

**PORTOLA VALLEY TOWN COUNCIL REGULAR MEETING NO. xxx, OCTOBER 25, 2017**

**CALL TO ORDER AND ROLL CALL**

Mayor Hughes called the Town Council's Regular 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; Vice Mayor John Richards; Mayor Craig Hughes.

Absent: None

Others: Jeremy Dennis, Town Manager  
Brandi de Garreaux, Assistant to the Town Manager  
Cara Silver, Town Attorney  
Ali Taghavi, Communications & Sustainability Management Analyst  
Sharon Hanlon, Town Clerk

**ORAL COMMUNICATIONS**

Tim Brand, Board Member, Bay Area for Clean Environment. Mr. Brand announced a new cleaner air regulation, Regulation 11, Rule 18, which will come to a vote before the Bay Area Air Quality Management District in San Francisco on November 15. He said the legislation will significantly lower all major stationary hazardous toxic air pollution sources, including Lehigh Cement Plant and the oil refineries in the East Bay. He said this regulation's goal is to reduce health impacts from all major stationary hazardous toxic air pollution sources in the Bay Area. Mr. Brand asked the Council to join the Town Council of Los Altos Hills and the Los Altos City Council, which have authorized their respective Mayors to write letters on behalf of their Councils and their Cities to the Air District in support of the new rule. He said Congressman Ro Khanna's office sent a letter of support this week. Mr. Brand said the Lehigh Cement plant is a major source of air pollution and warrants increased regulation. He said the Lehigh Cement plant west of Cupertino is the only cement plant of the top polluting plants in the U.S. that is directly adjacent to a major population center. Mr. Brand said that in previous years, Portola Valley, Atherton, Cupertino, Los Altos, Los Altos Hills, Sunnyvale, and the Mid-Peninsula Regional Open Space District joined in support of some of the Bay Area for Clean Environment's legal efforts to win back rights to regulate the expansion of the mine. He said although those efforts did not succeed, it sent a message to other agencies, such as the County, that these communities were united with other cities and towns to protect their residents. He asked that Portola Valley Town Council join other cities and towns in the region to support this new rule at the Air District. He asked the Mayor to email the Bay Area Management District a letter of support on the proposal before the November 15 hearing. He left a package with more details, including an executive summary of the rule from the Air District staff and some of the letters that have already been sent in.

Mayor Hughes said this topic can be agendaized for discussion at the next Town Council meeting.

Barry Chang, City of Cupertino Councilmember. Mr. Chang expressed support for Regulation 11, Rule 18, as described by Mr. Brand. He said it is a very important issue and will be on the Cupertino City Council's agenda next month. He said Lehigh plans to apply for a second pit mine and if they get it, it will mean another 100 years of pollution.

**CONSENT AGENDA** [7:06 p.m.]

- (1) Approval of Minutes – Town Council Regular Meeting of October 11, 2017.
- (2) Approval of Warrant List – October 25, 2017, in the amount of \$100,291.96.

- (3) Recommendation by Public Works Director – Acceptance of the Town of Portola Valley 2016/2017 Street Resurfacing Project – Surface Seals #2017-PW01
- (a) Adoption of a of a Resolution of the Town Council of the Town of Portola Valley to Accept the Completed Town of Portola Valley 2016/2017 Street Resurfacing Project – Surface Seals #2017-PW01 and Authorizing Final Payment to G. Bortolotto & Co., Inc. Concerning Such Work, and Directing the Town Clerk to File a Notice of Completion (Resolution No. 2742-2017)

Councilmember Derwin moved to approve the Consent Agenda. Seconded by Councilmember Aalfs, the motion carried 5-0, by roll call vote.

## **REGULAR AGENDA**

### **STAFF REPORTS AND RECOMMENDATIONS**

- (4) Presentation – Communications and Sustainability Management Analyst – Creation and Roll Out of Social Media Channels to Increase Resident Engagement and Real-Time Communications

Ali Taghavi, Communications & Sustainability Management Analyst, led the presentation. Mr. Taghavi said two new channels are being developed to communicate with residents – Facebook and Twitter. He said the Facebook page will be “Town of Portola Valley” and Twitter will be “@PortolaValleyCA,” which will go live tomorrow. He explained the importance of the Town having a presence on Twitter and Facebook as social media’s use as an effective communication tool continues to increase. He said the role of social media channels is to better inform and engage with residents and it is important to be proactive and communicate on a regular basis, which will help promote volunteer opportunities, communicate with Townspeople who are not connected to other communication channels such as email notices, and allows more residents to interact with the Town in real-time. He said the Town will be sharing the latest Town news, activities, programs, projects and events, as well informal sharing of activities happening outside of Portola Valley.

Mr. Taghavi said the Town Attorney has reviewed the Town’s social media policy statement, a copy of which was shared with the Council. He said the document, which is similar to the social media statements published by other Cities, will be displayed on the social media channels, reminding people that offensive, inflammatory, or disparaging remarks and posts are subject to removal. He said the Town Attorney advised Councilmembers not to comment, like, retweet, or share posts related to policy issues, which may be considered a violation of the Brown Act. He said all social media posts are subject to the California Public Records Act. He said the Town will post once per weekday on each of the social media channels. He said a post content calendar is being developed in order to maintain a consistent presence. He said Virginia Bacon and Nancy Lund have agreed to contribute content from time to time, with photos and facts about Portola Valley, with the goal of creating a sense of community. He said the inaugural post will be Bill Lane’s “The Needs and Rewards of Volunteering.” He said typically weekly posts will be information about scheduled events such as the Farmer’s Market and the upcoming Community Hike; scheduled Council, Commission, and Committee meetings; the goals of the Commissions and Committees and encouraging volunteers; Town News such as roadwork and fire preparedness; and relevant information from surrounding cities and the County that may be of interest to Town residents.

