

PORTOLA VALLEY TOWN COUNCIL SPECIAL MEETING NO. 946, MARCH 22 2017

CALL TO ORDER AND ROLL CALL

Mayor Hughes called the Town Council's Special meeting to order at 7:00 p.m. and led the Pledge of Allegiance. Ms. Hanlon called the roll.

Present: Councilmembers Mary Ann Moise Derwin, Jeff Aalfs, Ann Wengert; Mayor Craig Hughes

Absent: Vice Mayor John Richards

Others: Jeremy Dennis, Town Manager
Leigh Prince, Town Attorney
Howard Young, Public Works Director
Sharon Hanlon, Town Clerk

ORAL COMMUNICATIONS

None.

CONSENT AGENDA [7:01 p.m.]

- (1) Approval of Minutes: Town Council Regular Meeting of March 8, 2017. *[Removed from Consent Agenda.]*
- (2) Approval of Warrant List: March 22, 2017, in the amount of \$61,753.11
- (3) Appointment by Mayor: Member to the Cultural Arts Committee.
- (4) Recommendation by Public Works Director: Adoption of Resolution for the 2016/2017 Street Resurfacing Project – Surface Seals Project No. 2017-PW01. *[Removed from Consent Agenda.]*
 - (a) Adoption of a Resolution of the Town Council of the Town of Portola Valley Approving Plans and Specifications and Calling for Bids for the 2016/2017 Street Resurfacing Project Surface Seals No. 2017-PW01 (Resolution No. 2718-2017)
- (5) Recommendation by Public Works Director: Adoption of a Resolution for the Portola Road Shoulder Widening Project at Farm Road Project No. 2017-PW02. *[Removed from Consent Agenda.]*
 - (a) Adoption of a Resolution of the Town Council of the Town of Portola Valley Approving Plans and Specifications and Calling for Bids for the Portola Road Shoulder Widening Project No. 2017-PW02 (Resolution No. 2719-2017)
- (6) Recommendation by Administrative Services Manager: Revisions of the Personnel Policies Manual

Councilmember Aalfs moved to approve Items 2, 3 and 6 of the Consent Agenda. Seconded by Councilmember Derwin, the motion carried 4-0, by roll call vote.

- (1) Approval of Minutes: Town Council Regular Meeting of March 8, 2017.

Councilmember Aalfs moved to approve Item 1 of the Consent Agenda as amended. Seconded by Councilmember Derwin, the motion carried 4-0.

- (4) Recommendation by Public Works Director: Adoption of Resolution for the 2016/2017 Street Resurfacing Project – Surface Seals Project No. 2017-PW01.
 - (a) Adoption of a Resolution of the Town Council of the Town of Portola Valley Approving Plans and Specifications and Calling for Bids for the 2016/2017 Street Resurfacing Project Surface Seals No. 2017-PW01 (Resolution No. 2718-2017)
- (5) Recommendation by Public Works Director: Adoption of a Resolution for the Portola Road Shoulder Widening Project at Farm Road Project No. 2017-PW02.
 - (a) Adoption of a Resolution of the Town Council of the Town of Portola Valley Approving Plans and Specifications and Calling for Bids for the Portola Road Shoulder Widening Project No. 2017-PW02 (Resolution No. 2719-2017)

Councilmember Wengert asked Public Works Director Young to expand on how the widening project related to the resurfacing project. Public Works Director Young led a slide presentation showing the parts of the road that will be resurfaced and explained the bidding process. He said the second, separate project widens the shoulders in front of Town Center as an improvement for bicyclists, a project funded by a grant that the Bicycle, Pedestrian, and Traffic Safety (BPTS) Committee obtained through the San Mateo County Transportation Authority (SMTA). He explained the projects were related to each other because of timing. He said if they resurface the first sections and have enough money to do the remaining sections, that work will be timed to occur in June so that the shoulder widening will occur first, before the resurfacing.

Councilmember Wengert asked if money gets returned to the County if there are funds remaining and a portion of it came from grants. Public Works Director Young explained that the original funds from SMCTA was for two projects – the shoulder widening and retaining wall at Alpine Road and Arastradero and the shoulder widening in front of Town Center. After the initial shoulder widening at Alpine and Arastradero, there was \$191,000 remaining to be used toward the second project. Staff estimates the second project will cost \$122,000 plus soft costs, which will leave approximately \$39,000. If the Town does not use the \$39,000, that money will go back to the SMTA.

An unidentified resident asked if this took into account the new construction at Windmill School. Public Works Director Young said the focus is to address the concerns with the trench that Cal Water created along Portola Road. He said the work at Windmill School is minor and they will be required to slurry seal over their trench.

Councilmember Wengert moved to approve Items 4 and 5 of the Consent Agenda. Seconded by Councilmember Derwin, the motion carried 4-0.

REGULAR AGENDA

COMMITTEE REPORTS & REQUESTS

- (7) Recommendation by Conservation Committee: Rodenticide Policy
 - (a) Adoption of a Resolution of the Town Council of the Town of Portola Valley Urging Local Businesses and Residents to Discontinue the Sale and Use of Rodenticides, and Promoting Integrated Pest Management of Rodents on the Town Properties and Throughout Portola Valley (Resolution No. 2720-2017)

Nona Chiariello, Vice Chair the Conservation Committee, presented recommendations on Town Policy for Rodenticides, as detailed in the staff report.

Marge DeStaebler, Conservation Committee. Ms. DeStaebler read an article from a local television news item entitled, "Coyote Death in San Francisco Park Linked to Illegal Rat Poisons." She encouraged the Town to take a step in discouraging the use of these rodenticides.

