

**PORTOLA VALLEY TOWN COUNCIL SPECIAL MEETING NO. 1023, December 8, 2021**

**CALL TO ORDER AND ROLL CALL**

Mayor Derwin called the Town Council's Special Teleconference-only meeting to order at 7:00 p.m. Ms. Hanlon called the roll.

Present: Councilmembers Jeff Aalfs, John Richards, and Sarah Wernikoff; Vice Mayor Craig Hughes and Mayor Maryann Derwin

Absent: None

Others: Jeremy Dennis, Town Manager  
Cara Silver, Town Attorney  
Laura Russell, Planning & Building Director  
Sharon Hanlon, Town Clerk

Attendees: Rita Comes  
Karen Askey  
Dale Pfau  
Bob Turcott  
Ellen Vernazza  
Robert Younge  
Ronald Eastman  
Kristi Corley  
Rusty Day  
Marianne Plunder  
Zachery Ross  
Helen Wolter  
Kathy Gutner  
Tom Hafkenschiel  
Danna Breen  
MJ Lee  
Alyson Wood Illich  
Karen Vahtra  
Roland Crawford  
Janey Ward  
Bill Hendricks  
Dr. Leslie Field  
Kathy Gurtner

**ORAL COMMUNICATIONS**

Rita Comes commented that the file is very large, and some may have a delay in opening it. She wondered if the Oral Communications could last a little longer for residents to make comments, since the file is not easy to open.

Karen Askey thanked the Council for their time and efforts in focusing on all of Portola Valley's issues. She commented that her belief is that a strong democracy relies on and welcomes engagement of its constituents, and she feels the Councilmembers believe that as well. She continued by saying there is an elephant in the room, as many residents are not feeling heard and that their concerns are quickly dismissed. She has heard that folks have written letters and not received responses, neighbors asking to be more involved and engaged in town initiatives and feeling shut out. She has witnessed almost a form of bullying or intimidation in committee meetings as well. She said the recent petition shows the collective

effort for all voices and thoughts to be counted and serves as a mechanism to ease concerns of residents on how to speak up. She said perhaps the online meetings are one of the reasons for this. Technology glitches or user errors can interrupt the process, and the impact of the group of residents is not felt as much when they are tiny images behind a screen. Ms. Askey felt three minutes maximum to speak and share thoughts without interactive dialogue made it easy to feel that nobody cares. She wondered how to improve dialogue and participation and felt that in-person meetings are a start. She suggested that although the Council asks residents to reach out to them, they might improve on reaching out to everyone by surveying all residents on the issues before them, including fire safety and evacuation and housing issues. She advocated making it easier for residents to state their opinions, possibly anonymously. She also suggested a Town Hall, with more interaction where residents are able to ask questions and get answers to them. She would appreciate the Town sending out all of the letters received from residents, perhaps in an eNotice subscription page. She said when a letter from a resident is deep within an agenda it is public but seems hidden and not easy to find. She said there is safety in numbers. While she might be afraid to voice an opinion individually, if she sees another resident voicing an opinion, she agrees with it may help her to speak up as well. Ms. Askey commented that fire safety should be their number one priority and should not be about meeting legal obligations but about being as prudent as possible. Fire doesn't distinguish between a town that has designated itself as a high fire danger and one that hasn't. Insurance companies have figured out who is at higher risk than others, and they have Portola Valley under their thumb. She felt they should ask quickly, exercising emergency orders or amending fire safety checklists that get them in front of the curve instead of playing catch-up. Although it is more work in a very short timeframe, she said they could do it together, and she is happy to help.

Town Manager Dennis pointed out the Town does post on the website on a weekly basis all letters sent to all Councilmembers. He said they can be found by going under "Town Council" and looking for the Weekly Digest, which is where all letters to all Town Councilmembers can be seen, whether received by mail or electronically. Also, letters received prior to the meeting which have to do with the Council meeting are under "Correspondence After Agenda Publication." He encouraged residents to go there on a weekly basis to see letters received collectively. Mayor Derwin added that residents are always welcome to reach out to Councilmembers to talk over coffee or meet with Town Manager Dennis or other staff.

