

# Lamorinda Community, Calendar, Agendas, Notes, News

# Moraga

## Calendar

- City Council 7:30pm**  
Joaquin Moraga Intermediate School  
1010 Camino Pablo  
Wednesday, May 9
  - Planning Comm. 7:30pm**  
Hacienda, La Sala Room  
2100 Donald Drive  
Monday, May 7
  - Design Review 7:30pm**  
Hacienda, La Sala Room  
2100 Donald Drive  
Monday, May 14
  - Park & Rec. 7:30pm**  
Hacienda, Mosaic Room  
2100 Donald Drive  
Tuesday, May 15
  - Youth Involvement 7:30pm**  
Community Center, Manzanita Room  
500 St Mary's Road  
Thursday, May 10
  - Liaison 8:00am**  
Fire Station  
1280 Moraga Way  
Friday, May 11
- check online:  
Town of Moraga:  
<http://www.ci.moraga.ca.us>  
for:  
• all meeting notes  
• calendar updates



**D.U.I., 4/20/07** A vehicle was pulled over at the 7-11 shortly after midnight for driving without headlights on. The vehicle's 20-year-old operator showed signs of alcohol intoxication. Blood alcohol level was checked at the Moraga Police station and found to be .13%.

**Stolen Car, 4/21/07** A 1991 Honda Accord was parked at the curb near Joaquin Moraga Intermediate School at just after 3:00 in the afternoon. When owner returned, he saw that his car was gone. The car was later found on Corte Maria, with only damage to the ignition, and released to the owner.

**Petty Theft, 4/24/07** Campolindo High School Freshman left his 30 GB iPod Video in his locker in the boy's locker room during P.E. He closed his locker, but his lock is "jammed" and can be opened without force. The name of a possible sophomore suspect was passed along to school administration and the police. Estimated value approximately \$350.

**Deceased Person 4/25/07** A 31 year old male was found unconscious by his ex-girlfriend. Moraga-Orinda Fire Department responded and declared the male deceased. The cause of death is under investigation

## Commons Neighbors Sound Off on Concert Noise Exemption

By Steve Angelides

Seven neighbors of the Moraga Commons submitted comments to the Town Council about the proposal to exempt Moraga's popular summer concerts and other Town-authorized events from Moraga's sound ordinance. Two of those comments were from attorneys who claimed the Town must prepare a full-blown environmental impact report before it can enact such an exemption.

The proposed exemption comes in the aftermath of a lawsuit filed by Commons neighbor Joyceanne Beacham against the Town and the Moraga Parks and Recreation Foundation, which puts on the summer concerts. Beacham's lawsuit had claimed that the concerts, which draw hundreds of residents and guests to the Moraga Commons on Thursday evenings during the summer, are a nuisance.

Beacham submitted one of the comments, in which she said she had dropped her lawsuit in November 2006 "because the town agreed to actively work on a resolution to the noise transfer issue." But Beacham dismissed her lawsuit without prejudice, so she can file it again if she is not satisfied

with the Town's efforts to resolve the noise issue.

In her comment, Beacham implied that she might do just that. "This proposal is an affront to neighbors near the park who have been asking the Town to resolve this issue for twenty years," Beacham wrote.

The proposed exemption would strike at the heart of lawsuits such as Beacham's. According to the Town's attorney, Gabrielle Whelan, enacting a properly-worded exemption would give the Town immunity against future claims that the concerts are a nuisance. Although enactment of the proposed exemption would not prevent Beacham from filing her lawsuit again, if it succeeded in granting immunity as Whelan stated, it would prevent Beacham from prevailing against the Town on a nuisance claim.

The exemption was suggested by attorney Peter Urhausen, who represented the Town against Beacham's lawsuit. The Town's Parks and Recreation Commission approved the wording of the proposed exemption by a 4 to 2 vote on March 20.

Besides exempting the summer concerts and other Town-authorized events from the Town's sound ordinance and stating that such events "cannot be deemed a nuisance," the proposal specifies that "such events may exceed 60 decibels at any listening point on any other property." 60 decibels is the typical level of normal conversation.

Lily Wescott, one of the two dissenting Parks and Recreation Commissioners, voted against the exemption because she objected to the provision that concert noise "may exceed 60 decibels." Instead Wescott wanted an upper limit placed on the noise. Whelan explained to the Town Council that she and Urhausen felt the provision permitting noise to exceed 60 decibels would give the Town stronger support for immunity from future nuisance claims, but that an upper limit could also be added without weakening that immunity.

Parks and Recreation Director Penelope Leach, who presented the exemption proposal to the Town Council at its meeting on April 25, explained to the Council that the exemption proposal is the first prong of a three-pronged approach to the concert noise issue. Leach said the other two prongs are to come up with ways to continue to mitigate sound transfer from the summer concerts, and to continue to offer the concerts and other events such as the 4th of July and the Pear Festival to people in Moraga "because they are an important part of our culture."

Leach told the Council that the Foundation has purchased a new sound board and will require the bands to plug their equipment into its sound board, so it has control of the sound level. She said the speakers will be removed from the roof of the bandshell and placed on the stage, and that during the concerts the Town will monitor sound levels in the areas where the complaining neighbors reside using a trained person with calibrated equipment.

The Council was unable to vote on the proposed exemption because no environmental analysis had been done. Town Manager Phil Vince said the Town would hire a consultant to conduct an initial environmental analysis to determine whether

the Town could issue a negative declaration if the proposed exemption would not impact the environment, or would be required to conduct a full-blown environmental impact report as the two complaining attorneys claim.

Two of the comments submitted were not about the concert noise, but were from residents who wanted to make sure the proposed exemption would not extend to private property. One of those was from J.D. O'Connor, who said he had repeatedly experienced loud rap music emanating from the St. Mary's College area. Vince said the Town's current sound ordinance is so vague and subjective it would be difficult and costly to enforce in such a situation.



Photo courtesy of Canyon Construction

## Tour of the Moraga Barn: A Landmark Turning Green

By Sophie Braccini

On Saturday May 5th, Canyon Construction will offer tours of the historic Moraga Barn, the landmark they are renovating to the highest environmental standards. The contractor is aiming for "Platinum Leed" certification, an extremely demanding standard in design, construction, and operation for high performance green buildings. The Tour will showcase how to combine the latest techniques in solar tiles, geothermic, water collection, isolation material, concrete, use of recycled material, ventilation, and passive solar design with the conservation of original material and outside esthetics. Registration

for the Tour will be from 11 AM to 4 PM at the Canyon Construction's booth at the Moraga Energy Fair, held in the Moraga Center (corner of Moraga Way and Moraga road). The Fair exhibits vendors and non-profits presenting tools and techniques available today to reduce energy consumption. The Energy Fair is part of the Moraga Beautiful week sponsored by the Town and the Chamber of Commerce of Moraga. At the Moraga Center, a Health and Safety exhibition will take place and at the Rheem Center the Arts, Wine and Merchants Fair will present local products and businesses.

You can contact reporter Steve Angelides at [steve@lamorindaweekly.com](mailto:steve@lamorindaweekly.com)



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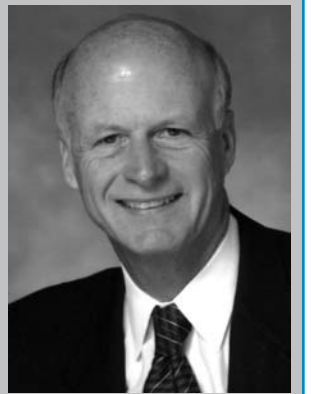
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