

PORTOLA VALLEY TOWN COUNCIL REGULAR MEETING NO. 973, AUGUST 22, 2018

CALL TO ORDER AND ROLL CALL

Vice Mayor Wengert 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, Craig Hughes, and Vice Mayor Ann Wengert.

Absent: Mayor John Richards

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

ORAL COMMUNICATIONS

None

CONSENT AGENDA

- (1) Approval of Minutes – Town Council Regular Meeting of August 8, 2018. *[Removed from Consent Agenda.]*
- (2) Approval of Warrant List – August 22, 2018, in the amount of \$214,159.52
- (3) Recommendation by Town Manager – Letter of Support for Save the Bay

Councilmember Hughes moved to approve Items 2 and 3 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 August 8, 2018.

Councilmember Hughes moved to approve Item 1 of the Consent Agenda. Seconded by Councilmember Derwin the motion carried 3-0-1, by roll call vote, with Vice Mayor Wengert abstaining.

REGULAR AGENDA

Town Manager Dennis requested to move Agenda Item #6 ahead of Item #4.

STAFF REPORTS AND RECOMMENDATIONS

- (6) Recommendation by Town Attorney – First Reading of Ordinance Amending Chapter 8.26 [Tobacco Retailer Permit] of Title 8 [Health and Safety] of the Portola Valley Municipal Code (a) First Reading, Waive Further Reading and Introduce an Ordinance Amending Chapter 8.26 [Tobacco Retailer Permit] of Title 8 [Health and Safety] of the Portola Valley Municipal Code (Ordinance No. __)

Vice Mayor Wengert introduced Craig Wingate, Francesca Lomotan, and Bob Gordon of San Mateo County.

Ms. Lomotan from the County of San Mateo County Health System Tobacco Prevention Program offered to answer any questions about the proposed ordinance and amendments to the Town's current tobacco retailer license. She introduced Bob Gordon, with the San Mateo County Tobacco Education Coalition.

Town Attorney Silver described the background of the tobacco retailer permit and the collaboration with the County of San Mateo, as detailed in the staff report.

Vice Mayor Wengert invited questions from the Council.

Councilmember Hughes asked regarding automatically incorporating any future amendments to the ordinance without review. He asked if the Town had ever previously allowed another body to automatically change the Town's Municipal Code. Town Attorney Silver said Portola Valley's Code does incorporate by reference a series of County regulations. She said the Council could choose to exclude that specific provision. She pointed out that previously when the County made changes the Town was unable to implement them because the language did not incorporate future changes.

Councilmember Hughes asked if the ban applied to flavored tobacco products of any kind, such as chewing tobacco. Town Attorney Silver said the ban applies to any flavored tobacco product, including e-cigarettes.

Councilmember Aalfs asked how the County enforced the ordinance. Town Attorney Silver said the County has already discussed the matter with Roberts Market and the store plans to voluntarily comply. Ms. Lomotan later clarified that their office has not yet reached out to Roberts Market regarding the potential change in legislation, but they are prepared to send a letter if the Town desires.

Councilmember Hughes asked why a new ordinance is being implemented instead of just changing the County's permitting policy. Town Attorney Silver said Roberts Market already has a tobacco permit. In response to Councilmember Hughes' question, Ms. Lomotan said the permits are supposed to be renewed annually.

Vice Mayor Wengert asked if the definition of tobacco has been expanded to include the vaping and e-cigarettes and if this ban will also restrict the sale of these types of products. Mr. Gordon said most of the e-cigarettes use flavored tobacco e-juice or e-liquid, which is included in the Tobacco Retail Licensing (TRL). He said the majority of the e-juices also include nicotine. He said the FDA is currently looking at how to incorporate e-cigarettes into the same level of restrictions that apply to current cigarettes. Vice Mayor Wengert asked if there were types of e-cigarettes without tobacco. Mr. Gordon said the majority of the e-cigarettes use flavored tobacco.

Mr. Wingate added that the industry uses the word "vapor" as if it is just clear water vapor like from a teakettle, which is inaccurate. He cited studies that have shown that the aerosolized fine particles lodge deep within the lungs and are also hazardous secondhand. He said the nicotine in these devices is not synthetic which is why it is regulated as a tobacco product.

Councilmember Hughes asked regarding the consequences of violation of the ordinance. Mr. Gordon said violators would be subject to a fine and license suspension.

