median it would serve the same purpose as the median and he saw no difference if both measures were effective.

In response to the Council and in response to some of the community concerns raised in correspondence that had been received, Mr. Rees commented that if children were walking on the south side of Woodford Drive to enter the intersection and if the sidewalk was extended and the turn was made more abrupt as proposed, it would not place children in danger since the existing design was not safe for pedestrians when vehicles were making the turn at a decent speed. The proposed improvements would keep vehicles out on Moraga Road preventing vehicles from cutting the corner. He suggested that there was really no difference in the condition with the improvements he had proposed on the south side at Woodford Drive.

John Valentine, Chair of TSAC, asked for clarification on the curb extensions which were not part of the original proposal received by TSAC in 2010, since what had been proposed was a Level II Project which only entailed signage and striping, and anything with pavement and touching the curbs would have been a Level III project. While light baffling had been raised as

part of the original proposal, TSAC had made a commitment to the neighbors of the Corliss Drive area that light baffling, if possible, would be committed as part of this project in response to the concerns for light glare into adjacent windows. There had also been a strong preference during a recent TSAC meeting and amongst the neighbors of the Woodford Drive neighborhood, for the north side crosswalk on Woodford Drive, which he suggested the staff report had misrepresented.

In response to the Council, Mr. Valentine affirmed that he had been involved with the TSAC hearings on the Woodford Drive intersection and the March 15 community meeting where five people had spoken to Corliss Drive and 15 members of the community had been in attendance to speak about Woodford Drive. He acknowledged that TSAC had not enjoyed similar turnouts.

As to the crosswalk on the south side of Woodford Drive, Mr. Rees stated that if he was asked to prioritize for automobiles, the north side was the better crossing.

PUBLIC COMMENTS OPENED

Mary Caburi, Moraga, a resident for almost 54 years, had resided on Woodford Drive before Campolindo High School had been built and crosswalks installed with no pedestrian/vehicle accidents to her knowledge over the past 50 years. As such, she questioned the need to change the crosswalk and suggested it remain where it was.

Omid Boozarpour, Moraga, explained that he had attended the TSAC community meeting which had low attendance but for the most part those present were in support of the northern, not the southern, crosswalk at Woodford Drive because it had worked for some time and there was concern with making a left turn onto Moraga Road. As to the issue of the median, it had been widely agreed that it would block the turning lane which was currently used as a queue line into Campolindo High School where traffic backed up into the right lane further exacerbating the traffic conditions if a median were installed. Also, making a left turn would be very difficult particularly when school was out of session. He commented that he walked to school on the north side of Woodford Drive to the crosswalk given the safety hazards with traffic turning right from Moraga Road onto Woodford Drive and even with a curb he would not be comfortable walking in that area. He would like to remain on the northern side and cross over. Further, concerns with drainage had been discussed during the community meeting and he was uncertain how that would be addressed with the curb on the northern side. He urged that the northern crosswalk be preserved as the community had supported.

Diana Lee Boozarpour, Moraga, explained that she had attended the TSAC meeting when the initial concept had been proposed with the north side crosswalk at Woodford Drive with painting and signage, and while she had supported anything that would improve the visibility of the crosswalk when TSAC had met again in March 2012 the crosswalk had been moved to the south side with a median proposed. She suggested that residents within a 300 square foot radius of the proposal should have been notified given the major intersection under discussion. She commented that TSAC had recently held another community meeting and prior to that her family had canvassed the neighborhood up to Natalie Drive to encourage residents to attend the meeting, leading to the good turnout. The staff report had not fairly represented what had been shared at the meeting, with the median reported to be a problem for the turning lanes off of Woodford Drive although pedestrians would feel unsafe on a median since drivers would not likely stop. Moving the sidewalk to the south side would slow traffic around the curb although with the removal of the median it would not really be made safer. She urged the Town Council to reject the resolution under consideration for Woodford Drive given how the project had been handled with pressure to use funds by June 2012. She saw no valid reason to move the crosswalk to the south side stating that traffic speeds would likely increase before children were visible in the crosswalk.