Mr. Taghavi said the strategic plan, still in development, will include communication priorities from individual Councilmembers, Council communication with residents, strategies to engage residents and increase awareness of Town projects, an outreach calendar, communication guidelines and protocols regarding types of information appropriate to post on PV Forum and Next Door, and the types of information that is prohibited to share on social media channels, such as photographs of children or posts containing copyrighted materials. He said the communications plan will include a matrix for success to be reviewed quarterly.

Mr. Taghavi said the plan will also include social media policies and procedures, strategies to promote adoption of the new platforms – Accela and OpenGov, and strategies to promote e-notices and SMC alerts. He said they are looking to redesign the website to include a timeline, a new layout, and potential content update. He said they hope to bring this all before the Council by mid-winter.

Mr. Taghavi said they will post a major announcement of the rollout on the Town website, send it through e-notices, post on PV Forum and Next Door, and share the information with the Almanac. He said they are considering small Facebook ads targeted to ZIP Codes within Portola Valley, sharing the information with the Portola Valley School District newsletter, and banners and flyers. He said every staff member will have a link on their email signature for Twitter and Facebook.

Mayor Hughes called for questions from the Council.

In response to Councilmember Wengert's question, Mr. Taghavi said the email signature links will probably be in place by early next week.

Councilmember Wengert asked if, in addition to long-time residents Ms. Bacon and Ms. Lund, staff had considered including people from the various schools or other groups, to broaden the perspective of the residents. Mr. Taghavi said they will be reaching out and inviting individuals to provide content, to create a rich information sharing format.

Town Manager Dennis said this first couple of weeks or months will be an experiment, gauging reactions, activity, etc. He said this is an amazing opportunity to cross-pollinate the community of services and organizations that Townspeople use on a regular basis.

Assistant to the Town Manager de Garmeaux said Ms. Bacon and Ms. Lund will provide fun and interesting historical contributions to Facebook's "Throwback Thursdays" and "Flashback Fridays."

Councilmember Aalfs asked if staff would be moderating comments on the Facebook posts. Mr. Taghavi said he will be serving as the moderator. He said Twitter does not provide the ability to moderate, but tweets will be subject to the policy of removing inflammatory or derogatory comments. Town Manager Dennis said they will not be censoring criticisms of Town Government members; however, inappropriate responses to those criticisms by Town officials will not be permitted.

Mayor Hughes asked if the content provided by contributors, such as Ms. Lund and Ms. Bacon, will be first shared with Mr. Taghavi. Mr. Taghavi said all content will be reviewed by him prior to posting.

Mayor Hughes asked if there was an agreement in place that the Town will own whatever content these people provide to the Town. Town Manager Dennis said there is not.

Mayor Hughes asked Mr. Taghavi to expand on the policy regarding Town Government members avoiding sharing or "liking" policy-related posts. He said, for example, his personal social media pages and followers may be different and broader than the Town's and he may want to share a post. He asked if there was a problem with sharing posts without commenting. Town Attorney Silver said this is an evolving area of the Brown Act. She said City Attorneys are generally advising that if there is a sharing of electronic information by a quorum that may be construed as a meeting under the Brown Act. She said a meeting could be a concurrent exchange or a serial meeting, where one Councilmember shares a comment, and the second Councilmember may share that comment, and then it will go to a third, which constitutes a serial meeting. In response to Mayor Hughes' question, Town Attorney Silver said it is considered to be a meeting even if nothing is being contributed by the Councilmember other than repeating information already posted by the Town. She said there are certain exceptions to the Brown Act regarding what types of material constitutes a meeting – for instance a training session – but when dealing with content about local Town matters, content that could potentially come to the Council, Councilmembers are cautioned against actively participating in social media posts.

Mayor Hughes said, for example, PCE publishes their statistics on Facebook and he's seen a number of elected officials sharing or retweeting those posts without comment, merely sharing an informational post to their personally broader audience. Councilmember Aalfs said those types of posts are not related to policy. He said, for instance, announcing the Farmer's Market on Thursday is not an editorial comment or policy statement. Town Attorney Silver said when it comes to whether electronic social media constitutes a serial meeting, the content is not so much considered – whether it's a Federal, State, or local policy issue or a greenhouse gas issue – but the process is what is considered. If three Councilmembers are posting or sharing or discussing on a blog, that could be considered a serial meeting. She said it is very frustrating because there are no rules or regulations on social media yet in the Brown Act; however, the current prevailing advice of City Attorneys is that Councilmembers need to be very careful when they use social media.

Mayor Hughes asked if the Town would participate in conversations when people comment and reply to Town tweets or Facebook posts. Mr. Taghavi said the Town will remain neutral unless specific questions are asked, such as "Where can I find this information?" or "What are your hours?" He said the Town will not weigh in on discussions for or against projects, for instance, because it is important for residents to have an opportunity to share their opinions, but not for the Town to regulate what that conversation will be. Town Manager Dennis said if something factually incorrect is being presented in a way that requires correction, staff will provide the factual information without stating an opinion.

Councilmember Wengert said this week there was a lot of discussion on the Forum regarding cars passing on the right, as it relates to turning into The Priory School. She asked Mr. Taghavi if that would be an instance in which the Town would respond. Mr. Taghavi said that would fall more under California driving laws and the Town may post a reference to the factual source of information.

