TOWN OF MORAGA
TOWN COUNCIL SPECIAL MEETING

May 20, 2015
MINUTES

7:00 P.M. Special Meeting

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

I. CALL TO ORDER

The special meeting was called to order at 7:01 P.M. by **Vice Mayor Michael Metcalf.**

ROLL CALL

Councilmembers present: Vice Mayor Michael Metcalf, and Councilmembers Phil Arth, Teresa Onoda, and Dave Trotter*
*Councilmember Trotter arrived at 7:05 P.M.

Councilmembers absent: Mayor Roger Wykle

II. PLEDGE OF ALLEGIANCE

Councilmember Onoda led the Pledge of Allegiance.

III. SPECIAL ANNOUNCEMENTS

There were no special announcements.

IV. PROCLAMATIONS AND PRESENTATIONS

A. Presentation by Moraga Youth Involvement Committee (MYIC) Vice Chair Nikhil Suri on MYIC's Accomplishments

Nikhil Suri, Vice Chair of the Moraga Youth Involvement Committee (MYIC), provided a status report on the MYIC accomplishments for the year including participation in the Moraga Tree Lighting, Moraga Beautiful, Moraga Triathlon, Breakfast with Santa, and the Mother/Daughter Tea. Future activities included work with Miramonte High School to install solar panels at the campus; participation in the Pear Festival; and Movie Night, the largest event for the MYIC scheduled for May 29, 2015.

Kim Baxter, a member of the MYIC, was recognized by the Vice Mayor but yielded her time for comments to Mr. Suri.

Kimberly Nelson, Recreation and Facilities Coordinator, reported that the 2014/15 term for the MYIC involved high school juniors for both the Chair and Vice Chair, setting up the 2015/16 term with a good amount of carryover expected and with recruitment for active members. She was excited for the work accomplished and expected to be accomplished by the MYIC.
Councilmember Onoda, the Town Council appointee to the MYIC, commended the students' efforts.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

V. PUBLIC COMMENTS

Graig Crossley, Moraga, thanked the Mayor and Town Council for its gracious words at the Citizen of the Year Dinner on May 16. Referencing the Cinco de Mayo celebration held at the Hacienda de las Flores, he reported that the placement of signage on the Hacienda fence along Moraga Road had been prohibited, and asked the Town Council to give direction to staff to prepare a resolution directing the Town Manager or designee to grant permission for appropriate signage for such events based on the regulations of the Sign Ordinance.

David Gow, Moraga, referenced the Saint Mary's College (SMC) appeal on the meeting agenda and suggested the Town was in violation of the establishment clause of the U.S. Constitution given an image of the SMC chapel, which had been displayed on the Town's website beneath a banner reading Home of SMC, which he believed should be removed. He cited the status of current court cases in Los Angeles County as a reference to the situation.

VI. ADOPTION OF MEETING AGENDA

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Arth/Onoda) to adopt the meeting agenda, as shown. Vote: 4-0-1. Absent: Wykle.

VII. REPORTS

A. Mayor's and Councilmembers' Reports

Mayor Wykle – Absent.

Vice Mayor Metcalf – Reported that he had attended the Citizen of the Year dinner for Graig Crossley on May 16; and reported that this was the 20th Anniversary of the Lamorinda School Bus Program.

Councilmember Arth – Reported that he had attended the Association of Bay Area Governments (ABAG) telephone conference on May 14; and the Citizen of the Year dinner for Graig Crossley on May 16.

Councilmember Onoda – Reported that she had attended a recent Campolindo High School Department of Music Spring Concert.

Councilmember Trotter – Reported that he had attended the Citizen of the Year dinner for Graig Crossley on May 16.

B. Town Manager Update – No report

VIII. DISCUSSION ITEMS

There were no discussion items.

IX. PUBLIC HEARINGS

There were no public hearings.

X. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION

A. Saint Mary's College Appeal

Consider Resolution 46-2015 Upholding an Appeal Filed by Saint Mary's College (SMC) of the Planning Director's Decision Requiring Saint Mary's College to Reduce the Hours of Operation of Intramural Field Lights from 10:00 p.m. to 9:00 p.m. (*Public hearing held March 11, 2015*)

Planning Director Ellen Clark presented the staff report and recounted that the item had previously been considered by the Town Council on February 27, 2013 when the Town Council had first considered the appeal, and on March 11, 2015 when a list of conditions had been considered by the Town Council that would further control issues with respect to noise, and lights at the intramural field. The Town Council had indicated general support for SMC being able to extend the hours of operation back to 10:00 p.m., as previously permitted, with a number of changes required to clarify and strengthen the conditions of approval. Those conditions had been outlined in the staff report.

Ms. Clark reported that since the March 11 meeting, staff had worked with SMC to modify the conditions pursuant to Town Council direction. There had been one significant piece of new information since the last meeting; the results of an acoustical analysis, which had found the maximum increase in ambient noise at a nearby residence at about 2 decibels, a moderate level of increase and not typically considered a significant impact in noise assessments. The maximum noise level had been measured at 59 decibels, and while a bit high, was within most commonly accepted noise standards. She explained that the results had been used to identify quantitative standards in the conditions of approval, to be used by both SMC staff and the Moraga Police Department when responding to complaints to determine whether noise was at an excessive level.