Miriam Martin, Land Manager at Portola Valley Ranch. Ms. Martin said they were able to pass a complete ban on rodenticides at the Ranch in December 2015, including homeowners and pest control companies. She said they don't use them on their approximately 350 acres of association property. She said allowing people to use rodenticides is no different from allowing them to dump garbage or set off fireworks or in any other way degrade commonly held property. She said functioning ecosystems enhance home values, prevent erosion, clean water, and clean air. She said taxes are paid so that those ecosystems are maintained and if neighbors are using rodenticides that wipe out top predators, then causing atrophic cascade that ruins the ecosystem, the values for homes and the community will go down. She said people do not do this on purpose, and are often falsely assured of the safety of the poisons by pest control companies. She said there is no safe poison. She said since they've banned all of these chemicals, there has not been an uptick in rodent population and their control methods have gotten stronger due to increased awareness. She said there is a board member, Mike "Killer" Houseman, who specializes in trapping ground squirrels, and they also have a skilled trapper for moles, gophers, and voles in their vineyard, orchard, and front landscape.

Paul Heiple, Conservation Committee. Mr. Heiple said a lot of people don't realize what they're getting when they hire professionals. He said they went to review a Backyard Habitat and noticed a box of SGAR. The homeowner was thrilled to be living in Portola Valley among bobcats and eagles and other wild animals, yet was unknowingly poisoning those animals. He said it is difficult to educate everyone, but said it will be helpful in slowing it down by not allowing the professionals to use these poisons.

Mayor Hughes called for questions from the Council.

Councilmember Derwin asked if there would be a robust community outreach program. She said, for example, she has two owl boxes and does not know what to do with them, and asked if the Committee could help educate people on how to utilize the safe pest control methods.

Town Manager Dennis thanked the subcommittee for the work they did on this project. He said there is an incredible amount of material typically given out to users and staff's plan is to reach out to the community through a pilot program.

Ms. Chiariello said they must ensure there are no rodenticides in a neighborhood before they use owl boxes because they do not want to unwittingly poison the predator they are trying to encourage.

Councilmember Aalfs said the resolution calls for local businesses to discontinue the sale of rodenticides. He confirmed that means hardware stores could not sell FGARs or ATs, anything not already banned by the State. He asked if they could also do educational outreach to professionals who would be bringing those rodenticides into Portola Valley. Town Manager Dennis said that would be part of the plan.

Councilmember Wengert said the Ranch went a step further and required that all the contractors working there not use them. She asked if that was part of the consideration tonight or if that was a potential follow-up phase. Town Manager Dennis said that was briefly discussed but he doesn't recall the Committee had taken it quite that far. He said given the amount of work the subcommittee did on this, they brought it forward as-is, but are certainly open to any suggestions to make those kinds of modifications to the resolution.

Ms. Chiariello said they looked into whether or not the Town could actually ban rodenticides and were advised by other Towns that have looked into it that they don't have the legal authority to do that where the State has already acted.

Councilmember Wengert asked Ms. Martin if the Ranch has had good compliance on the part of contractors working with homeowners on that issue. Ms. Martin said you really need 100 percent compliance because one bait box can kill predators within a fairly wide range. She said they have not reached out directly to contractors but she loves that idea. She said it is important to realize that a lot of those professionals are nationwide and they need to be bumping it up to corporate level which is wonderful because it's including that education. She said it's more one-on-one with homeowners and if she sees a bait box while driving around, she runs it by her boss and call the homeowner and educate them.

Councilmember Wengert asked staff if they're comfortable with the steps being taken for the field. She asked if there were safety issues related to traps. Town Manager Dennis said there is no 100 percent foolproof way to ensure that they are perfectly safe. He said part of their pilot program will include trapping in a safe way. He said he is excited about the owl boxes.

Ms. Chiariello said Arastradero did install an owl box last year and they now have a family of barn owls, presumably consuming thousands of rodents.

With no further questions from the Council, Mayor Hughes invited public comment. Hearing none, he brought the issue back to the Council for discussion and action.

Councilmember Wengert thanked the Conservation Committee for educating and spending all the time on a very difficult but super important issue. She agreed completely this is something that can be controlled locally and the Town clearly has a responsibility to do that. She was very supportive and enthusiastic about the proposed policy.

Councilmember Derwin agreed with Councilmember Wengert. She said she lost a dog 18 years ago to rodenticides and had no idea how she got poisoned. She was supportive of the proposed policy.

Mayor Hughes thanked the Committee for all of their work and great presentation.

Councilmember Wengert moved to approve the Adoption of a Resolution of the Town Council of the Town of Portola Valley Urging Local Businesses and Residents to Discontinue the Sale and Use of Rodenticides, and Promoting Integrated Pest Management of Rodents on the Town Properties and Throughout Portola Valley. Seconded by Councilmember Derwin, the motion carried 4-0.

(8) Presentation: Proposed Open Space Fund Guidelines

Craig Taylor, Chair of the Open Space Acquisition Committee, presented the background and goals of the Open Space Fund Guidelines, as detailed in the staff report.

Mayor Hughes called for questions from the Council.

Councilmember Derwin asked if expenditures to do brush clearance for fire management would be allowed. Mr. Taylor said the Open Space Funds were not for maintenance but money could be spent for transition. He said a request to do an initial clean-up of an open space property for fire maintenance would be reasonable, but ongoing or regular maintenance should be paid for by the Town's General Fund.

Councilmember Wengert asked if the Town was spending a lot of money for annual maintenance on properties acquired with Open Space Funds. She asked what the burden was on staff and the General Fund. Public Works Director Young said the open spaces near Alpine and Portola get mowed but left in natural state. He said staff will spend a couple of hours mowing each property once a year. He said the open spaces in the hills, other than yearly inspections, are left in their natural state because if they are improved there are some liability issues.

Mr. Taylor said they try to encourage obtaining conservation easements, which require monitoring, which typically requires approximately four hours per conservation easement per year.

With no further questions from the Council, Mayor Hughes invited public comment. Hearing none, he brought the issue back to Council for discussion or action.

Councilmember Derwin moved to approve the Proposed Open Space Fund Guidelines. Seconded by Councilmember Aalfs, the motion carried 4-0.

STAFF REPORTS AND RECOMMENDATIONS

(9) Recommendation by Town Manager – ALPR Purchase & Policy

- (a) First Reading, Waive Further Reading and Introduce an Ordinance Establishing an ALPR Policy (Ordinance No. ____)

Town Manager Dennis led a slide presentation summarizing the proposed recommendations and providing background on the ALPRs, as detailed in the staff report. Mike Sena, Executive Director of NCRIC, was present to answer any questions. Kris Robinson, from Vigilant was also in attendance.

