# PORTOLA VALLEY TOWN COUNCIL REGULAR MEETING NO. 977, OCTOBER 23, 2019

# **CALL TO ORDER AND ROLL CALL**

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 Maryann Derwin, Craig Hughes, John Richards; Vice Mayor Jeff Aalfs;

Mayor Ann Wengert

Absent: None

Others: Jeremy Dennis, Town Manager

Cara Silver, Town Attorney

Liz Rider, Contract Building Inspector

Sharon Hanlon, Town Clerk

# **ORAL COMMUNICATIONS**

Kjell Karlson, resident of Los Altos Hills, reported to the Town Council that Los Altos Hills just signed their new 15-year contract with GreenWaste and new service has begun. He said he understood Portola Valley was looking into a new contract with GreenWaste and he wanted to share his unhappiness with their service such as toppled over waste bins. He said their service does not work for such a rural town.

### **CONSENT AGENDA**

- (1) **Approval of Minutes** Town Council Regular Meeting of September 25, 2019. [Removed from the consent Agenda]
- (2) **Recommendation by Town Manager** Post Public Safety Power Shutoff Survey. [Removed from the consent Agenda]
- (3) Ratification of Warrant List October 9, 2019, in the amount of \$143,702.63.
- (4) Approval of Warrant List October 23, 2019, in the amount of \$434,407.79.
- (5) Reappointment by Mayor Member to the Bicycle, Pedestrian & Traffic Safety Committee
- (6) Recommendation by Planning and Building Director Contract Amendment with Good City Company for Contract Planning Services
- (7) Recommendation by Town Manager Town Response to Grand Jury Report on Electrical Fleets
- (8) **Recommendation by Town Manager** Response to Grand Jury Request: Soaring City Pension Costs Follow-Up from 2017-'18 Report
- (9) Recommendation by Public Works Director Job Class Specification Recreational Facilities Coordinator-Worker

Vice Mayor Aalfs moved to approve Items 3 through 9 on the Consent Agenda. Seconded by Councilmember Hughes, the motion carried 5-0, by roll call vote.

(1) **Approval of Minutes** – Town Council Regular Meeting of September 25, 2019. [Removed from the consent Agenda]

Vice Mayor Aalfs moved to approve Item #1 as amended. Seconded by Councilmember Richards; the motion carried.

(2) **Recommendation by Town Manager** – Post Public Safety Power Shutoff Survey. [Removed from the consent Agenda]

Vice Mayor Aalfs moved to approve Item #2 as amended. Seconded by Councilmember Richards; the motion carried.

### **REGULAR AGENDA**

(10) Recommendation by Planning and Building Director – Award for Contract for Stanford Project FIR

Vice Mayor Aalfs recused himself because he is working on a project for Stanford.

Town Manager Dennis described the background, discussion items, and fiscal impact of contracting with an Environmental Review Consultant for the Stanford Project, as detailed in the staff report. He introduced Scott Gregory, president of consultant firm Lamphier-Gregory, who was available to answer questions. Staff recommended that the Town Council adopt a resolution approving a contract in the amount of \$220,350 with Lamphier-Gregory for the preparation of an EIR for the Stanford "Wedge" project.

Mayor Wengert invited questions from the Council.

In response to Councilmember Hughes' question, Town Manager Dennis said the \$220K would be passed through to the applicant.

With no further questions from the Council, Mayor Wengert invited questions from the public.

Caroline Vertongen. Ms. Vertongen asked when the public would be able to voice their comments regarding the Stanford project. Town Manager Dennis said the project will first go to the Planning Commission before it reaches Council level. He expected it to be heard by the Planning Commission early next year.

Mary Hufty. Ms. Hufty expressed concern of possible fires in that area. She suggested the fire report must be front and center for Westridge and the Wedge.

Mayor Wengert moved to approve the proposed contract. Seconded by Councilmember Richards; the motion carried 4-0-1, with Vice Mayor Aalfs abstaining.

### (11) Request from the Conservation Committee – Letter to MROSD

Marianne Plunder, Conservation Committee member, requested on behalf of the Committee that the Council send a letter to the Board of MROSD at the request of the Vegetation subcommittee of the Ad Hoc Fire Prevention Committee. The Committee provided a draft letter for the Council to consider.