Ms. Clark advised that redline revisions to Exhibit 1, the Conditions of Approval, had been provided to the Town Council and to the public to identify the changes that had been made to the conditions, which she reviewed with the Town Council. In addition, the Town Council had been provided with late correspondence that had been received from a neighbor who had raised technical comments about the lights and noise measures, and which had been reviewed by SMC's Acoustical Consultant, who had provided a response in writing, copies of which were provided to the Town Council and the public. The Town's lighting consultant had also reviewed the conditions.

Ms. Clark noted that the fields had been lit to a 55-foot candle light level, appropriate for inter-collegiate play; the Town's lighting consultant had recommended a lower level of lighting on the field may be appropriate and more in keeping with the intramural recreational use of the field.

Responding to the Town Council, Ms. Clark explained that the current discussion related to the conditions of approval, as outlined, and whether the conditions as amended were sufficient to support the Town Council recommendation which would allow the lights to remain operational until 10:00 p.m. pursuant to the Town Council's direction on March 11, 2015.

PUBLIC COMMENTS OPENED

Frank Comprelli, Moraga, questioned why the appeal was again before the Town Council. He did not understand the intent of SMC, and questioned statements made by SMC's President Donahue that the 10:00 p.m. time period was an interim step, and SMC planned to return in the future to request a shut-off time of 11:00 p.m. He did not support a 10:00 p.m. shut-off time, and asked that the hours of operation for the intramural lights be monitored, and the time of activities be better controlled to ensure neighbors' privacy.

Gerri Joyce, Moraga, asked that her time to speak be yielded to David Gow.

David Gow, Moraga, recommended that the Town Council move forward and place SMC in motion to work on its final design, secure the intramural field lights, but step back on the conditions of approval, which he suggested would not work. As an alternative, he recommended that the Town Council eliminate most of the conditions of approval which would likely be ineffective; ensure that the responsible person at SMC for monitoring activities on the intramural field was an executive and not a gate guard as was the current system, with the name of that person to be publicized; the Town adopt the noise standards used by the City of Los Angeles which presumed ambient levels; consider a one-time series of tests using reference noise standards on the intramural field to determine when the noise levels reached the threshold and accept noise on the field up to that point; and urge SMC to move towards the use of automated continuous sound metering on the field. He also suggested that SMC purchase sound meters that met industry standards; loan them to those with potential noise complaints to allow adjustments to be made to the noise levels; permit conditions be written to clarify the purposes for which the intramural field could be used; and consider a reduction in the light levels which would greatly improve whatever SMC might build on campus.

Peter Snell, Moraga, urged the Town Council to consider the recommendations proposed by Mr. Gow, which would solve many of the neighbors' noise concerns. He reported that on the evening of May 9, 2015, SMC had held an event which had included a band that had been allowed to play until 12:00 a.m., which had been loud, impacting the Bluffs neighborhood and outlined the inadequate response he had received from both the guard house and the Moraga Police Department. He identified one particular light from the campus which poured into his home, and expressed concern with SMC's intent to have the lights on until 11:00 p.m. He questioned SMC's five- to ten-year plan for the campus and expressed concern that some believed the issue was between SMC and the Town, and not the neighbors. He added that he had sent the Town Council an e-mail outlining the needs and concerns of the Bluffs residents and had not received a response from any Councilmembers.

Nancy Comprelli, Moraga, stated that the sound test had been conducted during spring break when the intramural field was not in use, and she therefore questioned the conclusions contained in the acoustical analysis. She also questioned the fact that the hours of operation, whether ending at 10:00 p.m. or 11:00 p.m., were considered to be a daytime period when considering appropriate decibel levels. She emphasized the noise from the intramural field carried into the Bluffs neighborhood, particularly in the evening and she expressed concern with SMC's intent to request an 11:00 p.m. shut-off time for the intramural field lights in the future.

Tom Marnane, Moraga, found that the current resolution made good progress in resolving the situation. He suggested that SMC owned the problem and he was hopeful the controls would be in place to ensure a positive outcome; however, he found everything in the resolution regarding the noise concerns to be confusing and an obfuscation with no articulation. He recommended that the lighting portion of the resolution be approved with nothing on the noise until someone other than the neighbors had offered a definition of the problem and a solution.

Clair Hotten, Moraga, a resident of the Bluffs neighborhood, opposed an extension of the hours for the intramural field lights to 10:00 p.m. He noted that no field or outdoor facility in the Town

created noise similar to the activities at the intramural field, or was in operation as often as SMC had proposed. Citing the Hacienda, he understood noise was not allowed at least 200 feet from the structure to avoid disturbing adjacent neighbors and asked that the same accommodation be considered for the neighbors of SMC. He suggested SMC could utilize its existing fields to meet its activity needs particularly since some of the existing fields were under-utilized, and understood that the former football field could accommodate some of the intramural field activities. In addition, he questioned why the bells at SMC were discontinued after 9:00 p.m. when the noise for the intramural field could be allowed until 10:00 p.m. He urged the Town Council to deny SMC's appeal.