Dale Pfau wanted to state clearly that wildfire is an existential threat to the residents of Portola Valley. The town exists on the Wildland Urban Interface, and their love of the natural beauty surrounding them makes them vulnerable to catastrophic wildfire. Regardless of the maps looked at or what they want to do with them, the fact is that significant portions of Portola Valley are in very high or high fire danger areas. Insurance companies have figured this out and are therefore leaving. He said they must do all they can to educate neighbors and residents about the dangers of wildfire, mitigate the risks they can, and must also take whatever steps they can to decrease future risk. The most conservative position would be to put a moratorium on all new development until they can get a new set of building and fire ordinances implemented, which is a slow process and lags the science. He mentioned the recent state laws and said without some local requirements to reduce fire danger Portola Valley will be exponentially less safe. Although he is a strong proponent of personal property rights, fire only cares about moving. He said everything the Town has done so far is good and necessary, but not sufficient. One of the things that has not been addressed is building separation. He referred to the fire report out of Paradise advising that building separation should be about 69 feet. The codes the Town is looking at say 30 feet, and he feels they need to put an emergency ordinance in to make building separation as one of the highest priorities of the Town. He has heard negative comments about process and that it's complicated. He feels it is not complicated. It is safe or less safe, and it must be done. He said they have a process, and fire codes are coming, but that is a year away, and they must do something sooner rather than later.

Mayor Derwin reminded the group that oral communications are for items not on the agenda.

Town Attorney Silver addressed Mr. Pfau's point regarding a moratorium to guard against wildfires and to address some of the state laws, which is very rational and logical, but unfortunately, the State has placed many restrictions on the ability for towns to adopt moratoriums related to housing, and those moratoriums must now be approved by the State. She said they feel at this point that would be a long shot.

Bob Turcott commented on the nature of resident engagement and the need for civil debate. He said in his profession, life and death decisions are made multiple times a day under difficult circumstances and enormous time pressures. Where the stakes are high, a culture has developed that encourages vigorous scrutiny and candid, forthright debate. Competing viewpoints are directly challenged and the quality of the data on which they are based is typically an object of focus. No one is offended by these challenges. The stakes are high, and such debate is the most effective way to reach good decisions. Collegial relationships are maintained because all realize that the arguments are over the subject matter, not the people. He said wildfire does pose an existential threat to the community. The decisions made by the Council will impact the life safety of the community and its residents for decades to come, no less than decisions made in ICUs. The Council should welcome and embrace scrutiny and debate, which is the only way of arriving at the best decisions. In the last several months, he said, three Councilmembers indicated discomfort with the challenges he has raised. He reached out to at least two of them after hearing about this. He connected by phone with one member and had a productive conversation. He said if his comments offend, he encouraged Councilmembers to contact him directly to discuss. If he has diverged into the personal, he said the person deserves an apology and he deserves the opportunity to take ownership of his mistake. Mr. Turcott said that what he would not apologize for is the vigorous challenge to policies that unnecessarily jeopardize public safety. Nor should the Councilmembers show offense at this, because to do so is to suggest that decisions and policies are above scrutiny. The issues are complex, and he feels they need a forum in which competing perspectives can be explored. A series of unidirectional communications, as they have now, is not effective. He thought they should consider a townhall-style event as suggested by Ms. Askey, or perhaps a moderated debate. He thought they needed more resident engagement. While the goal of the petition the Council received is a safe implementation of SB 9, the petition has already had beneficial effects. He said he has lost count of the number of times he has heard similar stories. He thanked the Council for doing this and said he has been worried sick about this and thought he was the only one. He said the Town Manager was appropriately delighted when the number of subscribers to Portola Valley's Housing eNotice was reported to be 403. He said anyone who values community engagement should similarly celebrate the support the petition has garnered, with over 550 members of the community publicly putting their names forward, asking that fire safety be prioritized. He said that is equivalent to almost 9,000 residents of Palo Alto. He advocated creatively exploring more effective ways to engage residents and work through these complex and important issues, and he looks forward to doing so with the Council and the community.

Ellen Vernazza asked that before the Council makes any quick decisions that will affect the safety of the town that it first requests and adopts updated identifications of high and very high fire hazard zones within the town from actual fire experts, such as Cal Fire, Woodside Fire District and professional fire safety consultants, and not rely on designations made by unqualified, non-professional fire science experts. She said the citizens of Portola Valley have chosen not to live in a city environment such as Redwood City, Menlo Park or Palo Alto. They live by choice in a town surrounded by grassland, trees and vegetation. She said it seems that the powers that be do not recognize or acknowledge the differences between these two landscapes when making decisions regarding their fire safety and building codes. She asked what the Town's legal liability was to Portola Valley residents and neighboring towns such as Woodside and Las Altos Hills should a fire situation originate in Portola Valley due to the allowance of unsafe building practices resulting from either not requesting or ignoring recommendations from qualified fire professionals.