Assistant to the Town Manager de Garmeaux said some of these questions will answers themselves as they go forward and the communications plan is further developed. She said the plan is to go forward thoughtfully, in a manner similar to the PV Forum, which is to weigh in when misinformation is being cited. She said they also want to establish the communications channels and accumulate followers so there is the avenue to communicate in emergency situations.

In response to Mayor Hughes's question, Mr. Taghavi said he will be monitoring all Facebook posts and they will require his approval prior to being posted. On Twitter, however, there is not that pre-emptive control. He said if @portolavalleyca is tagged on an inappropriate or derogatory posting, the post can be removed and the poster will be flagged; however, it requires more hands-on monitoring of the Twitter page throughout the day. Mayor Hughes asked if particularly abusive tweeters would be reported to Twitter. Mr. Taghavi said those types of policies will be further developed and brought before the Council.

Councilmember Wengert asked if, knowing that Vice Mayor Richards and Mayor Hughes are often on those social media sites, as long as the rest of the Council remains silent on them, they won't run into the issue of violating the Brown Act. Town Attorney Silver said they used to advise that previous posts be examined to see if the quorum threshold has been triggered, but it is difficult to do that from a practical standpoint. She said her advice would be to not do it, but it would also be okay if only two Councilmembers commented. Town Manager Dennis said the policy is conservative on purpose, to protect the Councilmembers from claims being made against them.

Mayor Hughes invited public comment.

Laurie Duvall, Golden Oak Drive. Ms. Duval said she was supportive of Portola Valley getting involved in social media. She said it sounded like most of the Town activity on Facebook and Twitter will be pushing information out, and asked what part of the communications plan will facilitate the back and forth with the Town's very vocal community. She asked if there's a place for actual discussions, such as what occurs at a Council meeting. Mr. Taghavi said if there is a conversation about the Council's direction or voting, he would encourage the person to attend a Council meeting.

Mayor Hughes said today if someone emails the Town about an issue coming before the Council, the emails are attached to the staff packet or distributed in the weekly Digest. He asked if there was a way for Mr. Taghavi to pass on to the Council certain comments that reach a certain threshold. Mr. Taghavi said he could do that. Town Manager Dennis said if Facebook or Twitter becomes a place where residents want to engage in a more active way, staff will explore ways to encourage that. He said that right now it is more one-way, letting people know the Town Council is here and serving and sharing what happens on a daily or weekly basis. He said in conjunction with the other tools that will be used – Accela, surveys, etc. – there will be multiple opportunities for people to engage. Assistant to the Town Manager de Garneau said the reason the Town is launching Facebook and Twitter is because for many people that is their main source of information and the hope is to draw more people physically into meetings and events.

Monika Cheney, Goya Road. Ms. Cheney said it is a good idea to join the 21<sup>st</sup> Century. She said the value of social media is the back-and-forth discussion, but she's getting a sense with the Brown Act that it is very difficult to actually accomplish that. She asked what this project was going to cost and if it was duplicative with things already existing, such as PV Forum, which is extremely effective for that type of back-and-forth discussion. She said having a social media page will be extremely helpful for emergency preparedness, but it seems to her this will require a lot of curation and sounds expensive. She asked what these rollouts would provide that is not already on the PV Forum or the Town's website, other than emergency preparedness. Mr. Taghavi said there were no costs. He said if they ran a targeted Facebook ad to advertise the Town's Facebook page, it would cost \$15 to \$20. Ms. Cheney asked regarding staff time involved. Mayor Hughes said Mr. Taghavi is the new Communications Director but his job is not only the social media aspect, but is also the Town's entire communication plan. Ms. Cheney said it sounded like a new cost to the Town. She said the budget has gotten bigger as roles have been added and that warrants discussion. Mayor Hughes said the expanding need of Town communication has been discussed, and is reflected in previous Town Council minutes. He said Town communication is taking over increasing amounts of staff's time, which evolved to the decision to hire a Communications Director to help fill some of that need. Town Manager Dennis said he receives feedback that residents don't want to see too much Town stuff on PV Forum. He said PV Forum can still do what it does very well, allowing residents to talk to one another, with staff occasionally posting important information, but there are other things the Town wants to communicate and discuss that get lost in the shuffle of PV Forum.

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

Mayor Hughes said this is a great first step. He said the Town needs to be better at getting the word out about things going on in Town and engaging in discussions and getting feedback from residents. He said PV Forum definitely plays a part in that, but thinks these other channels are also important.

Vice Mayor Richards said he appreciates Ms. Cheney's comments regarding the costs, but said every time there has been an issue that has blown up, communication has always been at the root of the problem, with people not feeling they've been adequately notified. He said the Town needs to do everything possible to communicate effectively and perhaps more people will participate through social media.

Councilmember Wengert said she also understands Ms. Cheney's concerns, and the Council is looking at the costs carefully. She said, however, the main concern is effectively reaching across to the next generations. She said this is an experiment to broaden the reach because communication is the key to success going forward, being able to get input from residents more than in the past. She said previously they only heard from unhappy people. She said this is an effort to reach as many people as possible who want to participate – happy, unhappy, pro, or con – to have a dialogue and be a part of the process.

Councilmember Aalfs said he is excited to see this get started. He said the Town's public profile needs to be raised and this is a good start.

Councilmember Derwin said while she agrees with Ms. Cheney, this is the world. She said for at least 10 of her 12 years on the Council they have been criticized for not communicating well enough. She said it is necessary to do this and most of the other cities are doing it as well.