Councilmember Aalfs asked if there was research showing the impact of these kinds of bans and ordinances to smoking rates. Mr. Gordon said that, due to the many ordinances limiting where smoking is allowed, there has been a decrease in combustible cigarette usage. They are predicting the same results will occur with the increase in ordinances regarding the e-cigarettes.

In response to Vice Mayor Wengert's question, Ms. Lomotan said their office visited Robert's Market recently and they did not have any e-cigarettes for sale and the only flavored tobacco they sold was menthol cigarettes.

With no additional questions from the Council, Vice Mayor Wengert invited comment by the County representatives. Hearing none, Vice Mayor Wengert brought the item back to the Council for discussion.

Councilmember Hughes said he was not concerned about incorporating modifications to the two existing sections, but not comfortable with more broadly allowing the County to incorporate changes to the Town's Municipal Code without the Town having the opportunity to review. He suggested changing "any future amendment" to "any amendment thereto" so it only referred to Chapter 4.98 and 4.99.

The Council agreed with Councilmember Hughes' suggestion.

Councilmember Aalfs moved to Waive Further Reading and Introduce an Ordinance Amending Chapter 8.26 of Title 8 of the Portola Valley Municipal Code. Seconded by Councilmember Hughes; the motion carried 4-0.

A Second Reading is scheduled for September 12 Council Agenda.

STUDY SESSION

(4) Report by Town Manager – A Study Session of the Funding of Town Road Resurfacing Work

Town Manager Dennis presented "The Future of the Annual Road Resurfacing Program – Study Session." The discussions were around why this conversation is needed today, how the Town pays for the roads, how the Town decides how to spend funding on the roads, and what other cities do related to funding. Staff requested feedback on the last two slurry seals and provided a staff analysis of the funding for roads. Staff asked for feedback from the Council regarding their goals for the condition of the roads, how funding fit into the road conditions, and what additional information the Council needed to make road condition decisions. He provided a chart showing historical funding sources for roads.

In response to Vice Mayor Wengert's question, Town Attorney Silver said there is a specific state statute that prohibits the taxing of anyone for the privilege of using streets, which was affirmed by a court case. In 2010 a lawsuit was filed against Atherton and there was concern that the legal firm would begin suing other Peninsula cities. At that time several cities dropped their fees. She said the statute allows cities to continue charging the fee if the fee was enacted prior to 1989. Portola Valley's fee was not enacted until 2001 and was not grandfathered in. Town Manager Dennis said Woodside continues to have a road impact fee, as do several Counties.

Public Works Director Young provided an overview of the Roads Pavement Condition Index (PCI) and Pavement Management System (PMS). He shared a chart showing that the Town maintains 71 lane miles (36 miles of roads) and the breakdown in functional class (arterial, collector, residential/local). He explained the annual road resurfacing project is performed to maintain all of the roads to a certain safe and functional standard or PCI. Public Works Director Young explained the Town maintains a PCI of 80 percent, which equates to a certain yearly dollar amount to achieve. He said staff uses the PMS program as a guideline only. He said, for example, when the program comes up with a list of recommendations for maintenance of streets, staff visually evaluates each of the streets to verify whether or not any maintenance is needed for that street and updates the PMS accordingly. Public Works Director Young then described each of the road treatments and their expected lifespan.

Vice Mayor Wengert said she understood there was asphalt overlay on the two arterials for many years and asked when they switched to slurry seal. Public Works Director Young said in 2002 the Council

indicated that Portola and Alpine Roads had a lot of alligator cracking and potholes and they wanted to raise the PCI. In looking at the lifespan of the road, the majority of them were overlaid in 2002 and 2007. After 2007 they began using a preventative maintenance slurry seal period, as recommended by the MTC. He said as long as they keep repeating that, it should last for many, many years. Town Manager Dennis said the decision-making is related to the PMS system per the PCI and the cost. He said a treatment may be applied to a road that is still in good condition, per the system and MTC recommendations.

Vice Mayor Wengert said another factor is construction that has occurred and the need to redo sections, which has majorly impacted both of the arterial roads. Vice Mayor Wengert stated, considering that it is the PCI that drives which treatment to choose for the roads and also considering the financial considerations that are not necessarily moving in the Town's favor, the Council should prioritize and help Public Works manage what is being done and how the money is being spent. She said some of the sections of Alpine and Portola that weren't impacted with slurry seals would now be approaching 16 years based on the numbers. Public Works Director Young said probably the oldest section would be near Alpine and Los Trancos but the section toward Ford Field is a fairly new overlay. He said cities that do not do the preventative maintenance with slurry seals end up having to do the much more expensive asphalt overlays. Because of the much higher expense, fewer streets are repaired, while other streets continue to degrade.