Mayor Derwin advised that this question could be asked offline, or she could ask the question under one of the agenda items.

Ronald Eastman wanted to add to Ms. Askey's and Mr. Turcott's comments regarding community involvement in decision-making. He said on the petition for public safety that was taken up by the Fire Safety Committee yesterday, there were several members of the American Academy of Sciences on the list. One name he saw was the name of one of the top securities lawyers in the country. He said the suggestion was made that the 16 percent of the voting population of Portola Valley that signed the petition did not know what they were signing. He said this community represents one of the greatest brain

trusts in the country. He said he believes that getting people involved and utilizing their expertise in difficult matters would benefit them all.

Kristi Corley thanked the Mayor and Councilmembers for their volunteer time and care for the community. She said they love this town and all the nature within the nine square miles. She said SB 9 has serious implications for Portola Valley. She has been asking for SB 9 and SB 10 communication and education for Portola Valley since June of 2021 and probably prior to that. She said SB 9 allows the parcel split, and an owner can sell off a parcel with a quick approval. She asked, then what? Every time she asked the Council to educate residents on SB 9 in her public comment there was no response, or silence. She wondered why residents feel not listened to in town anymore and if the communication is the best, it can be. In June of 2021, she attended the Woodside Town Council meeting since they are the neighboring town. She thought maybe they cared about this topic. She asked about the SB 9 bill at the end of the Council meeting, explained it very quickly, and they felt what she had to say was important. The Woodside Town Council wrote a letter that very day to a committee at a state level in Sacramento. She said the Woodside Town Council acted immediately because they realized the gravity of SB 9 and what it could mean to their community. She was shocked that at the December 1<sup>st</sup> Planning Commission meeting last week, as there was no mention of the SB 9 urgency ordinance. She wanted to get the ordinance early and take her time reading it and compare it the ordinances of other cities, but there was no discussion of SB 9 and no public comment heard. She said she feels the Planning Commission involvement was sidestepped and the resident community involvement was sidestepped. She felt they should have consultation of the Planning Commission on a new ordinance. She said the Planning Commission is a body of citizens that serve within the local government acting as an advisory to the municipal governing body on issues and policies related to planning, land management and community development, which involved community input and active listening. The Portola Valley public was in the dark on the ordinance until 8:00 p.m. Saturday night when a 1,000-page agenda was delivered to the residents, leaving only three days to review the paperwork. She concluded saying they love this town, and they want to have a voice that will be valued.

Robert Younge said he appreciates the Councilmembers, the Mayor and staff and fire officials for what they do for the town. He has lived in Portola Valley for over 30 years and has raised his family here and enjoyed it greatly. He grew up in a small town in western Colorado, and this environment was one that he could be comfortable in. He said he no longer is comfortable here. A year ago he realized how great the fire risk was in the area. He was concerned what the Town was doing and wrote a letter to the Mayor and the Council expressing the fact that he felt this was the number one issue that the Town Council and Mayor should have, and that it posed a significant threat to life of people in Portola Valley. He said with the increasing effects of climate change there is no doubt that things will get worse. The wind conditions will pick up in Portola Valley, although some continue to deny that. He said he appreciates what the Town Council has done, especially what the Emergency Preparedness Committee has done pertaining to fire. He said he has fire hardened his house to the ultimate degree, and Woodside Fire has helped him immensely, giving him advice which he has taken with great gratitude and done everything he can do. He has organized his neighborhood and helped people with their preparations and organized what they can do in times of urgency, such as evacuation. He said he is disturbed that there is not an evacuation study that's been done and that a good citizen of the valley has done an initial one but it has not been reviewed, and it has been touted by the *The Alamac* as proving that they have no risk in the town for evacuation. He said he thinks it is critically important that it be put in the forefront and that something is not published unless it's been reviewed. He also was concerned after much study, realizing that although he has done a lot of hardening of his house, it doesn't really matter. The most urgent thing is separation of structures. He said the Council is voting on something that he feels there has not been time as a town to discuss among each other. Because of the pandemic they have had to meet remotely, and there is no chance of having rapid dialog and exchange and help of people. They have had to instead behave this way. He said 550 people have signed a petition that will illustrate how concerned they are. He said he wished the Council would slow down and consider what they are saying.