Town Manager Dennis said staff was seeking direction from the Council on partnering with NCRIC. He said if partnered with NCRIC, the Town would provide data to their amalgamated database, which would be under NCRIC's policies and not Portola Valley's policies. He pointed out that the information held by NCRIC may be provided to certain federal partners as well.

Town Manager Dennis pointed out additional issues to be worked on, including signage at the ALPR locations, data use, and timing of installation.

Mayor Hughes called for questions from the Council.

Councilmember Derwin asked if NCRIC could disseminate data collected to ICE. Mike Sena, Executive Director of NCRIC, said the use of the system is restricted to criminal investigations. He said for the majority of their uses State and local law enforcement agencies investigations can search the system under a couple of categories and immigration violations is not one of them.

Mayor Hughes said ICE is listed on NCRIC's website. He asked if ICE is a partner that has access to the system. Mr. Sena said they do if they are conducting a criminal investigation, but not for immigration. He said there are different divisions within the Department of Homeland Security (HSI) and HSI is a partner of NCRIC, but not for immigration violations.

Councilmember Derwin asked if IRS is a partner. Mr. Sena said IRS is a partner, but not many people are actually using anything except for criminal investigations. Mr. Sena said when they talk about criminal investigations, they are usually talking about major investigations – there must be an investigative case and there must be a reason that fits with their parameter of six types of reasons for investigations. He said while the IRS could potentially get data, the majority of Federal agencies that want data will call them to make a request and they put those through their review to see that the requests fall within their thresholds.

Councilmember Derwin asked Mr. Sena to explain the advantages of partnering with NCRIC. He said there are many advantages. He said their analysts perform the investigation and analysis for the San Mateo County Sheriff's Office and the Sheriff is the Vice Chair of NCRIC. He said resources are brought together, not just for what's happening in Portola Valley, but throughout the area.

Councilmember Derwin asked if there were cities that installed ALPRS and developed policies but did not partner with NCRIC. Mr. Sena said Tiberon does not, which excludes them from a lot of data and local alerts that are entered into the system.

Councilmember Aalfs asked if there was an arrest in Burlingame and the Sheriff's Department wanted to see if that vehicle was in Portola Valley at the time of the crime, if they would have to go through NCRIC or if they could go directly to Portola Valley's database. Mr. Sena said they could, but the convenience is being able to search multiple venues at one time. He said NCRIC investigators can search all locations simultaneously within specific timeframes to look for common vehicles, which cannot be done looking at individual systems.

Councilmember Wengert asked to whom NCRIC actually reported. Mr. Sena said he reports to an Executive Board that is designed to have a balance between Federal, State, and local partners. He said there are 16 members on the board – including the Marin, Contra Costa, and Santa Clara Sheriffs; the Police Chiefs in San Francisco, San Jose, and Daly City; California Attorney General's Office; Alameda County District Attorney; specialists in charge of FBI, HIS, IRS, ATF, US Marshal, US Attorney.

Councilmember Wengert asked if there was a way the Town would be alerted if the Federal agencies were using any of their information. Mr. Sena said there isn't a mechanism for that. He said there is an auditing capability based on an agency, but it's more toward that specific agency. He said the system is designed to make sure the users have authority to use it and that they have a lawful reason for accessing it, and they do sporadic checks to see who's accessing it and notifying if there are any inconsistencies. He said agencies that are given access have already been vetted to meet their requirements.

Councilmember Wengert asked if their MOU had a minimum term requirement for working with agencies such as Portola Valley. Mr. Sena said it can be reviewed after five years, but the agreements are normally directly with the law enforcement agency that has responsibility. He said it's a bit different in this County because the San Mateo County Sheriff is also their fiduciary and fiscal agent, so he reports to the Sheriff on that level and is also part of his command staff.

Mayor Hughes asked how often larger area or Federal searches occurred compared with local Sheriff or Police Department searches. For example, if two burglaries happened in Portola Valley, he asked if that would be the Sheriff's task or if they would go through NCRIC, and how much of NCRIC's work would be used for those types of crimes as opposed to terrorism or homeland security. Mr. Sena said they have analysts that investigate local crimes on a day-to-day basis. He said having access to the regional dataset and system, they are able to bring people together and find fairly large criminal organizations that grow from community to community. He said some of those people are attuned to this type of technology and may not have plates on their cars, but the absence of a license plate gives a reason for police to stop those vehicles. He said they've had very good success and found one crew that was hitting everywhere in the Bay Area. He said they called for a meeting of investigators that were working that group and 130 investigators showed up.

Mayor Hughes asked how often relatively low-level crimes such as burglaries are solved through NCRIC's analysis of ALPR data and how much resources are invested in those kinds of crimes. Mr. Sena said everyday they have agencies accessing and a lot of connections are made. He described some of the success stories.

Councilmember Derwin asked if the data could be subpoenaed by a divorce attorney. Mr. Sena said that has not happened yet. He said they would usually go to a judge and explain that this is not a public system but is a law enforcement system and it would ultimately be the court's decision. He said they take the perspective they are actively using the data for investigative intelligence purposes, such as a law enforcement officer pursuing a criminal investigation, and do not hand over data without a lawful purpose. Mr. Sena said they do have an exception in their policy for a release of data outside of the law enforcement officer requirement. He said if they believe a person may be a potential victim of a crime and they have a vehicle that may be associated with someone believed to be targeting the potential victim, they have the authority to release that information to the potential victim.

Councilmember Derwin asked regarding NCRIC's recommended data retention period. Mr. Sena said they have a one-year retention period based on Federal, State, and other legislative guidelines. He said they have researched being able to store records indefinitely that specifically relate to a crime that has occurred. He said it was pointed out that crimes occur daily and tracking the retention of that data based on statute of limitations would be complex and difficult to manage. He said if they have a license plate that is directly involved in a criminal investigation; the record for that individual vehicle is stored for five years. He said he has personally asked about research that measures the value of lengths of retention and no one has done it yet. He added that when they purge a record it is deleted completely and not stored anywhere else.