Gary Howard, Moraga, commented that residents of the Bluffs and Fernwood Drive had been residents prior to many of the enhancements to the SMC campus and that the noise and light impacts from the SMC campus had negatively impacted nearby residents. He understood SMC had hired a sound consultant to measure the noise levels from the SMC campus, with some of the measurements taken from the rear of his residence, although that had been done during a period when the campus was not as active, leading him to question the conclusions of the noise study.

PUBLIC COMMENTS CLOSED

In response to Councilmember Trotter, Ms. Clark affirmed that the residential noise standards survey included in the staff report had been prepared by Town staff; identified the nighttime standard noise level recommendations in the range of 55 dBA as comparable to neighboring communities; Design Review Board (DRB) Condition 2 would remain in effect even if the appeal was upheld; acknowledged a recommendation to amend the resolution to reflect that condition; and acknowledged that language appeared to be missing from the top of Page 3 of the Draft Resolution, which would have to be corrected.

Councilmember Trotter understood that the lighting changes were good, although the lighting consultant had concluded there would be a significant reduction of 10 percent, which Councilmember Trotter did not find to be a significant reduction. He questioned what had weakened the lighting consultant's conclusions.

Ms. Clark understood that the lighting consultant had recommended a reduction that would not over-promise a guarantee of glare reduction at every location where the light impacts occurred. The reduction in glare could be as low as 10 percent, and in some locations could be higher, and the changes would have a substantial effect for those who experienced glare impacts.

Ms. Clark suggested that SMC should comment on the recommendation regarding the enforcement oversight by an authority above the SMC Public Safety Department She suggested the provision should be realistic as to who would be available to serve in that capacity. In response to the provision requiring SMC to log and record complaints, as reflected in the conditions, she noted that once received, complaints would be verified by SMC, which was why staff had recommended a location at the edge of the SMC property to take a measurement. She noted that was similarly done at the Hacienda where staff measured noise from the perimeter of the facility grounds when events occurred.

Ms. Keimach added that although the language in Condition IV B of Exhibit 1 would require the Moraga Police Department to verify noise complaints with a decibel monitor/noise meter, she noted the Department did not currently have such equipment. The Parks and Recreation Department had that equipment and the Police Department could be trained to use the equipment as had Parks and Recreation Department staff.

Councilmember Trotter commented that based on his experience with noise, an increase of 2 to 3 dBA would be perceptible to the ear. Given the quiet nighttime environment in Moraga, with instantaneous spikes of noise such as with yelling, he questioned whether there was any data available from the Howard residence where people had been on the field playing and making noise.

Ms. Clark understood that the noise measurements had been taken from the intramural field when activities had been held to ensure the noise was related to the activity on the field. SMC had not been asked to provide background charts showing how that noise had spiked or changed over time although that information was available.

Ms. Keimach understood that measurements had been taken during finals and spring break in order to calculate the ambient noise levels, with a Delta level of 2 decibels.

Councilmember Trotter referenced Attachment C, the Charles Salter & Associates Intramural Field Noise Analysis, and questioned whether the data truly reflected the actual difference in noise levels. He expressed concern the data had not included spikes in the ambient noise and the time of activity.

Ms. Clark understood the measurements had looked at the delta; the delta between the maximums and various periods that occurred, and acknowledged they may not be coincident in time.

Assistant Town Attorney Karen Murphy recommended the following revision to the Draft Resolution to address the apparent missing language identified by Councilmember Trotter, to be amended to reflect a new Whereas clause at the top of Page 3, to read:

> *WHEREAS, on March 11, 2015, the Town Council approved a motion to uphold the appeal contingent on a number of revisions to the proposed conditions of approval related to the hours of operation of the field and continue the public hearing to a date uncertain;*

Councilmember Arth understood that SMC had tested the noise levels during finals and spring break since it had also included a Women's Lacrosse game, which had involved a 59 dBA, and which had captured the ambient noise and highest delta. For now, he was pleased with the lighting conditions of approval, as amended and as reflected in the redline version, and would be willing to see the outcome of the use of noise meters during activities. Based on those conditions, he wanted to give SMC the opportunity to succeed.

Councilmember Onoda commented that she had recently walked the Bluffs neighborhood to receive opinions from the general population, and had found that most opposed SMC's appeal. She apologized for not responding to Mr. Snell's e-mail since she usually responded when receiving any e-mails from constituents; liked the idea of measurements and an automated system that continued throughout a game to ensure responsibility; and while she recognized that SMC and not the Town was responsible for any profanity on the field, she suggested when SMC had an official for the games they should speak to the potential noise impacts which should include scripted language identifying the responsibilities for the use of the field and the fact it was located in a natural amphitheater. A protected sign with a scripted statement could also be posted at the field gate.