(1) **Welcome** – Reverend Jenny Warner, Valley Presbyterian Church

Mayor Derwin was happy to see Reverend Jenny who was at the meeting as part of the initiative Mayor Derwin started to bring people from the faith community to the Town Council meetings. First, they are part of the community. Secondly, they offer a different, deeper perspective and a reminder of their own humanity.

Town Manager Dennis introduced Jenny and said he has had the pleasure of knowing her for almost four years, since she came to town in September of 2017 from Bend, Oregon. He has found her advice and counsel very soothing in times of trouble. He described her as someone who is always welcoming to the members of the community, and always gracious to staff.

Reverend Jenny Warner shared on the topic of neighborliness, invoking the person of Mr. Rogers, for whom she had a particular fondness since he was an ordained Presbyterian pastor. He was commissioned to minister to children and let them know they were loved just as they are. She remarked that his theme song, "Won't You Be My Neighbor?" and "Will you be my neighbor?" She suggested that if you consider this as a sermon, since he was a pastor, that it has been listened to and repeated probably more than any sermon every preached, a powerful message and sermon. She said you could think of it as kind of pathetic and needy in the sense, "I really need a friend," but as she thought about it more she realized it is a very powerful invitation to ask another person to be your neighbor. There is vulnerability to that. There is trust in, "Would you take my concerns as yours, and can I take yours as mine? Can we create a place to live and a neighborhood that works for everyone?" She asked the Council to consider thinking about that song, and across disagreements and divides and issues, the sense of inviting each other to be our neighbors. She hoped to hear and see that the meeting had a little bit of that sentiment in making Portola Valley a place where residents can flourish and grow. She was grateful for the Town Council and staff as well as the attendees of the meeting as part of their caring for the town.

Mayor Derwin was grateful for Reverend Warner's comments and invited comments from the Council and the public. Hearing none, she closed the item.

(2) **Presentation of Proclamation** – Honoring Brandi de Garmeaux on her Thirteen years of Dedicated Service to the Town of Portola Valley

Mayor Derwin read the Proclamation as shown in the Agenda materials, honoring Ms. De Garmeaux for her 13 years of exceptional service to the Town and its residents. Mayor Derwin shared that Ms. De Garmeaux is going to be working as a consultant on special projects.

Ms. de Garmeaux thanked the Mayor for the recognition. She shared that when she was hired by the Town it was her dream job, working on environmental projects and programs that had an impact not only in Portola Valley, but the ability to expand to other cities around the county. She said she has had the opportunity over the years to work on many interesting and impactful projects with residents and colleagues. She has learned much about people, processes and how to seek creative solutions and find a way to get to "yes." She will miss her co-workers the most, as they are what have kept her there so long, but she hopes to continue working on projects for the Town as she moves into this next chapter. She thanked the Mayor, Councilmembers, Town Manager Dennis, Town staff, all of the Committee members she has worked with, and the residents for making her time with the Town so meaningful.

Mayor Derwin invited comments from the Council.

Councilmember Richards said he felt very fortunate to have worked with Brandi over the years. He mentioned one of the projects he was involved with as a Council Subcommittee member was working on a new garbage contract. He joked that these contracts are written by the devil himself because they are so opaque and convoluted. However, Brandi was the lead on the project and was able to cut through all of the confusion and potential pitfalls and help them reach a great conclusion. He said she has also been a key feature at the monthly Emergency Preparedness meetings, making sure that the Town's responsibilities for the Emergency Operations Center worked seamlessly with the Committee's needs,

with PV Ready and Woodside Fire Protection District. He remarked that she was able to take on complex projects and make them look easy, and he has been impressed with her ability to understand and clearly explain detailed, technically complex sustainability initiatives to the Council and to the public. He was glad that she will still be involved as a consultant.

Councilmember Aalfs said that he first met Brandi shortly after she first started. He was working on his own house at the time and transitioning to his career as a green building professional. He said Brandi and he would compare notes on technologies over time. In the 13 years since, he said he has been continually impressed by all of her new skills. He said Brandi moved quickly into being such things as a garbage expert and EOC expert and has learned many aspects of what it takes to run a town. He said it has been amazing working with her and watching her master all of these things. He worries what the Town will do without her but was happy she was not going too far. He wished her well and looked forward to working with her on other projects.