(5) Discussion and Council Action – Update Regarding Sanctuary Cities and Consideration of Amicus Participation

Town Attorney Silver provided an update regarding sanctuary cities and asked the Council to consider authorizing the Town to join Amicus briefs in *County of Santa Clara v. Trump* and *City and County of San Francisco v. Trump*, challenging President Trump's executive order threatening to withhold federal funds from sanctuary jurisdictions, as detailed in the staff report.

Mayor Hughes invited questions from the Council.

Councilmember Derwin said Menlo Park had joined and East Palo Alto will be joining. She asked if Town Attorney Silver knew of any others. Town Attorney Silver said there are others, but she did not have the list with her. She said the County of Santa Clara had joined, but the County of San Mateo did not.

In response to Councilmember Wengert's question, Town Attorney Silver said she believed California is the first sanctuary state and there are a few other states considering it. She said California is leading the way in challenging the executive order.

Councilmember Aalfs asked for clarification on the definition of sanctuary city. Town Attorney Silver said the term sanctuary city has been associated with not turning undocumented immigrants over to ICE and not honoring administrative detainees. She said lots of cities have adopted resolutions but those two actions don't have to be part of a resolution. Councilmember Aalfs asked if it was true that, while ICE can still do their job anywhere in California, sanctuary cities are allowed to refuse to assist ICE in doing that job. Town Attorney Silver said if the Federal government asks that an undocumented immigrant be detained, that request can be refused in a sanctuary city.

In response to Mayor Hughes' question, Town Attorney Silver said the lawsuit is only directed to the Executive Order, not to 8 U.S.C. 1373. Mayor Hughes said the arguments seem to apply directly to 8 U.S.C. 1373, which states local jurisdictions will not restrict in any way any government entity or official from communicating with the INS regarding citizenship or immigration status of any individual. He said it is very vague as to what is and is not allowed and may or may not conflict with California law or the local resolution. Town Attorney Silver said there are certain situations where they do not conflict and others where they do.

Councilmember Wengert said when Portola Valley adopted their resolution, it was to make a stronger statement, prior to knowing exactly what California would do. She questioned the value of that resolution, now that there is a broader, statewide set of regulations. Town Attorney Silver said she did not think there was a legal necessity to have the resolution in place because the local resolution does not do more than the State, but it is more a public perception issue to have the local resolution in place. She said the issue of whether to rescind the resolution is not before the Council tonight. She said the negative impact of having it in place would be that the Town could lose the funds, but since the State has the law anyway, all cities in California are already subject to that withholding. She said the other downside of having the resolution in place or joining in the Amicus brief is that the Town could possibly become a target of selective enforcement at a federal level.

Councilmember Derwin asked if there was a cost attached to joining the Amicus brief. Town Attorney Silver said the outside law firm that is writing the brief is not charging the individual cities. She said there is some staff time involved reading the briefs, etc.

Councilmember Aalfs said, in terms of a public safety standpoint, there is still plenty of latitude by allowing cooperation between local and federal authorities if an individual is convicted of one or more offenses on the list of 800 crimes.

Mayor Hughes invited public comment.

Monika Cheney said the United States Supreme Court will very likely uphold the Executive Order. She said if Portola Valley signs the Amicus brief, they are clearly susceptible to being called a sanctuary jurisdiction by the Secretary of Homeland Security, but the Amicus brief is probably not the deciding point. She said the bigger decision was the resolution that passed in February. She said it seems like a risk without a strong benefit to the Town to sign onto that. She asked if, when the Executive Order is upheld, it even matters if the Town signs the Amicus brief now or if the February resolution is the bigger discussion point. Town Attorney Silver said there is concern that signing the Amicus brief and adopting the sanctuary resolution could expose the Town to selective enforcement by Federal government officials who want to punish or single out jurisdictions, which appears to be happening. She said that is a policy issue for the Council to decide. She said there are many towns throughout the nation taking these types of actions and she does not know if there are resources to go after all of them.

Caroline Vertongen, 100 Palmer Lane. Ms. Vertongen said she presented to the Council a couple of weeks ago a copy of a letter she sent to State Attorney General Becerra, with evidence she has collected over the last three years concerning public safety. She said the common core was implemented without resources or planning. She said good teachers left prior, because they did not agree with what was going on with the Education Department. She said the same has happened with healthcare. She said her report shows that the education and healthcare systems are broken, and the justice system is also broken. She said if an investigation would take place, it would prove that preferential treatment has been given to foreign, out of state, and undocumented immigrants. She said many have overstayed their visas and their whereabouts are unknown. She said they have jobs in research, healthcare, and education. She said we have a lawless administrative welfare state and nobody is following the laws. She said there is manipulation in accreditation and licensing by allowing self-reporting. She said her letters have been ignored and she cannot find representation to file a lawsuit.

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

Councilmember Wengert asked Town Attorney Silver regarding evidence that there has been retaliation by the current administration against jurisdictions for opposing the Executive Order. Town Attorney Silver said she has no particular evidence and was referring to press reports and tweets. Councilmember Wengert asked if there was any evidence of ICE activities having stepped up in California as SB 54 was going through. Town Attorney Silver said she has heard some press reports about ICE showing up at particular events but has not heard of anything in San Mateo County.