Councilmember Aalfs asked if the database would ever be subject to something like a FISA warrant. Mr. Sena said FISA mainly deals with foreign intercepts, telephone and electronic, and NCRIC's data system is not something that would be subpoenaed by FISA. He said the intelligence community is not a law enforcement entity so do not have the authority to access their information. Councilmember Aalfs said he was thinking of a situation where there was a sealed, confidential warrant that NCRIC could not review. Mr. Sena said in his 24 years' experience that has never happened. He said his dealings with those organizations has indicated they could not access their records.

Councilmember Derwin asked Town Manager Dennis to explain the ongoing annual PG&E estimate. Public Works Director Young said after the system is installed there will be ongoing fees for power and data. He said the chart reflects a yearly cost estimate. He said the annual cell and communications link is for cell phone link communications from the equipment itself to the Sheriff's Department.

Councilmember Derwin asked for clarification regarding the 30-day default. Mayor Hughes said he worked with Town Manager Dennis and the Town Attorney to clarify this. He said currently Section B(1) is not possible because the software does not support flagging specific data for a longer retention period. He said all data in the system is held for the same retention period, whether it's 30 days, six months, or a year. He said they were trying to craft something where they could lock down data that covers a time period or an area or a license plate or a window around when a crime happened and retain that specific data up to the statute of limitations for that crime and anything else would be deleted after a month. He said there are currently lawsuits testing whether the data collected by fixed license plate readers may be subject to Freedom of Information requests if not part of an active investigation. If there is a 30-day default for retention, on days when a crime has not happened, after 30 days that data would be deleted and not subject to being considered a public record. He said they are trying to come up with a forward-looking policy to implement some of those features to make the data retention a little more flexible when it is needed for crime investigations. Councilmember Derwin said there could also be useful data that occurs on a day where a crime didn't occur. Mr. Sena there is sometimes disparity in reporting timelines of criminality. He said the more serious violent crimes are investigated as soon as possible, but for lower level crimes they are sometimes not reported timely and not investigated as quickly.

Mr. Sena said these are not public records. Mayor Hughes said the Los Angeles' court's initial decision said the data in the matter before them was public because they were mobile units and were providing information about traffic patterns of how police were patrolling. He said a lot of the language in the decision talked about how that may not apply to fixed readers and it would be difficult for a court to decide that data from fixed readers was public record.

Councilmember Derwin asked if anyone was developing software that could flag specific data that should be retained. Mayor Hughes said there was not.

Councilmember Derwin asked why the retention period was set at 30 days. Mayor Hughes said it was a balance of how long it might typically take to report a crime versus how long it might take for a detective to investigate.

Councilmember Derwin asked who are the users that could be authorized by the Town Council to access data. Town Manager Dennis said it would be current identified users within the Sheriff's Office. Mayor Hughes said other users might be authorized in the future by the Town Council. He said currently

because the data system is very protected and only accessible by law enforcement, it is difficult for academic researchers to get access to the data, even in redacted form, to do the type of research to figure out what is the most effective retention period. He said for every other region of public policy there are think tanks and academic researchers who study them and provide detailed statistics about how they work except for in this situation. He said as he's been studying this issue for the last several months, it's been incredibly frustrating that there is no data because it's not available. He said he included that section so that if somebody wanted to do a study, the Town would be able to authorize access to that data and hopefully other Towns and agencies would adopt something similar. The data could be redacted to maintain privacy, but would be accessible to people other than law enforcement agencies, such as researchers, in order to inform public policy.

Councilmember Aalfs said the Sheriff's Department policy references San Carlos. He asked for clarification about the relationship between the Sheriff's Office and the City of San Carlos. Capt. Rothaus said he is Captain of the Sheriff's Office and also the contracted Police Chief for San Carlos. He said the system is audited to be sure it is being used correctly and there is no misuse and that data is being purged in a timely fashion. He said San Carlos has an Admin Sergeant who provides administrative support for the system for the Sheriff's Office as well as San Carlos.

Councilmember Aalfs asked if Portola Valley would have to be part of NCRIC to do any cross-referencing. Capt. Rothaus said there is no requirement to be part of the NCRIC system but Mr. Sena pointed out all the benefits of doing that. Mayor Hughes said Vigilant produces similar reports. Capt. Rothaus said the Sheriff's Dept. cannot cross-check in Towns that have not included their data in the NCRIC system.

Hearing no further questions from Council, Mayor Hughes invited public comment.

Andy Brown. Mr. Brown said he's lived in Portola Valley for 60 years. He was not supportive of the ALPRs. He said The ALPRs only provide only a modicum of security at the expense of the erosion of feeling of openness that makes living in Portola Valley so nice.

Gene Chaput. Mr. Chaput said he's lived in Portola Valley close to 50 years. He was supportive of the ALPRs. He asked if someone came to Town, committed a crime, and then threw out their license plates and went to Department of Motor Vehicles to get new plates, if that person would be able to be identified. Mr. Sena said a report of lost or stolen plates goes into the alert system and they still have the owner's information. Mr. Chaput said last week FBI Director Comey said there is no such thing as privacy and he takes that at face value. He asked what expertise the Councilmembers had to justify disagreeing with law enforcement professionals who recommended a one-year retention policy

Bud Eisberg. Mr. Eisberg said he's lived in Portola Valley 45+ years. He said it saddens him that he now locks his house and he didn't do it for many, many years. He said over the years they have listened to and respected the Sheriff's Department who have served them well. He said if the current and retired Sheriff recommend one-year retention, then that should not be compromised.

Bob Pierce. Mr. Pierce said he's lived in Portola Valley 42 years. He was supportive of following the Sheriff's Department recommendation of one-year retention of data. He said he understood Mr. Brown's concerns, but he feels open and safe.