Councilmember Onoda recommended that the Town follow the noise levels followed by the City of Lafayette given the natural amphitheater of the intramural field, with the noise registered at the field and not at residents' homes. She also recommended that the lights be turned off when no one was on the field.

Vice Mayor Metcalf asked a representative of SMC to respond to the comments and advise on how SMC wanted to proceed.

Pete Michell, SMC, Vice President of Finance, explained that SMC was trying to be a good neighbor and serve its students, which was why SMC had come up with lighting improvements and had worked to improve the sound issues. Working with Town staff, he suggested they had reached a reasonable solution. He confirmed that Mr. Gow had provided written comments to SMC although SMC had not yet worked through those comments.

Diane Hardy, SMC, Director of Project Management, detailed the table provided by SMC's Principle Engineer and Consultant; the methodology the consultant had used to measure sound, with the noisiest events measured, while recognizing finals and spring break in order to gather base data to compare to the ambient noise levels; noted the noise on the intramural field was non-amplified as compared to other events on the SMC campus; and detailed in depth the intent and conclusions of the noise level metric as contained in the consultant's report. Responding to the recommendation for an automated system, she explained that the problem was that an automated sensor would not differentiate between the location and source of the sound, and a time-phased record of noise on a sensor would have to be careful with readings between dates, times, and minutes between activities on the intramural field and other activities on the campus at the same time. She agreed an automated sensor that provided feedback would be more useful than calling on potential government resources.

Mr. Michell acknowledged that an automated system concept had been discussed with SMC's consultant. While there were indoor devices that could work on the field, they were in the early exploration stage. In terms of enforcement, he suggested that proper training and calibrated equipment would be important for the Moraga Police Department and SMC would do the same with its Public Safety Department, which enforced all SMC policies. He described how complaints were logged and recorded, and explained that if a call came into the SMC Public Safety Department there would be a record of that call. He emphasized that SMC was working with a shrinking window to make the lighting improvements by August 15, 2015.

Ms. Clark affirmed that staff was treating the hours of operation and the requested change from 9:00 to 10:00 p.m. as nighttime hours. The Residential Noise Standards Survey prepared by Town staff had used 60 dBA as the nighttime noise measurement standard. It was acknowledged that was a daytime noise standard used for a nighttime activity; 55 dBA was used for nighttime activities by the closest jurisdictions of Orinda and Lafayette.

Ms. Keimach clarified that comparing the decibel levels to the cities of Orinda and Lafayette, under the daytime period from 7:00 a.m. to 10:00 p.m. the allowable decibel level in Orinda would be 60 dBA, while the allowable decibel level in Lafayette would be 58 dBA.

Ms. Clark explained there were more extensive measures for noise control between 9:00 and 10:00 p.m., which staff was treating as nighttime hours, which was consistent with other communities' daytime noise standards. Based on the noise table, 55 to 58 dBA may not be unreasonable. As to why a 55 dBA had not been proposed, she suggested that was a policy question for the Town Council.

Councilmember Trotter suggested the measurement of sound should be conducted at the residence, not at the border of the SMC property, since a 55 dBA may be impossible to attain at the edge of the property line.

Councilmember Arth confirmed with Ms. Clark that she had received the correspondence from Mr. Gow this date. He emphasized the importance of submitting information in time for the Town Council to read.

Vice Mayor Metcalf declared a recess at 8:37 p.m. The Town Council meeting reconvened at 8:42 p.m. with all Councilmembers present with the exception of Mayor Wykle.

Councilmember Trotter pointed out that staff reports were issued on the Friday prior to the scheduled Town Council meeting, and until members of the public had seen and been able to digest the staff report, he suggested it was unfair and unreasonable to expect comments from Mr. Gow or any other member of the public to be submitted prior to the preparation of the staff report.

Vice Mayor Metcalf suggested the lights should be turned off at 10:00 p.m., and wanted to know whether or not SMC was interested in doing so. He sought consideration of a system where it would be impossible for an unauthorized person from SMC to turn the lights on. He questioned whether it would be practical to shut the lights off if no one was on the field.

Mark Orr, Director of Athletics and Recreation, SMC, stated that the system in place could automatically turn the lights off at 10:00 p.m. through the use of a timer system; it was possible to turn the lights off manually through the Public Safety Department; no staff member or student had the ability to turn the lights on or off manually; and while there were times that it may seem that the intramural field was not in use, SMC offered open recreational time on the field allowing un-programmed time for students during the evening period. Practically speaking, he was uncertain how turning the lights on and off between activities would work.

Vice Mayor Metcalf recommended a dBA of 55, which would be more in line with the noise standards of the adjacent communities and should be the limit for SMC, and which he defined as a nighttime period. He asked SMC to opine on a 55 dBA limit.

Ms. Hardy suggested 55 dBA was a definition that was outside the State ordinance for noise standards since they had defined daytime from 7:00 a.m. to 10:00 p.m., and suggested a correlation with the ordinances from other jurisdictions should be done appropriately within those time frames. She suggested it was likely that SMC could meet the 55 dBA limit, which was evidenced by the data recorded sound studies, and if in excess of that limit it would be intermittent instantaneous bursts that would not be prolonged.