Mayor Wengert invited questions from the Council.

Councilmember Derwin asked what would happen if MROSD did not respond to the letter. Mayor Wengert said she would, as Mayor, make a follow-up phone call to MROSD.

Councilmember Richards moved to approve sending the proposed letter to the MROSD. Seconded by Councilmember Derwin; the motion carried 5-0.

### **PUBLIC HEARING**

- (12) Public Hearing First Reading of Ordinance to Adopt the 2019 California Building Code
  - (a) First Reading of Title, Waive Further Reading, and Introduce an Ordinance of the Town Council of the Town of Portola Valley Amending 15.04.20 [Amendments to the Building Code], and 15.04.030 [Administration of the Building Code] of Chapter 15.04 [Building Code] of Title 15 [Building and Construction] of the Portola Valley Municipal Code to Adopt an Updated Building Code of the Portola Valley Municipal Code (Ordinance No. \_\_\_)

Town Manager Dennis introduced Contract Building Official Liz Rider, who presented the background, discussion items, and fiscal impact of the proposed ordinance, as detailed in the staff report. Staff recommended the Town Council review the ordinance, receive public comment, waive reading and introduce the attached ordinance amending Chapter 15.04 [Building Codes] of Title 15 [Buildings and Construction] of the Portola Valley Municipal Code to adopt the updated Building Code.

Contract Building Official Rider pointed out that not much had changed to the code. She said all had been adopted by the Town except for Exception 2, which read as follows: "Where the dwelling or townhouse is equipped with an automatic sprinkler system installed in accordance with P2904, sleeping rooms in basements shall not be required to have emergency escape and rescue openings provided that the basement has one of the following: 2.1 One means of egress complying with Section R311 and one emergency escape and rescue opening. 2.2 Two means of egress complying with Section R311."

Contract Building Official Rider said staff felt that this exception would allow the unsafe condition of basement level bedrooms without egress windows. She said residential basements in Portola Valley are often extensive, including living spaces and bedrooms and can exceed 3,000 square feet. In the case of a fire or disaster event, adequate rescue openings are critical in large basements to allow the occupants to safely escape or be rescued by emergency personnel. Therefore, staff recommended that this section not be adopted.

Mayor Wengert invited questions from the Council.

Vice Mayor Aalfs asked for comments regarding the pursuit of an energy reach code, which is largely centered on electrification of new buildings. Contract Building Official Rider said electrification of buildings removes the option of having natural gas and some also remove the propane option. She said it should be considered that electricity costs more than gas. She said the reach codes being adopted throughout Northern California are much targeted to single-family homes and not multi-family and commercial. She also pointed out that most of the research has been done by companies employed by PG&E. She said the rolling blackouts should also be considered because they leave homes subject to complete shutdowns if they have no gas. She said the County of San Mateo adopted a reach code that allows gas in kitchens.

Vice Mayor Aalfs said the Ad Hoc Fire Committee has discussed fire reach codes including things like banning wood shake roofs. He asked Contract Building Official Rider if she's seen any similar fire reach codes. Contract Building Official Rider said some cities have gone with Wildland-Urban Interface (WUI) maps where the State has not adopted it. She said Sausalito had no Wildland Urban-Interface at all and their Fire District recently made the entire city subject to those requirements, which are strict for new construction, remodels, and additions. She said that is a form of a reach that the Fire Districts are doing.

She said Chief Enea feels very strongly about, for example, having no combustible material within 3 feet of the ground, which is beyond the WUI Code.

Contract Building Official Rider said she has traveled extensively throughout the United States and the State of California is far and beyond where other states are with regard to green energy and the energy code. She said the State is doing well with the base codes, which provide a good environment product. She said the base code plus the proposed amendments create a very good base to provide safety for the Town's environment.

Mayor Wengert invited comments from the public. Hearing none, she brought the item back to the Council for discussion.

The Council supported the proposed ordinance unanimously. Councilmember Derwin added that she would like to further discuss the fire reach codes. Vice Mayor Aalfs added that he would like to discuss the fire reach and energy reach codes.