Mayor Hughes asked the Town Manager to clarify the current's Sheriff's recommendation regarding the length of the retention policy. Town Manager Dennis said he talked to Sherriff Bolanos over the weekend, who recommended a minimum six-month retention policy.

Judy Leckonby. Ms. Leckonby said she's lived in Portola Valley 30 years. She said the Town should listen to the professionals who know what they're doing. She said she supported the retention policy recommended by the Sheriff and law enforcement. She said she does lock her doors now and previously did not.

Patricia Thorson. Ms. Thorson asked if the data retention was for 30 calendar days. Town Manager Dennis said, as currently written, data is to be retained six months, and if the technology exists to flag specific criminal data, all non-criminal data would be purged at 30 days. Ms. Thorson said if non-criminal data was erased, there would be no data available for the preceding days the criminals were in Town planning the crime, so that would not be useful. She asked if Vigilant used the cloud. Town Manager Dennis said they are recommending Vigilant use a cloud-based system to store the data collected in Portola Valley. Ms. Thorson asked if storage was a question of money. Mayor Hughes said storage costs are minimal. He said the big concern is around whether data that is not involved in an active investigation could be deemed public record and essentially open. Ms. Thorson asked why that was concerning. Mayor Hughes said that will be discussed further during the discussion period. Ms. Thorson said it blows her mind to see people being afraid to be on cameras. She was supportive of five-year retention of data on the Cloud.

Jeanne Kunz. Ms. Kunz supported one-year data retention. She said a lot of effectiveness is lost otherwise, because patterns of comings and goings are relevant. She said it bothers her that staff or the Council could have the ability to appointment someone to access data. She said while of good intention, she's not sure the Council would want the liability and responsibility for vetting and ensuring security.

Stephen Gillett. Mr. Gillett said because he has only lived in Portola Valley for four years, he's only known a Portola Valley that's had annual crime issues. He said they have seven children, ages 14 to 1, and they do care about these things. He said he respects and honors the Portola Valley that's been here for 60 years, but today it's a different Portola Valley. He said he would guess there were no armed robberies in the first 55 years. He said the Town Council initially voted against ALPRs but a lot of normally uninvolved citizens activated to get hundreds of Portola Valley residents to gently nudge the Town Council to reconsider their vote, which resulted in the Council ultimately voting to support ALPRs. He cautioned against undermining the program by inserting nonprofessional opinions around what the crime investigation professionals are recommending.

Joe Coleman. Mr. Coleman said it is an honor to be standing in front the Council. He said he and his wife have lived in Portola Valley for 23 years and he hasn't been to a Town Council meeting in at least 15 years. He said they don't lock their house and have a big sign saying they have an alarm system that they don't really have. He said based on the activity on the PV Forum, he expected many more people in attendance tonight in support of the ALPRs and the data retention. He said he had a 30-year-career as a corporate financial auditor and understands what it means to look at historical data. He said a 30-day time period is nothing. He was supportive of one-year minimum and would prefer five years. He said he was supportive of following the recommendations of the experienced law enforcement professionals.

Craig Taylor. Mr. Taylor has lived in Portola Valley 32 years. He said he was supportive of as little retention as possible. He said it is clear that law enforcement actually doesn't know what they need. He said liberties are being traded for potentially something or potentially nothing and there is no research indicating that keeping data for one or five years is any better than keeping it for 30 days. He said part of him believes the Town shouldn't be doing this at all but he also believes in compromise. He said he understands that people have been burglarized and something should be done, but he said there should be a balance. He requested the Council be as conservative as possible and, if they find data that shows evidence that keeping data longer would be better, then the data retention period can be extended.

With no further public comment, Mayor Hughes brought the issue back to the Council for discussion.

Councilmember Aalfs asked when the Town would have an answer from the Sheriff about the Ladera camera. Town Manager Dennis said there is great interest to do it. He said in speaking with Sheriff Bolanos over the last month or so, he seems very committed to it, has the budget for it, and will go from there.

In response to Councilmember Wengert's question, Town Manager Dennis said the Town would have the answer from Ladera before the final camera is installed.

Councilmember Derwin said she thought what Mr. Brown said was lovely, but when the Town had armed men walk into a house and hold the residents at gunpoint, that ship sailed and the Town has got to do this. She said she was sorry that Mr. Brown had left the meeting, because he did make a nice point, but it's in the rearview mirror now.

Mayor Hughes said Town Manager Dennis referenced the current Sheriff's contract and current allocation of one-third of a detective. Mayor Hughes said that contract is up for renewal in 2018 and as this system is deployed and the logistics are worked through with the Sheriff's Office, that will fold into the updating and renewal of the Sheriff's contract. He said there may be consideration for allocating extra money for investigations or keep it as it is.

Councilmember Wengert said she agreed that the decision has been made on the ALPRs and the Town is moving forward, but she is somewhat concerned longer term about unknown escalating costs. She said those costs should be monitored such as with the Sheriff's contract, allocation of more time, etc. Town Manager Dennis said the service agreement goes for five years and there will likely be additional costs after that. He said they are hopeful the cameras will last 10 years, some have lasted 13 years, but one could fail at six years and will have to be replaced. He said there will also certainly be new technologies that come around. Councilmember Aalfs said it should be considered to amend the Sheriff's contract to adjust it for more specific related requirements.

Councilmember Aalfs moved to authorize the Town Manager to purchase ALPR cameras and equipment from Vigilant Solutions in an amount not to exceed \$139,520.00; authorize the Town Manager to approve the agreements necessary for the design and installation of the poles, associated electrical service apparatus, PG&E fees other installation-related items in an amount not to exceed \$122,278; approve a budget amendment of up to \$265,758 from General Fund Reserves to Capital Improvements: Equipment; and to approve an Enterprise Service Agreement with Vigilant Solutions. Seconded by Councilmember Derwin; the motion carried 4-0.

Mayor Hughes asked Town Manager Dennis to explain the duties of a Town Council liaison to the project. Town Manager Dennis said that person would be available during the installation phase to make basic decisions without having to bring it back to the full Council. The Council agreed that Vice Mayor Richards would be a good choice.