Ms. Murphy advised that unlike the City of Lafayette, the Town of Moraga's ordinance included specific decibel levels within a reasonable standard. She suggested it would be within the discretion and would be legal for the Town Council to consider limiting the decibel level.

Ms. Hardy was uncertain of the noise levels that would be generated from the student activities, but suggested the controls articulated in the resolution were likely to have the effect of keeping the decibel limit down to within the 55 dBA limit in the hours between 9:00 and 10:00 p.m.

Councilmember Trotter recommended the following revisions to the draft resolution, including the revision earlier identified by the Assistant Town Attorney to reflect a new Whereas clause at the top of Page 3, and include the following:

- Add a new paragraph 4 under the NOW, THEREFORE BE IT RESOLVED clause, as shown on Page 3, with existing paragraph 4 to be renumbered to 5, as follows:

  The Town Council notes that Condition 2 remains in full force and effect to address any future noise impacts that may be presented to the Town.

Councilmember Trotter also requested the following revisions to Exhibit 1: Conditions of Approval, Redline Version:

- Revise Condition I.A on Page 1, to read:

  Field lights may remain on until 10:00 p.m. commencing upon the installation of the lighting system upgrades described in Condition II below.

- Revise the second sentence of Condition II.C on Page 1, to read:

  The additional poles and the existing poles shall better focus lights onto the playing surface of the field while meeting NCAA Best Lighting Practices for Intercollegiate Play (not broadcast), including recommended level of horizontal foot-candles, and to ensure the safety of students.

- Revise Condition III.F on Page 2, to read:

  Prohibit generation of sound after 9:00 p.m. exceeding 70 dBA as measured at the Saint Mary's College property line adjacent to Bollinger Canyon Road, or 55 dBA as measured at a complainant's residential property line, in accordance with normally acceptable limits for nighttime noise levels.

- Revise Condition IV.A on Page 5 to add the following clause at the end of that paragraph, to read:

  Subject to supervision and oversight at a higher level.

- Revise Condition IV.A2 on Page 3, to read:

  The College shall log and investigate the source of any complaints, and if verified by measurements taken by the College or a third party, with a calibrated decibel monitor/noise meter, shall take action to abate the noise in a timely manner, and

- Revise Condition IV.B on Page 3 to include a statement to reflect the cost of acquisition and calibration of the noise meters to be paid by the College.

Ms. Murphy clarified that Condition III, Condition Measures Regarding Noise, A through F, as shown on Page 2 were only applicable to the hours after 9:00 p.m.

On the discussion of the recommended revisions to the resolution and Exhibit 1, Mr. Michell stated that SMC's Public Safety Department would administer those provisions. He explained that SMC President Donahue wanted to be a good neighbor and a good administrator to SMC students, and clarified that the Public Safety Department reported to the Vice Provost for Student Life who resided on-campus, and who reported to the Provost, who reported to the President of SMC. He added that the requirement for meters might be possible, although he was uncertain of a condition for ongoing calibration.

Ms. Keimach suggested that a condition requiring the payment of the meters, to be borne by SMC, was acceptable in that the meters were not that expensive.

Councilmember Onoda reiterated her recommendation for a device or system at SMC to monitor the noise levels, while **Councilmember Trotter** recommended an incremental approach and leaving that issue open for future solutions.

Vice Mayor Metcalf commented that some of the recommendations put forward by Mr. Gow should be reviewed by SMC. He wanted to see the project completed, and noted that if SMC was not allowed to proceed they had no obligation to do anything, which was not in the best interests of the Town. When the appeal had originally been upheld, the Town Council had imposed a one-year review period, and he did not want to revisit that issue. He suggested that SMC should consider the proposed ideas, with SMC to enforce its public conduct code, and with the Public Safety Department to enforce the regulations, with a review in a one-year period when changes could then be considered based on past performances.

Councilmember Arth agreed with the Vice Mayor.

Councilmember Onoda reiterated her recommendation for scripted dialogue to be read to SMC students before any sport activities, and to that end she recommended that item C under Measures Regarding Noise be revised to include a statement to address her concerns.

Councilmember Trotter recommended that the second sentence of Condition III.C be revised, to read:

> *This conduct includes direction to refrain from the use of loud, vulgar or inappropriate language and a reminder that students are ambassadors for the values of Saint Mary's College.*

Mr. Michell had no problem with that revision.

Councilmember Trotter offered a motion, seconded by **Vice Mayor Metcalf** to adopt Resolution 46-2015, Upholding an Appeal Filed by Saint Mary's College of the Planning Director's Decision Requiring Saint Mary's College to Reduce the Hours of Operation for Intramural Field Lights from 10:00 p.m. to 9:00 p.m., which upholds Saint Mary's College's Appeal subject to the revisions to the resolution.

On the motion, **Councilmember Onoda** suggested that Condition III.F on Page 2 should be amended to reflect a dBA of 53, which would be more restrictive and more consistent with the Lamorinda standards. The maker and second to the motion disagreed with the amendment and found a 55 dBA to be an acceptable level.