Councilmember Derwin said there has been a lot of legal discussion and she would like to address the human aspect. She said she believes that President Trump's rationale for issuance of the Order – "...sanctuary jurisdictions across the United States willfully violate federal law in an attempt to shield aliens from removal from the United States and that those jurisdictions have caused immeasurable harm to the American people..." – is a false narrative. She said there is not enough evidence to support the claim that undocumented immigrants pose a danger to the public and, in fact, there is a lot of evidence to prove that they contribute greatly to communities. She said these people who choose to leave their families, their cultural roots, and risk their lives to come north – either alone or with their children or sending their children – are coming here for one reason only – survival. She said her son works in the detention department at El Central Legal De La Raza in Oakland, working with undocumented immigrants in jail. She said the stories he shares are heartbreaking and harrowing. She said these people have done nothing wrong except come to this country illegally so they would not be recruited into gangs or killed or raped, and so that their children would have a chance to survive. She said immigrants are the fabric of the Portola Valley community – caring for our children, stewarding our properties, building and maintaining our houses. She said the Town owes them gratitude and safe harbor. She quoted a New

Jersey Congressman – “Immigrants are the bedrock of America's bootstrap ethos and the very foundation on which our democracy rests.” She said Portola Valley needs to stand with our immigrants. She said if Portola Valley does not stand up for what we believe it, what do we stand for? She was supportive of joining the Amicus brief.

Councilmember Aalfs was supportive of joining the Amicus brief. He said the Town should not stop speaking out for fear of retaliation.

Councilmember Wengert said it is a complicated issue. She said it is more in a legal world than the moral sphere that we're caught up in with the current administration. She said much of what we're hearing and reacting to is what is being said daily by the administration. She said in looking at these issues, she tries to step back from that and see what is actually happening on the ground in the places where this is happening. She said the good news is we've not yet seen a major change in how ICE is operating here.

Councilmember Derwin said she attended an immigration workshop last week in the County. She said School Superintendent Campbell spoke and said since Trump has been inaugurated, and this Executive Order was issued, there is tremendous fear in the immigrant community and it has been a huge problem in the schools – the stress levels of the children, people not sending their children to school, etc.

Councilmember Wengert said she did not disagree, but that damage has been done and can't be changed until there is a change in administration. She said relative to the current arguments on this issue, she doesn't know that signing the Amicus brief will make a significant difference. Councilmember Derwin said it will make a difference symbolically. She said at the immigration summit they said things like this are powerful to the immigrant community, to feel that people are standing with them. Councilmember Wengert said from a support perspective she completely agrees, and if the goal is intended to continue in the vein of supporting all efforts to fight this Executive Order, then she can support going on with the Amicus brief, but she would want to have the Town Attorney updating the Council regularly relative to the implications of that, even if there are costs involved to do that. She said there will be many more twists that this road takes and she wants to be very conscious of all of the risks and rewards to make sure it continues to be the right thing to do. She said clearly this community supports immigration, and if there is a statement to be made, and the Amicus brief is the way to make it now, she can support that as long as it is monitored for changes moving forward.

Vice Mayor Richards said he does not see that conditions have changed much since passing the Town's resolution. He said not joining the Amicus brief would be defensively backing down. He said the Town should make a statement, stick with the original intent, and join the Amicus brief.

Mayor Hughes said he agrees strongly with Councilmember Derwin, that it is important to show the Town's support of the immigrant community. He said, that aside, it is also important to stand up to the Federal government when they are taking away Town Councils' rights to run their Towns. He said the underlying issue is the President of the United States is telling the Town they must spend their local tax dollars to enforce federal immigration law and, for that reason alone, setting aside the other very important issues, he is supportive of joining the Amicus brief. He said the suggested action is not to sign the Amicus brief but to authorize the Mayor to sign it when it is available.

Councilmember Aalfs moved to authorize the Mayor, with consultation of the Town Attorney, to sign an Amicus Brief in *County of Santa Clara v. Trump* and *City and County of San Francisco v. Trump* challenging President Trump's Executive Order Threatening to Withhold Federal Funds from Sanctuary Jurisdictions. Seconded by Vice Mayor Richards; the motion carried 5-0.

(6) Report by Attorney Leigh Prince – Receive Update on State Cannabis Regulation, Provide Direction on Local Cannabis Regulation, and Adopt a 45-Day Interim Urgency Ordinance

(a) Study Session on Cannabis Regulations



- (b) Adopt an Interim Urgency Ordinance of the Town Council of the Town of Portola Valley Establishing a Temporary Moratorium on the Establishment of Marijuana Uses within the Town of Portola Valley (Ordinance No. \_\_\_\_)

Town Manager Dennis led the presentation of the update to the State Cannabis Regulation. Staff recommended that the Town Council direct staff relative to pursuing local cannabis regulations in the Town of Portola Valley and adopt a 45-day interim urgency ordinance prohibiting all commercial cannabis land uses and all personal outdoor cultivation, but not prohibiting personal medical marijuana use, medical marijuana delivery, or personal indoor cultivation, as detailed in the staff report.

Mayor Hughes invited questions from the Council.

Councilmember Wengert asked if the Town Manager thought 45 days was enough time. Town Manager Dennis said staff would have preferred a longer time period, but they are only allowed 45 days. Town Attorney Silver said the State Moratorium law allows adoption of moratoriums for 45 days at the Council level, otherwise most zoning-type ordinances needs to go to the Planning Commission first and then the Council.

Councilmember Aalfs asked regarding medical marijuana delivery. Town Manager Dennis said there are currently a number of options to deliver marijuana for medical or recreational use.

Vice Mayor Richards asked about including personal outdoor cultivation. Town Manager Dennis said the recommendation is to limit outdoor cultivation.

Mayor Hughes asked Town Attorney Silver what the effect would be of not adopting the interim urgency ordinance. Town Attorney Silver said not adopting the ordinance did not preclude the Town from creating regulations in the future, but an offending property would probably be grandfathered in.