Councilmember Derwin moved to adopt the 2019 Building Code, First Reading of Title, Waive Further Reading, and Introduce and Ordinance to the Town Council amending 15.04.20 [Amendments to the Building Code] and 15.04.30 [Administration of the Building Code] of Chapter 15.04 [Building Codes] of Title 15 [Buildings and Construction] of the Portola Valley Municipal Code to Adopt an Updated Building Code of the Portola Valley Municipal Code. Seconded by Vice Mayor Aalfs; the motion carried 5-0.

### (13) Study Session – Short-Term Rentals in Portola Valley

Town Manager Dennis led a PowerPoint presentation describing the background and discussion items regarding short-term rentals in Portola Valley, as detailed in the staff report. He pointed out that the Town does not generally regulate short-term rentals except in the case of ADUs. Staff recommended that the Town Council receive the report and provide feedback to staff on next steps.

Mayor Wengert invited questions from the Council.

Councilmember Richards asked if there was a way to get detailed information over a short period of time rather than subscribe to a new service for an entire year. Town Manager Dennis said he was not sure a short-term contract would be helpful because the data may not change considerably in a two- or three-month period. Town Manager Dennis said AirDNA may be sufficient for the next year.

Councilmember Richards asked how much staff time would be required to manage, collect tax, etc. Town Manager Dennis said there would probably be a time issue if requests for code enforcement ramp up, because the Town does not have a dedicated code enforcement officer.

Councilmember Hughes asked what would be involved to add a transient occupancy tax (TOT). Town Attorney Silver said that such a tax would require voter approval. If it were a general tax where the revenue could be used for any purpose, it would require a 50% + 1 vote. If the tax revenue was allocated toward a particular purpose, it would require a 2/3 vote. Councilmember Hughes asked if a transient occupancy tax was implemented and approved by voters, the major agencies (Airbnb, VRBO, etc.) would apply the tax, collect, and remit to the Town so staff time would not be excessive. Mayor Wengert said the homeowner has to remit the tax, not the agency. Councilmember Hughes asked if the Town could just get a list from the rental agencies instead of the Town going to the expense of upgrading to the more expensive monitoring software. Mayor Wengert said the rental agencies can provide that information, but at substantial cost.

Councilmember Hughes asked what the range of TOT rates are in the area. Town Manager Dennis said the low end is 10% in San Mateo County and the highest may be close to 16%.

Councilmember Derwin asked if the Town was getting any complaints about short-term rentals. Town Manager Dennis said they receive a few a year and when they do receive one, a staff member goes out and investigates. Councilmember Derwin asked if there any penalties assessed for violations. Town Manager Dennis said, broadly speaking, the Town's Civil Penalty Code needs to be updated and modernized. He said the spirit of the Town is they go out and have multiple conversations with people before even considering a penalty.

Councilmember Derwin asked if ADUs are being tracked. Town Manager Dennis said staff has a pretty good list of the ADUs that have been built through the permit process. He said there are likely some ADUs existing that are not listed. Councilmember Derwin said that information will be needed for the next RHNA.

Mayor Wengert asked about the TOTs in the surrounding municipalities. Town Manager Dennis said Redwood City, Half Moon Bay, Los Gatos, and Cupertino collect 12% on gross receipts for 30 nights or shorter; Sunnyvale is 12.5%; Pacifica collects 9.5%; and Woodside doesn't have one.

In response to Councilmember Hughes' question, Town Manager Dennis said TOTs tend to pass easily. He said all of those cities have hotels so this would be a different conversation with the community about the tax. Town Attorney Silver said any general tax has to be put on a November even-year ballot to correspondence with a Council election.

With no other questions from the Council, Mayor Wengert invited questions from the public.

Judith Murphy, 8 Portola Green Circle. Ms. Murphy said it is interesting to look at the issue theoretically, but if people are not complaining she is concerned the Town is trying to fix a nonexistent problem. She suggested it may be a disproportionate cost in time, money, and software if it's really not a problem. She said the Town does not have a reliable history of enforcement and she is concerned about creating more rules that will not be enforced.

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

Town Manager Dennis said he was happy to use the AirDNA tool, having no conception of what the issue might be in town. He said compared with other communities, Portola Valley does not have many. He said that may change in a short period of time, however, and he thinks it is important to track it on some level regardless of whether or not complaints are received.