Councilmember Trotter restated the amendments to the resolution, as follows:

An additional Whereas clause, at the top of page 3, as follows:

WHEREAS, on March 11, 2015, the Town Council approved a motion to uphold the appeal contingent on a number of revisions to the proposed conditions of approval related to the hours of operation of the field and continue the public hearing to a date uncertain;

Add a new paragraph 4 under the NOW, THEREFORE BE IT RESOLVED clause, as shown on Page 3, with existing paragraph 4 to be renumbered to 5, as follows:

The Town Council notes that Condition 2 remains in full force and effect to address any future noise impacts that may be presented to the Town.

The following revisions to Exhibit 1: Conditions of Approval, Redline Version:
Revise Condition I.A on Page 1, to read:

Field lights may remain on until 10:00 p.m. commencing with the installation of the lighting system upgrades described in Condition II below.

Revise the second sentence of Condition II.C on Page 1, to read:
The additional poles and the existing poles shall better focus lights onto the playing surface of the field while meeting NCAA Best Lighting Practices for Intercollegiate Play (not broadcast), including recommended level of horizontal foot-candles, and to ensure the safety of students.

Revise the second sentence of Condition III.C on Page 1, to read:

This conduct includes direction to refrain from the use of loud, vulgar or inappropriate language and a reminder that students are ambassadors for the values of Saint Mary's College.

Revise Condition III.F on Page 2, to read:

Prohibit generation of sound after 9:00 p.m. exceeding 70 dBA as measured at the Saint Mary's College property line adjacent to Bollinger Canyon Road, or 55 dBA as measured at a complainant's residential property line, in accordance with normally acceptable limits for nighttime noise levels.

Revise Condition IV.A on Page 5 to add the following clause at the end of that paragraph, to read:

Subject to supervision and oversight by the Office of the President.

Revise Condition IV.A2 on Page 3, to read:

The College shall log and investigate the source of any complaints, and if verified by measurements taken by the College or a third party, with a calibrated decibel monitor/noise meter, shall take action to abate the noise in a timely manner, **and**

Revise Condition IV.A39 on Page 3 to include a statement to reflect that:

The College shall bear the cost of the Town's acquisition of noise meters designated by the Town for the taking of noise measurements in response to complaints received from residents of the Town.

ACTION: It was M/S (Trotter/Metcalf) to adopt Resolution 46-2015, Upholding an Appeal Filed by Saint Mary's College of the Planning Director's Decision Requiring Saint Mary's College to Reduce the Hours of Operation for Intramural Field Lights from 10:00 p.m. to 9:00 p.m., which upholds Saint Mary's College's Appeal, subject to the stated revisions to the resolution: Vote: 4-0-1. Absent: Wykle.

B. **<u>Selection of Architectural Firm for Hacienda Public-Private Partnership</u>**
Consider Resolution 47-2015 Authorizing the Town Manager to Execute a Professional Services Agreement with Gould Evans (San Francisco) in an Amount not to Exceed $139,000 for a Conceptual Plan to Enhance and Preserve the Hacienda de las Flores, Identify Potential Public-Private Partnerships for Future Development Opportunities, Appropriate Funds from Fund 100 – One Time Developer Fees (Palos Colorados) and Execute Contract Change Orders up to 15% of the Contract Amount

Parks and Recreation Director Jay Ingram presented the staff report and recommended that the Town Council adopt a resolution authorizing the Town Manager to execute a Professional Services Agreement with Gould Evans (San Francisco) in an amount not to exceed $139,000 for a conceptual plan to enhance and preserve the Hacienda de las Flores, identify potential public-private partnerships for future development opportunities, appropriate funds from Fund 100 – One Time Developer Fees (Palos Colorados), and execute contract change orders up to 15% of the contract amount.

Responding to Council, Mr. Ingram agreed that the Ad Hoc Joint Facilities Planning Subcommittee needed to be included in the list of organizations/groups to be contacted by the consultant, as shown in the table on Page 6 of the staff report.

PUBLIC COMMENTS OPENED

Seth Freeman, Moraga, suggested the proposal and staff report needed work prior to any action; residents would not agree to an expenditure of monies for a research project; the Town should first invite investors and developers to look at the Hacienda property and offer insights as to what might work on the property; and the Town Council should be entrepreneurial and if taking action, consider Approach 1. He objected to moving forward with Approach 2, as shown in the staff report, which included no transparency, and allowed the Town Council to steer the project in a way that the Town might not agree.

John Burgess, Moraga, member of the Hacienda Foundation, suggested the public-private partnership had yet to be clearly addressed with an equal focus on both sides. He expressed his hope that would be stressed more when moving forward.

Ms. Keimach explained that the Request for Proposal (RFP) had been written in the way it had to address some of the issues the public had raised, to balance the community interest and get developers/investors to be part of the project. The reason for a public-private partnership in the long term had been to provide assistance with the cost, and the reason for the architect to pay for the first phase had been to ensure that the owner's interests, the Town, and the community's interests would be upheld. The RFP required an invitation to developers/investors into the first phase immediately to bring their input and to provide a balance between making sure it worked for the community and was feasible financially. Between Phases A and B, staff had included one contract for Town Council approval, to come back within six weeks to allow the Town Council to determine a preferred concept, and whether or not to pursue the matter into Phase B.