John Haffner, Moraga, acknowledged that Woodford Drive was an important issue although having made right and left hand turns on Corliss Drive over the past 30 years other than the junction at Moraga and St. Mary's Road, he found it to be the most dangerous intersection in the Town from a speed management perspective. He urged the Police Department to take into consideration that traffic accelerated over the "Botts' dots" over the hill towards Corliss Drive south as traffic was making a left hand turn. He noted that all of the residents in the Orchards neighborhood were of the opinion that Corliss Drive was a major 'soccer mom' transit and rather than going around Moraga Way to Moraga Road, traffic was cutting through Corliss Drive at a high rate of speed and if people were not alert there was the potential for traffic collisions.

Mr. Valentine noted that the staff report included four options for consideration and he urged Town Council consideration of Option 2, which would approve the Corliss Drive project as presented, and to rework the Woodford Drive project in a way that would respect the residents of both communities. He emphasized that Corliss Drive residents had asked TSAC for a crosswalk at Corliss Drive which received unanimous support. He said unanimous support had not been achieved for the Woodford Drive crosswalk. As to the concerns with the use of baffling lights at Corliss Drive, he noted that would depend on where the signs were located since the lights could impact homes north of the intersection but acknowledged there had been assurances that new LED structures would better focus the glare.

Mr. Rees clarified that the issue with respect to baffling would be for any of the homes on Moraga Road.

ACTION: It was M/S (Trotter/Mendonca) to extend the Town Council meeting to 12:00 A.M. Vote: 5-0.

In response to claims that the staff report had not reflected the input from the neighborhood during the TSAC community meeting, Mr. Valentine suggested that the staff report had not fairly spoken to the concerns of the residents of the Woodford Drive area. He understood that the project was a reconsideration which came with little notice and under specific time constraints regarding the sunset of funding.

Mr. Rees explained that he had not been present during the TSAC community meeting although the option had been responsive to the neighborhood input, would keep the crosswalk on the north side of Woodford Drive, provide the opportunity for a driver to turn left out of Woodford Drive into a middle area, and provide a street light, one of the benefits of placing a crosswalk on the south side. He suggested that Town staff had been responsive to the neighborhood's concerns and while the community may not have seen this option until this time staff had responded to everything raised in the community meetings.

Ms. Boozarpour acknowledged that the community would likely be supportive of the north crossing although the staff recommendation included the approval of a crosswalk on the south side of Moraga Road and Woodford Drive, as shown in Attachment B to the staff report dated March 28, 2012.

Ms. Keimach commented that during the community meetings staff had recorded four items of concern on Moraga Road; the turning radius was too tight, concerns with a freeway type of speed exit from Moraga Road to Woodford Drive, there were also concerns with respect to pedestrians, the median issues, and the keep clear. The confusion was that given all of the recommendations that had been forwarded to the consultants, with input from the Police Department based on its experience with the intersection, the recommendation remained that the south side would be better for pedestrian safety. The Chief of Police had also suggested that the crosswalk would be a safety issue in the evening and the street light was on the south side rather than on the north side of the street, a concern that had also been raised during the

community meeting. She also explained that the Safe Routes to School Grant was related to school safety and was a Woodford Drive project. If the Town Council was not supportive of the south crosswalk at Woodford Drive, either of the two options would work for the grant application and would not place that grant in jeopardy.