Mayor Wengert said she agreed that if the Town is not willing and able, or does not have capacity to monitor and enforce, the potential incremental revenue would not be the reason to do it. She said there will likely be more transient residences. She said there are also homes being used as transient residences that cannot be captured by any software. She said the issue of enforcement is very tied to the issue because of the amount of resources that would be necessary to make it effective.

Mayor Wengert recommended merging this issue with the upcoming enforcement discussion and workshops.

Town Manager Dennis said there is the issue of code enforcement related complaints and also the issue of unregulated business activity, which are different. He said he has not seen any evidence that the TOT affects occupancy and it is not something that will affect the person who runs the short-term rentals.

Mayor Wengert said she was not terribly in favor of a software solution. She said the biggest issue is staff's time allocation.

Councilmember Richards said he has not seen much evidence that there is an issue at this time; however, he agreed that will likely change. He said the biggest impact will be traffic and potentially noisy parties, etc. He said he is more in favor of a take it slow approach, continuing to monitor it, and potentially finding better monitoring sources. He agreed that the TOT will not have a big effect on the rentals. He also agreed it should be rolled into the upcoming discussion of code enforcement. He was more supportive of being cooperative with neighbors rather that making new rules and setting up a hit squad.

Councilmember Hughes agreed that the \$100 a year monitoring software gives some very basic information about the 1% of properties in town that are used as short-term rentals. He said it would not be a problem even if that number of rentals doubled to 2%. He said the problem will be individual tenants or individual problem properties. He said in terms of traffic, if a second unit is being rented out, that could create more traffic, but if the main house is being rented out, it's not increasing traffic unless there are large parties. He said because it's not that common of an issue in town, it is less an enforcement discussion and more in the discussion of future revenue sources. He said if an occupancy tax of 10% could easily be \$60,000 or \$70,000 per year, which would help pay for enforcement if necessary. He was supportive of a little bit of staff time to think about what would be involved in an occupancy tax, an appropriate rate, how much data the rental agencies could provide, the process for collecting the tax money, etc. Councilmember Hughes said, with regard to enforcement, he agrees with Councilmember Richards about having neighbors talk to neighbors.

Councilmember Derwin said the regulation of 30 days or more is being violated regularly. She met with a citizen concerned about a house on her street where the owners were renting another property and renting out their own home, the unpermitted ADU, and a junior ADU in the house. The house is on a very narrow street and it has created an issue. The citizen requested that the Town require registration, the TOT tax, and have a penalty structure. She suggested looking at the ordinances in Truckee or Tahoe/Donner.

Councilmember Derwin said ADUs will be necessary for the next housing element and it will be necessary to know where the ADUs are located and if they are actually being rented. She said short-term rentals should be discouraged in favor of long-term rentals, such as to teachers. Councilmember Derwin said she was not sure now is the correct time, but this will be a necessary path at some point.

Vice Mayor Aalfs said he has heard concern about short-term rentals but has not heard any stories such as Councilmember Derwin's story. He said he is not in favor of being too aggressive on this issue and suggested more legwork be done to figure out the contours of the issue.

Mayor Wengert said she was supportive of not having to do more enforcement. She agreed the revenue being left on the table by having no TOT is an issue because it strains services in different ways. She said, however, the TOT will require a fairly significant administration process. She described the process in Placer County.

Councilmember Hughes said it is possible that a TOT could be set up that the rental agencies could manage. Mayor Wengert agreed but was not sure that was available.

Town Manager Dennis said his approach is to try to start discussing potential problems before they become real problems. Mayor Wengert agreed but said it should be weighed against staff resources and bandwidth. She agreed with Councilmember Hughes that there will be significant revenues that may be being left on the table. Councilmember Hughes said there may be enough revenue to hire someone part-time to manage the paperwork. He volunteered to research the TOT processes further.

The Council agreed to maintain the AirDNA subscription and directed staff to monitor short-term rental activity and trends, bringing it back to the Council.

In response to Caroline Vertongen's question, Town Manager Dennis said the data was collected from the rental services (Airbnb, VRBO, HomeAway, etc.).

# (14) **Study Session** – Budget Study Session Two –Revenues

Town Manager Dennis described the study session format regarding policy/structural, revenue, and expenditures, as detailed in the staff report. He described changes to the Town's revenues in the last year and potential revenue enhancement measures for future years, although not necessary at this time.