Councilmember Wengert moved to assign Vice Mayor John Richards as a liaison to the project. Seconded by Councilmember Aalfs; the motion carried 4-0.

Councilmember Derwin was supportive of partnering with NCRIC. She said they have the depth and breadth of experience that would be very useful to the Town.

Councilmember Wengert was also supportive of partnering with NCRIC. She said the regional approach, the resources, and the leverage they bring is invaluable because this is a regional issue. She said Mr. Sena did a good job of allaying any concerns relative to some of the current political environment and recognizing that they are a group that is really working for this region with law enforcement at the core.

Mayor Hughes said he was somewhat concerned about immediately opening the gate up to NCRIC, primarily due to the loss of control of the data. He said it opens up routes and access to this data that may be used in ways the Town will never know about. He said although Mr. Sena said they do a lot of internal auditing of how their agencies are using the data, as a public oversight body overseeing that use, it is concerning that the Town will have very limited visibility about what's going on there. He said he has a high degree of confidence in how the Sheriff's Department will be using the data. He said the very limited sharing they have does limit the ability to solve regional crime to some extent, but for the types of crimes that Portola Valley is concerned about, the effect is not enormous. Councilmember Wengert said there is only 30% of a Deputy allocated to Portola Valley and when a call comes in she wants them to continue doing a terrific job at responding and not pouring over data. She wants them to stay visible in the community. She said she thinks NCRIC adds a strong level of additional analytic power and team and leverage that is required. She said the recent possible linkage between a crime here and in Hillsborough

is a direct example of the need for broad coverage. Town Manager Dennis said it's one-third of a Detective, not a Deputy – a Deputy is on the ground 24 hours a day, actually two because of sharing with Woodside.

Councilmember Aalfs asked if the NCRIC agreement term was for five years. Mayor Hughes asked Mr. Sena if the Town were to do a data sharing agreement with NCRIC, if that would last five years and then go to renewals after that. Mr. Sena said that was correct because it's aligned with the Sheriff's Office. He also noted that although there is a Detective assigned, the analyst that sits next to the Detective is a NCRIC analyst.

Councilmember Derwin said some of the criminals have been tracked to Oakland and East Bay so it is a regional issue. Mayor Hughes said he was not disputing that it's not Portola Valley residents who are committing the armed robberies.

Town Manager Dennis said the NCRIC MOU states that it is an indefinite agreement reviewed every 12 months. Mr. Sena said it can be designed that way specifically for Portola Valley and be adjusted at any time.

Councilmember Aalfs supported joining NCRIC and would like to review it annually or periodically.

The Council agreed that a one year review is appropriate.

Councilmember Aalfs moved to approve the partnering with Northern California Regional Intelligence Center (NCRIC) and approve the memorandum of understanding. Seconded by Councilmember Wengert; the motion carried 3-1, Mayor Hughes opposed.

Councilmember Derwin said her understanding is that a forward-looking policy has been crafted to guard against something that may or may not be an issue (the court case in Los Angeles) with software that does not exist. She said it is not practical and she cannot support it.

Mayor Hughes said there is a strong likelihood, even though the court has not decided on it yet, that fixed license plate reader data that observes the comings and goings of non-criminals on days when no crimes happened is very likely public data. Councilmember Derwin said if that happens, the Town could bring the policy back and think about it then.

Councilmember Wengert agreed with Councilmember Derwin. She said she recognizes the value of anticipating, but so many technology changes are happening so quickly, it doesn't make sense to add it into this initial piece. She said it is more appropriate to take out the language concerning 30 days. She said people travel for months at a time and do not report things quickly and things like identify theft would dribble in over several months. She said she would support one time period to retain all the data. She said she is sensitive to listening to the experts and other local municipalities, and the majority of them seem to recommend six months, which she thinks is a reasonable time period. She said as they approach that six months, if there is a reason to bring it forward to argue for an extension, which is possible. She said that would provide an opportunity to see if the data would support it.

Mayor Hughes asked how flexible the system is regarding setting the data retention time period. Kris Robinson from Vigilant said it is very flexible, a couple button clicks and it would be effective from that date going forward. Councilmember Wengert said if there was some reason that triggered a need to have data retained for longer than six months it could be revisited.

In response to Councilmember Aalfs's question, Mr. Sena said they set the NCRIC system to match whatever the Town's policy is for data retention. He said they don't create a copy of the data, they just accessing the database.

Councilmember Aalfs said he agreed with Mayor Hughes' and Mr. Sander's comments, because, in addition to the Public Records Act issue, it's a movement tracking system. He said he trusts the local law enforcement, but thinks a policy should prepare for the worst-case scenario. He said he was okay with six months' retention, but if there is a way to limit data in the future, it should be considered.

Councilmember Derwin said she would prefer a year retention but could support six months.

Mayor Hughes said he would also prefer a year for the initial period, because, as pointed out by Councilmember Wengert, it can always be lowered, and it ties in with being able to research the data to find out when queries are run on the data. They can evaluate how far back the investigations go. He said he would be wary of setting a limit too low initially and then not be able to collect that data.

Councilmember Wengert said six months should be the minimum.

Councilmember Aalfs was supportive of a year. He said the difference between six months and a year is minimal.

Town Attorney Prince said that under Section 9.02.020, the definition of law enforcement refers only to the San Mateo County Sheriff so "or Northern California Regional Intelligence Center" will need to be added so that they have access to this data as law enforcement. Mayor Hughes asked if it would need to be further expanded to NCRIC and any of its affiliates. Town Attorney Prince said that wouldn't be necessary.

Town Attorney Prince said, under (B), the paragraph will end with the sentence, "The retention period shall not exceed 12 months for any purpose," and the two additional paragraphs will be deleted.