In response to Councilmember Derwin's question, Town Manager Dennis said growing in a greenhouse constitutes indoor cultivation.

Councilmember Derwin asked if the O-A Zoning district on the east side of Alpine was the Stanford Wedge. Town Manager Dennis said it is a very small zoning district that includes some horse properties and some other properties south, not the Stanford Wedge.

In response to Councilmember Derwin's question, Town Manager Dennis said the only A-P District is at the Nathhorst Triangle. She asked if anyone had ever expressed interest in a retail store, a bakery, a greenhouse, or outdoor cultivation for that area. Town Manager Dennis said there have been four inquiries about the vacant property next to Roberts, as a site for some version of cultivation and also for construction of a dispensary. She asked if someone who wanted to build a greenhouse for cannabis would be required to have LED lights, energy efficient heating and cooling, smart irrigation, etc. Town Manager Dennis said they would be required to meet the requirements of the regular commercial CUP application process. Councilmember Derwin asked if there were requirements for personal use growing. Town Manager Dennis said there currently were not, but some cities are looking to include certain additional requirements. Councilmember Derwin asked if agricultural zoned properties would be required to submit water budgets. Town Manager Dennis said they would not unless they were in the scenic corridor. Councilmember Derwin asked Town Attorney Silver if an affirmative vote for the interim ordinance requires a finding that there is a current and immediate threat to the public health, safety, or welfare of the Townspeople. Town Attorney Silver said that is correct and, because it is an emergency ordinance that goes into effect immediately and does not require a second reading, it requires four votes.

Mayor Hughes said 45 days from today is December 9. He asked what the purpose was for a 45-day moratorium for something that can't be done until January 1 anyway. Town Manager Dennis said the alternate approach would have been for staff to do something similar to Redwood City's approach, which

is a permanent ban with a plan to come back to it later. He said the proposal is so the Town has some time to see what the State is going to do and get Council's direction regarding any additional steps they want taken. He said the 45-day moratorium could also be instituted at the December 13 Town Council meeting.

With no further questions, Mayor Hughes invited public comment.

Caroline Vertongen, 100 Palmer Lane. Ms. Vertongen asked what spurred this presentation. Town Manager Dennis said the State has not presented cities in California with the regulations needed to understand support of commercial and retail cannabis operations. He said there is also a desire to present the Council with examples of what is currently allowed within the current Zoning/CUP process, to determine if the Council wanted to staff to take any additional steps related to defining the regulations. Ms. Vertongen asked why this issue is being brought up if only four people have made inquiries. Town Manager Dennis explained that there is no relationship between the four inquiries and this staff report. Mayor Hughes said this has been an ongoing discussion at several Council meetings and it is a continuing process. He said they are trying to understand the impacts of the changes in the State law on the Town and how people can use their properties under our current Town regulations and whether we need to adjust those Town regulations to account for this new State law. Ms. Vertongen asked if the Town had discussions with doctors, pediatricians, or experts in development. Mayor Hughes said none have come to any hearings so far. Ms. Vertongen said marijuana use hinders development for academic potential.

With no other public comment, Mayor Hughes brought the item back to the Council.

Town Attorney Silver said the medical marijuana regulations have been in place for quite some time. The personal cultivation regulations have been in place as of January 1, 2017. The retail cultivation regulations require a State permit and those regulations are still in the process of being adopted. She said those sets of regulations will hopefully be set by January 1, 2018. She said there is possibly a need to make adjustments to some of the regulations currently in effect. Staff wanted to bring this to the Council while they still had time to take an action if they wanted to prohibit certain activities, such as personal outdoor cultivation. She said Council could also propose a minor regulation of indoor cultivation; however, staff is not making that recommendation. She said the 45-day moratorium can be extended for one to two years without having to have a second reading or going through the Planning Commission. She said the intent is that if the moratorium is adopted, they would come back for an extension before it expired.

Councilmember Derwin said the Town's rigorous land use ordinances are strong enough to withstand the test of the new law, but, for peace of mind, she would consider limiting the number of retail establishments, requiring water budgets and smart irrigation systems for cultivation on the large scale, require water budgets, energy efficient heating, LED lighting, firesafe materials, and scaled down version of fire sprinklers for commercial greenhouses. Screening could be required when necessary. Retail establishments could be required to use credit unions. She said all of that is irrelevant because she cannot make the finding that not establishing the moratorium is a threat to public safety. She said she could find no evidence of deaths attributable to marijuana, except for one 23-year-old male who committed suicide after eating an edible. She said, in contrast, in that same year there were 25,000 deaths from prescription drugs, 30,000 deaths from alcohol, and 17,465 deaths from heroin and cocaine. She said she understands marijuana is addictive and that it is terrible for the developing brain; however, it will not be legal for people under 21 years old. She said when the THC is removed, there are no psychotropic qualities, and it is being used successfully for CBD oil products to treat depression. She said marijuana has an amazing future in medicine. She does not believe crime comes with marijuana and said if there was a dispensary in Portola Valley, it would be a boutique. She said greenhouses already must not be visible from the road. She said if the finding that it is a threat to public health is required, she cannot vote for the ordinance.

Councilmember Aalfs agreed with Councilmember Derwin. He said he understands the rationale behind it, the risks that staff is trying to forestall, and the questions that must be tackled, but he cannot make the

finding that this is an emergency. He agrees the current CUP process is strong enough and intervention is not yet necessary.