Vice Mayor Hughes thanked Ms. de Garneau and agreed with all previous comments. He said most impressive for him over the years has been how the small staff in Portola Valley was able to have a senior staff member who could jump in and take on whatever project came up across a wide variety of topics and do it effectively in a way that benefits the town. He felt the Town of Portola Valley within the County, State and even wider area has been known since Brandi has worked there as being a leader in sustainability, largely because of some of her efforts. He hopes they can carry this on into the future. He thanked her for all of her service and was also happy that she is not leaving them and wished her success in any future projects she takes on.

Councilmember Wernikoff shared that, sadly, she has never met Brandi in person, because when she came on Council, they were in the midst of COVID. She was sorry they had never had a real chance to work together, but it was clear to her from listening to colleagues and reviewing her progression of titles over the 13 years that she quickly became a reliable jack-of-all-trades, willing to step up and do anything. The group's comments were evidence of the appreciation for her service. She said when someone leaves a job, they want to feel that they have made a difference in some way, and she hoped the comments have made Ms. de Garneau feel that way, particularly related to areas that are a passion of hers – sustainability – and that the difference she made will be long-lasting.

Town Manager Dennis shared that he was saddened to hear that Ms. de Garneau would be leaving. When he started with the Town, he turned to her very early on to help him be a better manager and the best Town Manager he could be. He said Brandi helped him every step of the way. He said the phrase "other duties as assigned," described her ability to move between disparate projects with grace and knowledge and has been an example to all of them and impressed him every day. He said knowing and working with her has made her a better boss and a better person. He said he would miss her and is very proud of the work they have done. He also was happy that she would still be around to work with them.

Mayor Derwin invited comments from members of the public.

Fire Chief Rob Lindner commented on behalf of the Fire District, congratulating Ms. de Garneau and thanking her for all she has done to keep the line of communication between the Town and the Fire District so positive over the years that he has been involved in mutual projects, especially on public education, public information, and emergency preparedness. He wished her the best in the future.

Megan shared that Ms. de Garneau has been a jewel to the town, in her intelligence, her activism and incredible dedication to all of them. She wanted her to know that she is much appreciated, and she is proud to have known her.

Town Manager Dennis introduced and welcomed a new member of the team, Melvin Gaines, who has been on staff for eight days as the Assistant Town Manager.

Mr. Gaines said he is glad to join the Portola Valley team. He has felt nothing but welcome, from the Council, many members of the staff, and community members, whom he has had opportunities to converse with, take walks with, and learn about the town. He said everyone has made him excited to be there, and he looks forward to getting to know individuals better and, more so, to understand the community better and learn how they can serve the community better as a Town. He said, not that there is anything wrong with the way the town has been served, but he is an advocate of continuous improvement and is looking forward to helping the town continuously grow. He has been working in local government for about ten years, previously in the City of Mountain View for about five years, and in East Palo Alto for the five prior years, in various capacities. He sees himself a generalist and likes to dabble and dabble into various different issues, led by a desire to help, a desire to listen and be somewhat of a translator, taking complex or simple matters and help people build a greater understanding of issues, have dialog and move forward. He was happy to be with the Town and see 80-some members of the public attending on a Wednesday evening. He hoped to listen, observe and learn.

Mayor Derwin welcomed Mr. Gaines and added her comment regarding Ms. de Garmeaux, mentioning that when she came on in 2008 there were very few sustainability managers in the County, possibly in the state or even the country. Global warming was a controversial term, and Brandi pushed ahead with every sustainability measure that they took on. She spent much time working with her, travelling with her and in the County she was greatly respected, and Mayor Derwin was always proud to be with her. She thanked her again for her remarkable job and wished her well in her new consultant role.

Ms. De Garmeaux thanked everyone for their comments.