Councilmember Arth suggested the RFP had been thoughtfully drawn, understood the logic behind it and staff's explanation, and was not opposed to expending funds to have someone assist the Town and bring developers/investors forward. He liked Approach 1 and agreed that Approach 2 would lose some transparency, and preferred that the options come before the Town Council without being adjusted by those Councilmembers on the Joint Ad Hoc Facilities Planning Subcommittee. He wanted the Town Council to be involved from the beginning.

Councilmember Trotter also supported Approach 1 as the less expensive option.

Councilmember Onoda also supported Approach 1 and agreed that transparency was vital.

Vice Mayor Metcalf referenced the details for Approach 2, as shown in the staff report, and suggested the Joint Ad Hoc Facilities Planning Subcommittee should confirm that direction had been received and was consistent with the Town Council's direction. He agreed that checking in with those accountable for what occurred in the Town was good, recognized that three Councilmembers supported Approach 1, and he could support Phase A as part of Approach 1, but sought some Town Council oversight in the process.

He also questioned the lack of visuals for the concept such as a three-dimensional model, a physical model, a digital model, or a tour, as optional items which should be determined as the project moved forward.

Councilmember Trotter reiterated that he could accept Approach 1 and the proposed schedule, with the check-in time with the Town Council to occur quickly.

Councilmember Onoda recognized that the process needed to move forward, and understood that the visual renderings would be an additional item, although she suggested now was not the time to confirm that issue given the fluid process.

Bob Baum, Principal, Gould Evans, clarified that the base number fee included two renderings; the reason the proposal had been structured the way it had was they expected more conversation on the level of detail needed; and as they learned more with interested developers and parties they would know more of what needed to be done. He imagined that would be discussed at the time of the six-week review.

Maureen Freeman, Moraga, expressed surprise that the discussion about a historical landmark had not been included in the RFP given the need to accommodate historical status since the Hacienda had been listed on the Historic Registry; the issue of historical status versus a for-profit enterprise had also not been discussed or vetted by the Town Council; the list of engaged parties had not included general public participation other than a pre-selected list the Parks and Recreation Department had been historically involved with; and the economic aspects had also not been addressed. She expressed concern the Town Council would be expending monies and investing in an idea that had yet to be vetted.

Ms. Keimach clarified that the Hacienda was not on the State Historic Registry, and the architect had been asked to opine whether the Hacienda should be designated or nominated now, which had been answered during the interview process for the architect.

Judy Dinkle, Moraga, Hacienda Foundation President, was excited with the selection of Gould Evans given its involvement of community outreach, and gathering public input during the first phase, which was critical in developing a project that would work for all conflicting uses, and of which the Hacienda Foundation looked forward to being a part. Additionally, the Hacienda Foundation found that Gould Evans fully understood the need to develop conceptual plans early in the process to allow for discussions and useful public input.

PUBLIC COMMENTS CLOSED

Councilmember Trotter emphasized that the Town was beginning the process with plenty of time for public input. He referenced the guiding principles as part of the RFP process, particularly the need for a balance between a public community center destination and income generating activities, which was the interface he found important to keep in mind.

ACTION: It was M/S (Trotter/Onoda) to adopt Resolution 47-2015 Authorizing the Town Manager to Execute a Professional Services Agreement with Gould Evans (San Francisco) in an Amount not to Exceed $131,000 (Alternative 1 in the staff report) for a Conceptual Plan to Enhance and Preserve the Hacienda de las Flores, Identify Potential Public-Private Partnerships for Future Development Opportunities, Appropriate Funds from Fund 100 – One Time Developer Fees (Palos Colorados), and Execute Contract Change Orders up to 15% of the Contract Amount. Vote: 4-0-1. Absent: Wykle.

C. **Lower Rheem Boulevard Stabilization and Road Repair Agreement**
Consider Resolution 48-2015 Waiving Development Impact Fees and Crediting Quimby Act Fees for Parks and Traffic and Approving and Authorizing the Town Manager to Execute the Lower Rheem Boulevard Stabilization and Road Repair Off-Site Improvements and Reimbursement Agreement with SummerHill RL LLC

Vice Mayor Metcalf recused himself and stepped down from the dais given a conflict of interest since he resided within 300 feet of Rheem Boulevard.

ACTION: It was M/S (Trotter/Onoda) to nominate Councilmember Trotter as Mayor Pro Tem for this item. Vote: 3-1-1. Absent: Wykle; Abstain: Metcalf.

Mayor Pro Tem Trotter chaired the meeting at this time.