Mayor Wengert invited questions from the Council.

In response to Councilmember Hughes' question, Town Manager Dennis said they do see directories of grants available, noting that monitoring them is the challenge.

Councilmember Richards said, although totally unreliable, public fundraisers have been discussed a lot lately.

Councilmember Hughes asked about ways to promote the fact that the Town is open to accepting private donations for specific projects in Town. Town Manager Dennis said staff has been working for sometime on the concept, and have a draft version, informally dubbed PV Donates. He said many communities have an important donation aspect that tends to be highly targeted at low-hanging fruit (painting benches, removing a tree, fixing a park, etc.).

Councilmember Derwin said a cannabis dispensary could also be a source of revenue.

With no further questions from the Council, Mayor Wengert invited questions from the public.

Judith Murphy said she could not remember ever seeing a public acknowledgment or thank you for bequests. She said it would be encouraging and appropriate to be more graciously largely appreciative of things like that. Town Manager Dennis noted that some donors prefer no publicity.

# (15) **Recommendation by Town Manager** – Committee and Commission Handbook Revisions

Town Manager Dennis presented the proposed revisions to the Committee and Commission Handbook. Staff recommended the Town Council adopt the revisions.

Mayor Wengert invited questions from the Council.

Councilmember Hughes asked it if might be a burden to some of the committees that don't necessarily meet regularly to deal with some of the mandatory calendared meetings. Mayor Wengert said it is a good exercise to ask each Committee to send a representative to a meeting in January as a positive reinforcement. Vice Mayor Aalfs said if a Committee was not meeting in January and did not elect a new chair until spring, they can still send a representative. Town Manager Dennis said some of this is somewhat aspirational.

With no further questions, Mayor Wengert invited questions from the public.

Councilmember Hughes moved to approve the changes to the Commission Advisory Handbook. Seconded by Councilmember Derwin; the motion carried 5-0.

Councilmember Derwin commended the subcommittee of Mayor Wengert and Vice Mayor Aalfs for a very good job on handbook.

(16) **Recommendation by Town Manager** – Council Subcommittee for Town Manager Annual Performance Evaluation

Councilmember Hughes nominated Mayor Wengert and Vice Mayor Aalfs to the subcommittee to manage the annual performance process for the Town Manager. Seconded by Councilmember Richards; the motion carried 5-0.

Town Manager Dennis said at the next Town Council meeting staff will be bringing a recommendation to include the Town Attorney in this process in the future.

# (17) COUNCIL LIAISON COMMITTEE AND REGIONAL AGENCIES REPORTS

<u>Councilmember Richards</u> – Attended Cultural Arts Committee meeting where they discussed upcoming events. He said the Holiday Fair is not happening this year and the participating artists will be going to Woodside instead. They are discussing a potential new music event for next year, possibly coordinating with the picnic, which will include local musicians. He attended the Conservation Committee meeting where they discussed some Stanford Wedge issues, Spring Down path access, a Scout workshop clearing brush from Frog Pond, and cattails in the vernal pond at Spring Down. They are working on five-year plans for open spaces.

Councilmember Hughes – Attended Trails and Paths Committee meeting where they discussed the signage being installed at PV Ranch and the state of trails as winter approaches. The Committee member who serves as a representative on the Stanford subcommittee reported regarding that meeting. He said the Town's General Plan Trails Element includes suggested trails for the Stanford property if it was ever developed. He said Stanford has proposed a couple of trails that are not included in the Trails Element. It appears, however, adjustments can be made to work better with the Town's General Plan. He said there was some question about how the trails would connect with the surrounding property. He said the Trails and Paths Committee was generally appreciative of the direction of how things are going. They also discussed the impact to trails of any potential development of the road remnant property next to the Frog Pond and it was generally agreed that any development on that property would have a negative impact on the trails because that piece of land is a sort of entryway to a number of other broader pieces of the trail system. The Trails and Paths Committee formed a subcommittee to write a recommendation to the Council that will likely come around the same time as the Ad Hoc Committee's report. They also had an update discussion on the Council Subcommittee on Committee Support report which they appreciated.