In response to Vice Mayor Wengert, Public Works Director Young said the lowest rated street was Prado Court, which was at a 40 PCI, and it had to be completely reconstructed.

In response to Councilmember Aalfs' question, if the PMS was set to 70 PCI, there may be a smaller scope of work recommended each year; however, at some time in the future there would likely be several overlays required due to less preventive maintenance work performed. Town Manager Dennis said they looked at a scenario setting the PCI at 75 instead of 80. He said that in the first 10 years, there was not much difference, but after the 10 years, there is theoretically a rapid decline in PCI and it then becomes much more expensive.

Vice Mayor Wengert expressed concern about drawing down on the reserves given the Town will not have the road impact fees.

In response to Councilmember Aalfs' question, Town Manager Dennis said that at 75 PCI the Town would budget for \$400,000 road reconstruction project plus some design contingency, for a savings of approximately \$100,000 per year, or a total of \$1 million in 10 years. The Council discussed projections related to taxes received and increased costs.

Vice Mayor Wengert said the Council needs to understand the financial projections if the current PCI is maintained and then prioritizing the arterials, the feeders, the local neighborhood roads. She said it is important to understand the current condition of the roads to make informed decisions regarding the best way to take this forward without seriously eroding the General Fund.

Councilmember Hughes would like to see a 20-year forecast of road conditions and expenses at a PCI of 80 and a PCI of 70. He said there is then also a question of funding sources.

Town Manager Dennis thanked Public Works Director Young and Finance Director Radtke for their work on this report. He asked the Council for comments, questions, suggestions, and direction.

Councilmember Hughes said it is part of the General Plan that Portola Valley is a resource for the region for recreational activities such as bicycling. He said it is important that the arterial roads are safe, smooth, and comfortable for residents and visitors. He said in general he thinks the residents are quite satisfied with the road conditions in town. He said the decision of whether or not to reduce the PCI from 80 to 70 is

more of a financial consideration than road quality. Councilmember Hughes said he would like to see 20-year modeling of costs at different PCI levels.

Councilmember Derwin agreed that it is important that Alpine Road and Portola Road are in good shape. She also agreed that cost projections will be necessary for decision making.

Councilmember Aalfs said that he was not attached to a specific PCI number and did not want to be trying to save money now that would result in a very large expense in the future. He agreed that a cost projection will be important to decision making.

Vice Mayor Wengert agreed with the above comments. She suggested the arterial roads always be placed at a higher priority with regular and consistent reviews of their condition and functionality.

Town Manager Dennis said staff will return with a 20-year modeling with projected revenue and expenditures with arterial roads being a priority with project review.

STAFF REPORTS AND RECOMMENDATIONS

- (5) Recommendation by Town Manager – Review and Authorize 2018-19 Budget Amendment to Appropriate/Re-Appropriate Funds

Town Manager Dennis presented proposed budget amendments to the Garbage Franchise Agreement Negotiation, the Town Picnic, and the OpenGov software, as detailed in the staff report.

Vice Mayor Wengert invited questions from the Council.

Councilmember Hughes asked for more details regarding the Town Picnic budget and asked if the event would be more elaborate than in years past. Town Manager Dennis said he does not have the full list, but said it would include a number of children's activities and interactive experience walls. He said he did not anticipate the full \$21,000 would be needed.

With no additional questions or comments, Vice Mayor Wengert brought the item back to the Council for discussion.

Councilmember Hughes moved to authorize the 2018-19 Budget Amendments to Appropriate/Re-Appropriate Funds. Seconded by Councilmember Aalfs; the motion carried 4-0.

(Agenda Item #6 moved to earlier in the agenda.)

- (7) Report by Town Clerk – Consideration of Options for the November 2018 Election

- (a) Adoption of a Resolution of the Town Council of the Town of Portola Valley Approving Cancelling the November 2018 General Election and Appointing the Three Nominees to Fill the Three Vacancies on the Town Council (Resolution No. 2782-2018)

Town Clerk Hanlon said that at the close of the candidate filing period (August 10, 2018) incumbents Maryann Derwin, Craig Hughes, and John Richards qualified for the three open seats on the Town Council to be filled at the November 6, 2018, election. She explained that the Council now has the option to cancel the election and appoint the three candidates or to continue the election, allowing for the possibility of a write-in candidate. Staff requested the Town Council consider the options regarding the November 6, 2018, election, as detailed in the staff report.