Ms. Keimach presented the staff report, and offered a PowerPoint presentation to identify the basis for the Lower Rheem Boulevard Stabilization and Road Repair Agreement; identified the project area; project components for the upper Rheem Valley stabilization area and road repair, lower Rheem Boulevard stabilization and road repair – shared, sewer work, and additional street work. The terms of the shared responsibility, fee waiver, estimated project costs, estimated cost responsibilities, and funding sources were all detailed. She asked that the Town Council adopt a resolution waiving Development Impact Fees and crediting Quimby Act Fees for parks and traffic, and approving and authorizing the Town Manager to execute the Lower Rheem Boulevard Stabilization and Road Repair Off-Site Improvements and Reimbursement Agreement with SummerHill RL LL.

Ms. Keimach clarified the amount of the Parkland Dedication and Park Development Impact Fees and acknowledged an error in the staff report but noted that the figures in the PowerPoint presentation were accurate.

PUBLIC COMMENTS OPENED

Tom Schnurr, Moraga, understood the project had been ongoing for some time and while he agreed with the project, he understood the only way it could be accomplished was through the waiver of Town fees.

Kevin Ebrahimi, Vice President of Development, SummerHill Homes, commented that the project had been in process for many years. He reported that the Rancho Laguna II project, 27 single-family homes would, through mutual cooperation with Town staff and the developer, include the Rheem Boulevard Road Repair. He appreciated all of the different components of the project that had taken staff's time, and looked forward to building the project. He anticipated it would take between four to six months to complete the project. Once the agreement had been finalized, executed bid documents would go out to bid, which would take at least 30 days, with an anticipated one- to two-month start date. All regulatory permits for the project had been obtained with the exception of the permit from the Regional Water Quality Control Board (RWQCB), which had issued a draft permit.

PUBLIC COMMENTS CLOSED

Councilmember Arth stated that the project followed the original conditions of approval and he was prepared to make a motion to approve the agreement.

Mayor Pro Tem Trotter commended Town staff and the Town Attorney for finding a creative way to finance the road repair project.

ACTION: It was M/S (Arth/Onoda) to adopt Resolution 48-2015 Waiving Development Impact Fees and Crediting Quimby Act Fees for Parks and Traffic and Approving and Authorizing the Town Manager to Execute the Lower Rheem Boulevard Stabilization and Road Repair Off-Site Improvements and Reimbursement Agreement with SummerHill RL LLC. Vote: 3-1-1. Absent: Wykle; Abstain: Metcalf.

Vice Mayor Metcalf returned to the dais.

D. Moraga Commons Park Pathway Project

Consider Resolution 49-2015 Authorizing the Town Manager to Award a Construction Contract to Suarez and Munoz Construction, Inc. (Hayward) in the Amount of $24,047 for the Construction of the Moraga Commons Park Americans with Disabilities Act (ADA) Pathway Improvements Project (CIP 15-304) and Execute Contract Change Orders up to 15% of the Contract Amount

Public Works Director/Town Engineer Edric Kwan presented the staff report and recommended that the Town Council adopt a resolution authorizing the Town Manager to award a construction contract to Suarez and Munoz Construction, Inc. in the amount of $24,047 for the construction of the Moraga Commons Park Americans with Disabilities Act (ADA) Pathway Improvements Project (CIP 15-304) and execute contract change orders up to 15% of the contract amount. He acknowledged there would be some area of disturbance in the pathway during the summer concert series at Commons Park, which would be repaired in the fall although the pathway itself would be accessible. He anticipated the work would be completed prior to the Pear Festival.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

ACTION: It was M/S (Arth/Onoda) to adopt Resolution 49-2015 Authorizing the Town Manager to Award a Construction Contract to Suarez and Munoz Construction, Inc. (Hayward) in the Amount of $24,047 for the Construction of the Moraga Commons Park Americans with Disabilities Act (ADA) Pathway Improvements Project (CIP 15-304) and Execute Contract Change Orders up to 15% of the Contract Amount. Vote: 4-0-1. Absent: Wykle.

Councilmember Trotter recommended the placement of a sign on the pathway identifying it *In Honor of Graig Crossley,* or that his name be signed in the wet concrete.

Ms. Keimach suggested that option could be considered at the time of the completion of the pathway.

Mr. Ingram clarified that the new Electronic Community Information Sign should arrive in the Town the second week of June with coordination between the contractor and manufacturer for its installation. The sign would probably not be installed prior to the first concert of the Summer Concert Series.

XI. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Councilmember Onoda requested consideration of a revised Noise Ordinance.

Ms. Keimach suggested that more specifics and enforcement for noise over certain decibels could be considered as a future agenda item.

Councilmember Arth requested consideration of signage on the Hacienda fence consistent with the Sign Ordinance as a future agenda item.

Councilmember Onoda noted her pleasure in learning that the Town of Moraga had been selected for the Tree City USA designation.

XII. COMMUNICATIONS

There were no communications.

XIII. ADJOURNMENT

ACTION: It was M/S (Trotter/Arth) to adjourn the meeting at 10:22 P.M. Vote: 4-0-1. Absent: Wykle.

Respectfully submitted by:

Marty C. McInturf, Town Clerk

Approved by the Town Council:

Roger N. Wykle, Mayor