Councilmember Derwin - Attended C/CAG meeting where they gave awards to children who created posters for International Walk to School Day; heard the report from the Countywide Integrated Waste Management Plan Five-Year Review Ad Hoc Committee; reviewed money from State Improvement Transportation Program (SITP); sent money to 101 Managed Lane Project; and discussed the inability to create subregions for the RHNA Cycle 6 which begins in 2023. She said the little cities will work with 21 Elements to get through the daunting RHNA process. Councilmember Derwin said the numbers are at least 50 to 200 percent higher and there is different methodology, fewer eligible housing sites, more stringent analysis of housing sites, and likely rezoning. Town Manager Dennis said if the numbers turn out to be as bad as projected, it will not be possible to meet those using ADUs and there will be other tools necessary to meet the requirements. He said in most cities that is multi-family zoning but not for Portola Valley. Councilmember Derwin said the penalties for not having the housing element certified are also much worse - \$10,000 a day, taking away State monies, etc. She said they are now wanting the richer cities to take more of the very low and low numbers and the disadvantaged communities to take more of the moderate numbers. Councilmember Derwin was elected as a Board Member of the San Mateo County Express Lanes JPA for a two-year term and attended her first meeting. She attended the Flood and Sea Level Rise Resiliency (FSLRR) District meeting where there was a presentation by the SF Estuary Institute, Faster Bay Area sales tax initiative, member guidelines, etc. She attended the Resource Management Climate Protection (RMCP) meeting where BAWSCA provided a Water Conservation Program Update, Regional Smart Controller Program using the Rachio smart controller, new legislation

requiring long-term water use reduction, and V2X (vehicle to grid) energy. She attended the State of the Estuary Conference in Oakland.

<u>Vice Mayor Aalfs</u> – Attended fire safety meeting at the school district where they impressed upon school staff to keep parents away from campus during any type of evacuation event and they worked on evacuation plans. He attended the Ad Hoc Fire Committee meeting where they put together the collected recommendations. He said the PCE has been watching the PG&E shutdowns like everyone else because PG&E is not sharing consistent information. He said San Jose Mayor Sam Liccardo has publicly said the city should consider creating their own power grids.

<u>Mayor Wengert</u> – Attended the previous Bicycle and Pedestrian Advisory Committee (BPAC) meeting but will be unable to attend the next meeting, where they will review all of the grant applications. She and Councilmember Richards attended the Hawthorns meeting where it was finally made clear that the staff at MidPen were the applicants and all applicants are treated the same. She attended the San Francisco Roundtable. She said the airport was a week early in reopening the runway. She said traffic is down domestically and up internationally. She said the Inspector General of the U.S. has done the first ever review of the Next Gen Metroplex and all have positive benefits except for Northern California, which has a negative impact. She said the regional group is proceeding. She attended the Finance Committee meeting where the primary topic was the OPEB options. She attended a school district meeting regarding the Stanford project.

(18) <u>TOWN MANAGER REPORT</u> – Town Manager Dennis reported that there may be another power safety shut off by PG&E this weekend. Ray Williams, the liaison to the Mosquito Abatement District said they've received, for the second time in a row, a Financial Officers Association Award on their audit. Town Manager Dennis said that at the next Town Council meeting he and Town Attorney Silver will provide a very intense update on housing bills. He said there have been a few weekend car break-ins of cars at Ford Field. He said staff is coming back on November 13 to discuss leaf blower incentives. He said they have revised their flyer to reflect that there will be a prohibition against gas-powered blowers in 2021.

# WRITTEN COMMUNICATIONS

(19) **Town Council Digest** – September 26, 2019

None.

(20) Town Council Digest – October 3, 2019

#5 – Invitation to the October Council of Cities Dinner Meeting, Friday, October 25, 2019. Mayor Wengert will attend.

(21) Town Council Digest – October 11, 2019

None.

(22) Town Council Digest – October 17, 2019

None.

### **ADJOURN TO CLOSED SESSION** [9:35 p.m.]

(23) **CONFERENCE WITH REAL PROPERTY NEGOTIATORS:** Gov. Code Section 54956.8) Property: APN: Agency Negotiator: Jeremy Dennis, Gregory J Rubens Negotiating Parties: Goodstein Family Partners

Town Clerk

# Under negotiation Transfer of Property to Town Ownership

Mayor

# None. ADJOURNMENT [9:53 p.m.] Mayor Wengert adjourned the meeting.