Vice Mayor Richards agreed with Councilmembers Derwin and Aalfs. He said, however, being one of the few Towns in the County to not pass the moratorium could potentially expose the Town to an artificial rush of interest in opening a dispensary or grow facility here. His concern is the load that could be put on the staff rushing around trying to corral it. He agreed the existing ordinances can handle it under normal circumstances, but said if a larger than normal demand occurs, it could cause problems. He objected to banning personal cultivation, which will create outlaws in Town and give the police more things to do that they don't need.

Mayor Hughes agreed with Vice Mayor Richards' point that if Portola Valley is the only open door, a lot of people might try to squeeze through, which would put a strain on the existing ordinances that work fine under normal circumstances. He said another issue that could cause a problem is personal indoor cultivation in dangerous ways – electrical, ventilation, heating, etc. He said personal outdoor cultivation is probably safer. He could support personal outdoor cultivation under the State law limits. He would want to see a planning process to figure out what needs to be done about commercial operations, which could not be completed by January 1. He asked if an application came in on January 2, would that application need to be considered under the rules that became effective as of January 2. In response to Mayor Hughes' question, Town Attorney Silver said a moratorium could be imposed on January 3 if a rush of applications came in and that moratorium would apply to those applications submitted prior to January 3. Mayor Hughes said he agreed then that there is no imminent danger of public safety.

Councilmember Wengert said she may be able to make the finding of a public danger, which could be something not fully understood, particularly if there are limitations being placed by other communities and Portola Valley is the only place where people can even try it. She said this community has historically clearly not been afraid to lead on any number of issues, but she is not sure the Town is quite ready for this. Mayor Hughes said that if there is a problem after January 1 it's not too late to do something then.

Councilmember Derwin asked if Councilmember Wengert was concerned about retail establishments, greenhouses, or large-scale cultivations. Councilmember Wengert said she wouldn't predict. She said someone with a lot of money could make an offer on some of the largest remaining very valuable properties in Town. She said she is thinking of it on a more global level, anticipating scenarios under which some very significant unanticipated things could happen and the Town needs to think ahead of that and have ample opportunity to run scenarios and go through the process with the Planning Commission to ensure the Town is not unwittingly and unknowingly creating a problem. She said they can always come back if appropriate to allow for a dispensary or whatever they choose, but said she is nervous about moving forward too quickly without fully understanding possible scenarios. She said this is a rural area and the other communities don't have the space and land. Councilmember Derwin said Half Moon Bay is rural and wants marijuana cultivation. She said growers are also buying up a lot of land in Watsonville. However, she pointed out that those areas have a lot of agricultural workers, and Portola Valley does not.

Town Manager Dennis said it's been very clear to staff throughout this process that the Council is supportive of Proposition 64 and some sort of retail opportunities should they come forward. He said the Code and CUP processes are prepared to react to what comes in instead of having predetermined parameters by which we want to operate – such as one dispensary only or designating certain areas in Town where growing would be appropriate. He said they waited a bit to see how other communities reacted before bringing this forward

Mayor Hughes said if an obnoxious, potentially dangerous application came in and it became a clear potential threat to public safety, or if there was a rush of applications, then a moratorium could still be done.

Councilmember Wengert was supportive of personal outdoor cultivation.

Town Manager Dennis said at the first Town Council meeting in January, staff will provide an update on the State law and any activity related to commercial or retail. Councilmember Derwin said the Planning Commission should be directed to start working on this issue now. Town Manager Dennis asked if the Council wanted any community outreach around this issue or if it should just be folded into the Planning Commission activity. Mayor Hughes said the general outreach would be sufficient, similar to how people are notified that this subject was being discussed tonight, and it should also be shared when the Planning Commission will be discussing it.

- (7) Recommendation by Town Manager – Adoption of a Resolution Approving an Agreement Between the Town of Portola Valley and Jorgenson, Siegel, McClure & Flegel, LLP for Provision of Legal Services.
- (a) Adoption of a Resolution of the Town Council of the Town of Portola Valley Approving and Authorizing Execution of Agreement for Legal Services Between the Town of Portola Valley and Jorgenson, Siegel, McClure & Flegel, LLP. (Resolution No. 2743-2017)

Town Manager Dennis explained that the Town's contract with JSMF expires on October 31, 2017. He described the background of the Town's legal representation and presented the proposed new contract with JSMF, which requires a budget amendment to support a rate increase.

Councilmember Derwin asked for clarification on the rates. Town Attorney Silver explained that there is a typo in the staff report and the rates are corrected as stated in the contract – the general services hourly rate increase will be phased in with year one at \$250 and year two at \$275. The development-related work will be billed at \$325 effective year one.

Councilmember Derwin asked for a definition of "routine matters." Town Manager Dennis said that would include talking to the Town Manager, talking to the Planning staff regarding issues that cannot be charged back to an applicant, personnel issues, etc. Town Attorney Silver said the staff report erred in breaking up routine and non-routine/litigation matters. Those categories are one category – general services. Town Manager Dennis said the development-related work relates to larger projects with legal issues, which are charged back to the applicant.

Councilmember Wengert said she had asked Town Manager Dennis and Town Attorney Silver to merge the terminology so that the Town and JSMF use the same – for example, use either applicant's charges or development-related work – to make it clearer.

Councilmember Wengert was supportive of approving the contract, but suggested amending it to be sure the terminology is consistent. Town Manager Dennis said he and Town Attorney Silver discussed this earlier today and will come up with mutually agreed-upon terminology. He said they also discussed the importance of expanded subcategories, particularly within general services, to understand where the money is being spent. Councilmember Wengert said that should also be consistent with the budget. Town Manager Dennis agreed.