PUBLIC COMMENTS CLOSED

Councilmember Trotter supported the Corliss Drive project as configured and as reconfigured by the consultants, although the south crosswalk at Woodford Drive was a concern and he could not accept the median given that area had been a double two-way left turn lane for decades and was used so that the two travel lanes were not backed up because of Campolindo High School. He suggested that if a median was installed it could become a speed bump controversy and there were reasons why the median was not a good idea because one of the competing issues was ensuring through circulation so that traffic could continue to get through an already challenged area as quickly as possible and allow left turns into the Campolindo High School parking lot and out of Woodford Drive. He could not accept Drawing A because of the median. The remainder of the drawing was acceptable, if building out the sidewalk where the median was not needed, since it would reduce the amount of distance across for high school students using that crosswalk. He added that the southern solution was also logical except for the median which would anger many people who traveled through the area particularly during the morning commute and in terms of the traffic circulation.

Mayor Metcalf understood that the recommendation for the median was in the interest of pedestrian safety although the Town did not need another speed bump war at Campolindo High School. Extending out the curbs on the southeast and northeast corners of the intersection was a good idea to slow traffic but he was uncertain why a bulb out was necessary on the west side, and as long as there was no opposition in the Town it could be a good idea. He recommended that the Woodford Drive option be reworked but in a way where it would not jeopardize the Town's grant monies.

In response to **Vice Mayor Harpham**, Mr. Rees suggested that if a median was not provided on the south side of Woodford Drive the crossing on the north side would be the better solution. A streetlight would have to be installed on the north side to light the crosswalk. The curb extensions on both sides of Woodford Drive would improve the pedestrian sight lines to the drivers and the streetlight would improve the nighttime ability for drivers and pedestrians to see one another. The rectangular rapid flashing beacons would be activated as a pedestrian crossed the street. He explained that all of those improvements were found in multi-lane roads and had been found to be effective tools more so than just the use of flashing beacons.

Councilmember Chew emphasized the importance of increasing safety which trumped anything else. He understood the concerns with new elements as part of the recommendations although he stated that safety should be the most primary consideration. He also acknowledged that staff, the consultants, and the Police Chief had testified to the need for increased safety. He was sensitive to the community input although he did not equate this issue to the past discussions in the community on speed bumps.

Mayor Metcalf recommended that the Town Council consider the agenda item as three separate resolutions.

Ms. Murphy identified Attachment E to the staff report, the resolution for the changes in the crosswalk improvement projects incorporating both Corliss and Woodford Drives but which did not mean that the resolution could not be separated by motion.

ACTION: It was M/S (Trotter/Mendonca) to modify Attachment E and adopt Resolution 21-2012, Authorizing Changes to Crosswalk Improvements Project on Moraga Road at Corliss Drive Only. Vote: 5-0.

ACTION: It was M/S (Trotter/Mendonca) to modify Attachment F and adopt Resolution 22-2012, Authorizing Staff to Apply, Accept, and Appropriate if Applicable, Proposition 1B Funding to Support the Crosswalk Improvements and other Infrastructure Projects at the Intersection of Moraga Road at Corliss Drive Only. Vote: 5-0.

Councilmember Trotter made a motion, seconded by **Councilmember Mendonca** in the form of Attachment E, to adopt a resolution authorizing changes to the crosswalk improvements on Moraga Road at Woodford Drive consistent with keeping the crosswalk on the north side of Woodford Drive and eliminating any median barrier in the middle of the existing two-way left turn lane at that location and incorporating the proposed relocation of the streetlight to the north side of Woodford Drive.

Ms. Keimach advised that the motion, as stated, was out of scope of the Town's budget and was more expensive because of the drainage.

Mr. Rees spoke to the challenges with drainage on the north side where water puddled in the road and the drainage flow lines on the southeast side were good where a grate could be installed.

Councilmember Trotter withdrew the motion given the costs associated with the drainage. He commented that the only time sensitive resolution was the Safe Routes to School Grant for the Woodford Drive improvements. He asked the best way to prepare a resolution to allow staff to apply for funding by the March 30 deadline to retain the crosswalk at the northerly section of Woodford Drive and eliminate any median barrier in that location.