Town Attorney Silver said because there is no financial interest in the Council seat it is not considered a conflict of interest and all Councilmembers may participate. The Council discussed the cost savings of not holding an election, possibly allocating that money toward more events such as Coffee with the Mayor and Vice Mayor.

Councilmember Aalfs moved to appoint Maryann Derwin and John Richards to the Town Council for 2018. Seconded by Vice Mayor Wengert; the motion carried 4-0.

Councilmember Aalfs moved to appoint Craig Hughes to the Town Council for 2018. Seconded by Vice Mayor Wengert; the motion carried 3-0-1, with Councilmember Hughes abstaining.

(8) **COUNCIL LIAISON COMMITTEE AND REGIONAL AGENCIES REPORTS**

Councilmember Hughes – Attended the August 13 ASCC meeting and a site meeting for a new project on Santa Maria.

Councilmember Derwin – Councilmember Derwin was invited to join the board of “The Foundation for San Mateo County Libraries,” a newly-created entity to help libraries in the system who do not have the bandwidth to fundraise. She attended their first meeting but it was cancelled for lack of a quorum. She attended the opening of the new library in Half Moon Bay. She was invited to the “RHNA Credit Sharing Work Group.” Their goal is to pilot a program to create a regional fund, get RHNA credits, and build housing. She also attended a San Mateo Countywide Water Coordination Committee meeting where they got an update from the Staff Advisory Team (SAT). She attended, with Town staff, a Cal Water meeting to make a case for piloting a smart water meter program. She attended the August 20 Sustainability & Environmental Resources Committee (SERC) meeting where Assistant to the Town Manager de Garmeaux provided an update about the Cal Water meeting, the microgrid project, and leaf blower flyers. They will be touring the GreenWaste facility on Zanker, the ZWED facility, and the Silicon Water Purification Plant. She also attended the August 22 C/CAG Finance Committee meeting, where they reviewed the quarterly reports.

Councilmember Aalfs – Attended the August 21 Trails & Paths Committee meeting. He said the Ranch is putting signs on the Coal Mine Ridge Trails indicating that the trail easements are on private property. Residents of the Ranch are concerned with people that walk onto private lands that connect to the different trails and the multimodal use that occurs that is not allowed. Town Manager Dennis said the scope of the problem is not yet known and there will be ongoing discussion with the Ranch regarding this issue. In response to Councilmember Hughes’ question, Town Attorney Silver said a fee owner may not impair use of a trail easement. Councilmember Aalfs said the Town Hike will be held on November 3. Councilmember Aalfs said the PCE met with Moody’s, pursuing a credit rating. He said they also discussed a possible PCE rate change, rebates, etc.

Vice Mayor Wengert – None to report.

(9) Town Manager Report – Town Manager Dennis reported that because of the three burglaries that took place over the weekend, additional patrol is being provided by the Sheriff’s Office and an additional ALPR camera system will be placed on Westridge. He reported that the Portola Valley School District, Woodside Priory, and the Town will share the cost of a crossing guard in two locations – at Portola and Brookside in the afternoon and Portola and Alpine in the morning. The Finance Committee is scheduling an upcoming meeting to discuss a few items, including looking into banking options. There will be an all-committee meeting in October. Town Hall will be closed Wednesday, August 29, for a staff development day, focusing on communications. Town Manager Dennis will be scheduling a meet and greet with the community for the new Planning Director and Finance Director. He is talking with the Fire District to better coordinate development issues – such as the Fire District requiring removal of vegetation that was Town-

approved for screening. Due to lack of a quorum, the ADU study session with the Planning Commission scheduled for September 19 will be rescheduled to a special meeting within the same timeframe.

WRITTEN COMMUNICATIONS

(10) Town Council Digest – August 9, 2018

None.

(11) Town Council Digest – August 16, 2018

#4 – Bay Area Air Quality Management District with Request for Support for “Diesel Free by ‘33” Campaign. Town Manager Dennis noted this item will come before the Council at its September 13 meeting.

ADJOURNMENT [9:38 p.m.]

Vice Mayor Wengert adjourned the meeting.

Mayor

Town Clerk