Mayor Hughes asked if Town Attorney Silver's travel time to and from Town was counted as work hours. Town Attorney Silver said Exhibit B states that travel time will not be charged for evening meetings, with the inference being that travel time during normal business hours is billed.

With no further questions, Mayor Hughes invited public comment. Hearing none, Mayor Hughes brought the item back to the Council for discussion.

Vice Mayor Richards moved to adopt a Resolution Approving an Agreement Between the Town of Portola Valley and Jorgenson, Siegel, McClure & Flegel, LLP for Provision of Legal Services, as amended. Seconded by Councilmember Wengert, the motion carried 5-0.

Vice Mayor Richards moved to authorize a budget amendment to support a rate increase for legal services. Seconded by Councilmember Wengert; the motion carried 5-0.

Vice Mayor Richards moved to extend the contract dates of the contract with JSMF as drafted to align with the fiscal year cycle. Seconded by Councilmember Wengert; the motion carried 5-0.

(8) COUNCIL LIAISON COMMITTEE AND REGIONAL AGENCIES REPORTS

Councilmember Derwin – Attended a C/CAG meeting and heard a presentation on Smart Corridors. They previewed the US 101 Managed Lane project and she had a meeting later with the two main designers of the project. It will be brought back to the board next month. She attended the San Mateo County Immigration Summit held on October 18, 2017. She said if the Town plans to hold a supportive event the Town should speak with Irving Torrez and perhaps have an attorney from Community Legal Services. Town Manager Dennis said it had been planned to also have representatives from Catholic Charities. Councilmember Derwin attended the October HEART Board Meeting. She said the Department of Housing talked about their Round 5 Affordable Housing Fund, now at \$23.8 million – from the Measure K sales tax, grants for mental health services, and a grant targeted to transition age youth or aging out of foster care. She said there were 10 applications requesting \$57 million. They explained how they decided who to fund. There was a presentation of the overview of all the current regional housing trust funds. She said they discussed borrowing idle housing funds from cities. She said there was a workshop at the Housing Leadership Day put on by HEART about teacher housing. She said Pacifica is submitting an application to borrow \$2.5 million to build 45 teacher housing rental units. Rose Jacobs Gibson will be holding a Housing Conversation on November 15, 2017. Councilmember Derwin invited Council members to attend or to suggest people from Town to attend.

Councilmember Aalfs -- Attended the October Nature & Science Committee meeting last week and discussed the postponement of the annual Star Party event. Town Manager Dennis said staff is working on coordinating because the Earth Fair will also be held around that time. Councilmember Aalfs attended a Trails & Paths Committee meeting last week where they discussed Spring Down and a possible opening event in spring. He said this is the third year of not spraying on trails and they are monitoring that situation. He said some trails are growing to the point where they look abandoned and fire control could be an issue. They are planning to put a second gate on the top of Toyon Trail to close the trail off from both ends. He said there was an issue with people putting out their cuttings months before the wood chipper came by, so the Town was having to clean that up. They discussed knocking on doors to tell residents to stop doing it. He said the Community Hike will be on November 4, meeting at Roberts. Peninsula Clean Energy held its one-year anniversary open house last month. He said they have saved San Mateo County \$17 million in electricity fees, 680 million pounds of GHG emissions with 8.5 million from Portola Valley. Mayor Hughes said Portola Valley has reduced the greenhouse gas emissions the equivalent of planting 4,500 acres of trees, 60 percent of the land area of Portola Valley.

Councilmember Wengert – Attended the October 18 Planning Commission meeting that reviewed a proposal for a coffee kiosk, modifications to the Town's Geologic and Ground Movement Potential Maps, and the Priory School's annual report.

Vice Mayor Richards – Attended the October 24 Conservation Committee meeting where they discussed putting together an overall description of open space. He said some of the people on the Committee feel unappreciated and there is some tension between their work and open space acquisition. They are working on a master plan of open space lands.

Mayor Hughes – Attended a conference at Stanford "Safe Routes to Everywhere" with Town Manager Dennis about using bicycles as a means of transportation. Met with Town Manager Dennis, Public Works Director Young and Bicycle, Pedestrian & Traffic Safety Committee Chair Ed Holland for a site visit at Corte Madera/Alpine intersection, observing pedestrian drop-off and pickup times at schools.

(9) Town Manager Report – Town Manager Dennis reported the Bicycle, Pedestrian & Traffic Safety Committee will be meeting next week to discuss a recommendation to Council for a pedestrian traffic study and potential solutions for the Brookside area. A meeting is scheduled with Woodside Fire Department, CERPP, PG&E, and others to put together a fire preparedness event, hopefully right after Thanksgiving. He met with Stephen Gillett, the new Chair of the Parks & Recreation Committee. Town Manager Dennis said Mr. Gillett has very dynamic ideas on how to engage his own committee, get people involved and volunteering on the committee, and some events. Town Manager Dennis said that a contractor will be rolling parts of the road on October 26 in hopes of benefitting cyclists. Town Manager Dennis and Public Works Director Howard will be presenting the neighborhood sign program at the November 8 Council meeting.

**WRITTEN COMMUNICATIONS** [9:56 p.m.]

(10) Town Council Digest – October 13, 2017

#6 – Town Manager Dennis confirmed that Planning Director Pedro had no issues with the Stanford General Use Permit Draft EIR.

(11) Town Council Digest – October 20, 2017

None.

**ADJOURNMENT** [10:00 p.m.]

Mayor Hughes adjourned the meeting.

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Mayor

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Town Clerk