Mr. Sherbert advised that the details required for the Safe Routes to School Grant were not quite at the level where they would have to get into the specific design. The Town only needed to describe the curb and bulb outs, a higher visibility crosswalk, and the flashing beacons as outlined in the north side option which could be inserted into the grant application and filed by the March 30 deadline.

On the discussion, Mr. Rees commented that he would not have recommended both options had he not believed they were an improvement over the current condition, and either option would significantly improve pedestrian safety. He acknowledged that while pedestrian accidents were rare, accommodations should be provided for pedestrians.

ACTION: It was M/S (Harpham/Mendonca) to extend the Town Council meeting to 12:15 A.M. Vote: 5-0.

In response to **Councilmember Chew**, Mr. Boozarpour stated that despite the options which would be safer for pedestrians, he suggested there was not much difference between the two crosswalks and he would be safer with the northern crosswalk on Woodford Drive.

Councilmember Trotter made a motion to adopt Resolution __-2012, Authorizing Staff to Apply for a Safe Routes to School Grant excising all references to Corliss Drive with the direction from the Town Council that the resolution authorized staff to apply for the grant with respect to the northern intersection proposed improvements as reflected in Plan B, as provided by the Town's Traffic Engineering Consultant.

Councilmember Mendonca seconded the motion.

Ms. Keimach advised that Plan B had not shown a median but it could be included if the Town Council so directed.

Councilmember Trotter asked that his motion be amended, to include the language "and there shall be no median barrier."

Ms. Murphy further added that Plan B included the streetlight and the motion should be further amended to reflect "without the streetlight."

Ms. Keimach stated that Plan B included the flashing beacon.

Mr. Rees emphasized that the streetlight was needed with the flashing beacons which he described as a roadway light which illuminated the street.

Mr. Sherbert corrected that no streetlights had been included in the calculations.

Mr. Rees noted, when asked, that the north crossing was proposed to remain as it currently was with no additional striping.

Ms. Keimach explained that staff would try to get enough funding for the streetlight although they may not be able to achieve that and may have to phase the streetlight improvement over time. If the Town Council chose to move forward with the crosswalk absent a median on the north side, staff would apply for as many grant funds as possible and inform the Council of those efforts.

Mr. Sherbert also suggested striking the dollar figure in the grant application which calculation would have to be changed based on the change from one option to another and since that number would likely decrease.

Ms. Murphy recommended the inclusion of language "The amount to be determined by staff based on the description in the resolution."

On the discussion, **Councilmember Trotter** accepted further modification to his motion.

ACTION: It was M/S (Trotter/Mendonca) to adopt Resolution 23-2012, Authorizing Staff to Apply for a Safe Routes to School Grant excising all references to Corliss Drive with the direction from the Town Council that the resolution authorized staff to apply for the grant with respect to the northern intersection proposed improvements as reflected in Plan B, as provided by the Town's Traffic Engineering Consultant, and subject to: there shall be no median barrier, and the dollar amount figure in the grant application to be determined by staff based on the description in the resolution. Vote: 5-0.

Ms. Keimach asked that the resolution regarding the Proposition 1B funding include Woodford Drive and other infrastructure projects.

ACTION: It was M/S (Trotter/Mendonca) to adopt Resolution 24-2012, a resolution modified from the form identified as Attachment F, Authorizing Staff to Apply, Accept, and Appropriate if Applicable, Proposition 1B Funding to Support the Crosswalk Improvements and other Infrastructure Projects at the northern intersection of Woodford Drive and Moraga Road, not to include any median barrier. Vote: 5-0.

XII. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

There were no requests for future agenda items.

XIII. COMMUNICATIONS

- A. Certificate of Appreciation Recognizing Gayle Uilkema as Lafayette Citizen of the Year for 2012

XIV. ADJOURNMENT

ACTION: It was M/S (Harpham/Chew) to adjourn the meeting at 12:04 A.M. Vote: 5-0.

Respectfully submitted by:



Marty C. McInturf, Town Clerk

Approved by the Town Council:



Michael Metcalf, Mayor