Councilmember Wengert said she does not want authorized users to be under the Town Council's control. Mayor Hughes said he does want it under the Council's control because he wants to actively encourage researchers. He said the Council can control how the information is redacted. Councilmember Wengert said if a group comes to the Council that has been vetted and known to be a legitimate research group, then it could be considered. Mayor Hughes said Paragraph E doesn't grant authorization, it just says the Council can have the ability to authorize. He said the request would come before the Council, they would determine if it makes sense, if it's being redacted appropriately, etc., rather than having to first amend the policy. He said if the Town has a policy that says the data cannot be accessed, nobody will come to them. He said this opens the door to people coming to the Town offering to do the research and presenting a proposal for the Council's review. Councilmember Wengert said researchers would more likely go to NCRIC or a group that has more information than Portola Valley. She said she was reluctant to add it to policy because it could be construed for other uses. She said the Town could be approached by others with different purposes than Mayor Hughes is suggesting. Mayor Hughes said the granting of approval would be under the Council's control. Councilmember Wengert said it doesn't make sense to have a number of people asking to see that data for whatever series of reasons and she didn't see a reason for it to be in the policy.

Councilmember Aalfs asked if NCRIC had a policy to work with people doing research. Mr. Sena said they did not. He said when they have proposed to work with educational institutions, it has not been to share specific data, but to share the stories behind the data through surveys and polls of those investigators that have had success with the systems, trying to get the data from them regarding when that success occurred, how long it took, and the breadth and length of that data storage retention. He said the reason this data is not public record is because they only allow one person to have access to the information itself. He said that ultimately the research is difficult, because they are trying to pull these stories out and pull the data together, outside of the system itself. He said once you start giving information out to non-law enforcement, then it transitions into public record. If that information is given to an educational institution, it will have to be given to anyone who asks for it.

Mayor Hughes said there are ways the data can be redacted. He said the Council is a public oversight body, over the law enforcement agencies that are collecting and using the data. He said they do not allow

access to the researchers to the data and the Council are the only people who can authorize that. He said without that ability, there can be no research in this area of public policy. He said it is unknown how effective ALPRs are and it won't be known unless the Town enacts something like this.

Councilmember Wengert said that would open it up to Public Records Acts. Mayor Hughes said perhaps the data could be released with a limited disclosure or an NDA or some governmental equivalent, and the data could be redacted. Councilmember Wengert said it is not fully understood so she would not want to bring on unintended consequences. Mayor Hughes said until a release is authorized, it is not public data.

Mayor Hughes said including this clause in the policy makes it clear to anyone who wants to make a proposal that the data might be available under certain circumstances. Councilmember Wengert said she is uncomfortable jumping in there when NCRIC is struggling themselves with how to manage that same flow, having dealt with this for years. She said Mayor Hughes' intentions are good, but in this case she is not comfortable exposing the Town to potentially having to react to it in any form that is not yet fully understood. She said it could come back for consideration if down the line someone requests it. Mayor Hughes said his concern is that nobody will come to the Town to request data if the policy is like all the others that says nobody can have access to the data.

Councilmember Wengert said there's a reason that data has not been allowed to be accessed. Mayor Hughes said it is law enforcement's job to investigate and solve crimes, not to establish public policy. He said it is the Council's job to establish public policy and is a way of helping the Council get the tools they need to do that. Councilmember Aalfs said by eliminating Paragraph E and F, someone could still approach the Town. Mayor Hughes said they might if they guessed that the Town was open to those requests, but if they assumed that Portola Valley's policy was just like every other policy out there, they would assume the data would not be released under any circumstances and they would not bother to approach the Town.

Councilmember Wengert said she realized how passionate Mayor Hughes was about the issue, but the consequences are not fully understood and, for that reason alone, and until more research is done, she was not convinced there weren't many hidden obstacles that could present a challenge. Councilmember Aalfs suggested removing the language from the policy now and revisit it at a future time, or even approach someone to encourage research, if the legal issues were surmountable. Councilmember Derwin said if it was that important, someone could be recruited.

Town Attorney Prince confirmed that references to "Town Council authorized user," "other authorized access," and "any other user" will be struck, including 9.02.030(A), 9.02.030(C), 9.02.030(E), 9.02.030(F); 9.02.040(A)(6); and 9.02.040(B).

Mayor Hughes suggested that 9.02.030(D) should be changed as well. Town Attorney Prince said the paragraph could remain.

Councilmember Wengert moved to introduce, read title and waive further reading of the ordinance establishing the Town's Automatic License Plate Reader (ALPR) policy, as amended. Seconded by Councilmember Derwin; the motion carried 4-0.

Mayor Hughes called for a five-minute break.

(10) Recommendation by Town Attorney: Proposed Amendment to Title 2 of the Town's Municipal Code.

- (a) First Reading, Waive Further Reading and Introduce an Ordinance of the Town Council of the Town of Portola Valley Amending Chapter 2.32 [General Municipal Elections] of Title 2 [Administration and Personnel] of the Portola Valley Municipal Code to Comply with Senate Bill 415 (Ordinance No. ____)

Town Clerk Hanlon presented the proposed amendment to Chapter 2.32 as detailed in the staff report.

Councilmember Aalfs said that the staff report should be corrected to say that two Councilmembers are extended three years to 2019 to 2020 and three Councilmembers are extended one year to 2017 to 2018.

Councilmember Aalfs moved to approve the First Reading, Waive Further Reading and Introduce an Ordinance of the Town Council of the Town of Portola Valley Amending Chapter 2.32 of Title 2 of the Portola Valley Municipal Code to Comply with Senate Bill 415. Seconded by Councilmember Wengert, the motion carried 4-0.

(11) TOWN COUNCIL COMMUNICATIONS:

Request for Donation: San Mateo County Jobs for Youth.

Town Manager Dennis said staff is experimenting pulling action items out of the Digest and having them as standalone staff reports. He said since this particular request was for an event that is coming up in this fiscal year, staff decided to bring it forward to the Council. Mayor Hughes suggested that if these sorts of recurring things come up during the year, they might be reviewed at the time and then add them to the list to come annually going forward.

Town Manager Dennis presented the request by the San Mateo County Jobs for Youth for a \$1,500 contribution toward their scholarship program.

Councilmember Wengert asked if there was extra budget for that. Town Manager Dennis said it could be funded.

In response to Councilmember Derwin's question, Town Manager Dennis said the Town had donated to them before. He said it is a successful program and he has attended a number of their breakfasts and it is inspiring to see people who have done well.

Councilmember Wengert moved to approve the Request for Donation of \$1,500 to the San Mateo County Jobs for Youth. Seconded by Councilmember Aalfs; the motion carried 4-0.

(12) COUNCIL LIAISON COMMITTEE AND REGIONAL AGENCIES REPORTS

Councilmember Derwin – Attended the ASCC Study Session where motion sensor lights were discussed. She said staff did an excellent job providing them with a lot of information. The ASCC was in favor of small dark-sky compliant motor sensor lights. Town Manager Dennis said the recommendation will come to Council as part of the larger Town Safety package, and the Lighting Ordinance, which is out of date and doesn't reflect new potential standards, will be revised. Councilmember Derwin said the Commission also discussed a project at the old Hallett Store on Portola Road and the Dolan project in Westridge. Councilmember Derwin attended a C/CAG meeting. She said the Governor and leadership are much more engaged in transportation funding this year than last year, but they need a two-thirds super majority to approve any new revenue sources. They discussed an Assembly Constitutional Amendment to lower the vote threshold for local infrastructure taxes to 55 percent. She said it was so controversial they couldn't vote on supporting it or not so they will study it. They discussed the OBAG 2 Projects. She said Brisbane's project was initially not approved; however, Brisbane came and talked about it and prevailed and they decided to fund it. She said the storm water agreement was approved. They discussed trash load reduction requirements and a chart showed that 72.8% of Portola Valley's trash is being diverted. They also discussed the Bay Area Regional Measure 3 (RM3), which is MTC's proposal to increase bridge tolls by \$1, \$2, or \$3 on all bridges except the Golden Gate. Portola Valley would receive 8% of the total revenue. She said the County Transportation Plan came back with an add-on list addressing most of the items the advocacy groups were concerned about. She said at the Resource Management Climate Protection (RMCP) meeting they heard from Pace Financing and about an online data portal on the County's website. The California Public Utilities Commission and California Energy Commission

discussed solar and storage integration and the transition to zero net energy. She said BAWSCA reported this is the wettest winter on record. She said 1984 was the wettest year ever and we're still tracking next to it. There will be no new rate increases from the FPUC for the next two years on water. She said the Governor has a new five-year program called Making Conservation a California Way of Life where each water agency will have a water budget and BAWSCA will help to ensure the numbers are appropriate. She attended a very successful first meeting of the Sustainability and Environmental Resources Committee (SERC). Brandi de Garneau gave an overview of the sustainability efforts since 2006. She explained the two levels of PCE, assessing energy in the residential sector and the Committee's role and goals. The Garden Tour is April 2 and Earth Day is April 22. Both events require an RSVP to attend.

Councilmember Aalfs -- Attended a Trails & Paths and a Historic Resources Committee meeting. With regard to Peninsula Clean Energy, he said the Town's opt-out rate will most likely be the highest in the County. He said when they are done with the rollout they will go back and look at the opt outs. He said all of their assumptions were based on 15% opt outs and we're still below 2%. He said they approved a few new long-term contracts for new solar projects and will sign an agreement to meet most of the load for Phase Two.

Councilmember Wengert – None to report.

Mayor Hughes – Met with a resident of Palo Alto, a Palo Alto Councilmember, and a Los Altos Hills Councilmember about opening Foothills Park to non-Palo Alto residents. He attended the Meals on Wheels presentation for Mayors regarding the program and scheduling of the annual "Mayors for Meals." He said they do not believe funding will be cut, that it was a broad budget proposal and it may not have been known that it included Meals on Wheels. He said the federal funding for it is not a lot because it is mostly privately funded, corporate sponsors, etc. They said even if the federal funding is cut, the community is very aware of what's going on and they would anticipate a lot of support.

(13) Town Manager Report – Town Manager Dennis reported that he and Public Works Director Young met with San Mateo County Manager and emergency representatives about joining the County's existing emergency declaration to allow for funding of work on Upper Alpine Road due to storm damage. He said they were thankful to the County for allowing the Town to join the emergency declaration. He said they are asking for \$2.5 million. He said that through executing a contract to do work in Spring Down, they have extended permits for the vernal pool project. He said there will soon be a new Town Safety website with useful information for residents regarding a variety of safety information. He said there are currently 369 homes under a Neighborhood Watch program with another potential 300 to 400 in the future. He said he attended a second meeting for one of the Neighborhood Watches and there are already fewer people coming to the meetings and it appears it will be a challenge to keep the energy level high. He said they continue to monitor the West Bay Sanitary District staff reports and agendas to keep abreast of the Sharon Heights Project. He said an RFP will be prepared for design work during the summer. Town Manager Dennis and Mayor Hughes will meet with Joan Dentler, a representative from Senator Jerry Hill's office, to discuss issues in the community. Town Manager Dennis met with a representative from Assemblyman Berman's office. He also met with a former colleague regarding the San Mateo County 911 Communications Project. He said he met with GreenWaste to start the review of their proposed contract. Town Manager Dennis said Mayor Hughes had mentioned that during the research on the ALPRS, there was not a sense of the day in the life of a Sheriff or Detective. He is setting up a date for Councilmembers to attend a ride-a-long to see what it's like to be arrested, go to jail, and then have a Detective look at your case.

WRITTEN COMMUNICATIONS

(14) Town Council Digest – March 10, 2017

#3 (Council Only) – Invitation –HEART Annual Fundraising Event – Thursday, May 11, 2017.
Councilmember Derwin will attend the HEART Annual Fundraiser.

(15) Town Council Digest – March 17, 2017

#7 – Invitation – San Mateo County Mosquito & Vector Control District (SMCMVCD) – Mosquito Awareness Week Open House – Tuesday, April 18, 2017. Town Manager Dennis said the Town is fortunate to have Ray Williams as liaison to the San Mateo County Mosquito & Vector Control District.

ADJOURNMENT [10:33 p.m.]

Mayor Hughes adjourned the meeting.

Mayor

Town Clerk