(3) **Presentation** – Volunteer of the Year Award

Mayor Derwin noted that they haven't done this for a few years, but she was excited and pleased to announce the Volunteer of the Year for 2021, Rebecca Flynn, for her incredible volunteer work, but mostly for establishing, maintaining, monitoring and being the general caretaker of the PV Forum, which has become a town institution. Mayor Derwin read a comment from Kari Chinn, Communications Analyst, which was published recently. "Rebecca has been a long-time volunteer and a vital part of promoting respectful neighbor-to-neighbor conversations in Portola Valley. It all started in 2004 when she joined the Town Parks and Recreation Committee. Since then she has volunteered her name on the Town Center Planning Committee, the Water Conservation Committee, the Sustainability Committee, all committees that were tackling big issues. She also helped create community gathering places as well as making Portola Valley more resilient to climate change. Almost every town resident knows about the PV Forum and has benefitted from its existence. Rebecca is the person who founded, created and has moderated the Forum for almost 18 years." Mayor Derwin said she was surprised that the Forum has been around this long, but it has become an institution. Ms. Flynn launched the Forum on April 8, 2004. In 2018, she moved it to a new platform, and today the Forum has over 3,000 members. Residents have discussed many topics over the years, including emergency preparedness, housing needs, the Town Center project, ADUs, the natural bounty, lost pets (steers, boas and pheasants, for example), how to put a mountain lion in a choke hold or wrestle a rattler, earthquakes, and 911, referrals and recommendations, dog etiquette on trails, native local gardens, exotic travel locations, free fruit, climate change and wildfire, outages and droughts, funny memes and humorous videos, events and theater recommendations, important charities and helpful service projects. And hundreds of other subjects which help inform and bind Portola Valley together. With the new emergencies such as the public safety power shutoffs and the pandemic, the PV Forum has become a virtual tool, a critical touchpoint for both getting information out and helping residents support each other through crises.

Mayor Derwin quoted Ms. Flynn as saying her biggest challenge over the years has been when she has had to step in and remind people to behave respectfully towards one another. She has bravely taken on bullying to make the platform and safe space for everyone to participate. However, she says most people are respectful and kind, tolerant, compassionate and accepting. She is grateful for all the support of messages that people have sent, and the Town deeply admires the grace with which she gently guides the community with respectful and meaningful conversations. Rebecca's biggest reward has been

bringing the community closer together, and she is always amazed that even with the most obscure requests, the PV Forum seems to always deliver, whether expertise, experience, or a particular item someone is in search of. She has enjoyed getting to know the people here in a place she calls truly beautiful and remarkable. Besides all the work she has done for the Town, she has also spent many hours volunteering with the schools as a classroom parent. She has contributed time and skills to the Woodside High School Drama Boosters, the PVSD Bond Committee, and has served as the Sequoia High School PTSA Treasurer in addition to roles in many other organizations, such as PV Angels, PV Cares, the Arts Guild of Portola Valley, and the PV Garden Club.

Mayor Derwin continued, noting that Rebecca grew up in Sewanee, Tennessee, and spent half of her childhood in Brussels, Belgium. She attended Bryn Mawr and Haverford, double majoring in chemistry and molecular biology and then pursued a degree in immunology at the University of Pennsylvania. When newly married and living in Paris, she earned an MBA at INSEAD. Professionally, Rebecca comes from the world of biotech and internet startups, but in 2001 her family moved to Portola Valley from Willow Glen in San Jose, and this is where she and her husband put down roots and raised their two children. Mayor Derwin said this reward is long overdue and that Rebecca has singlehandedly transformed Portola Valley with the creation of the PV Forum, a one-stop marketplace, town square, breaking news source, and at times, confessional. In decades to come, Mayor Derwin predicted that folks will look back and hold Rebecca in high esteem as they have done for pioneers like Bill Lane and Eleanor Boushey, like-minded change-makers whose commitment, dedication and selflessness has lifted up the entire community.

Mayor Derwin presented the Wendi Haskell Volunteer of the Year Award to Ms. Flynn and invited her to say a few words.

Ms. Flynn thanked the Mayor, the Town Council and the Town for the recognition and support over the years. She said running the PV Forum and volunteering in the Town has been a labor of love for her and very rewarding. She said when she started the PV Forum nearly 18 years ago, social media was a very different animal, and many adjustments and adaptations have been needed, but the principles of community, communication and sharing are still the same. The majority of interactions on the Forum have been about everyday life, from losing pets to sharing garden bounties, from getting advice about plumbers to selling or giving away something. The PV Forum has been a lifeline for many during the past two years of the pandemic, reminding them that they are a small part of the larger community, and they are not alone. Ms. Flynn shared that there have been a few serious challenges along the way, from identify theft to people occasionally losing control of their anger, and from misinformation. New policies and procedures have been put in place to help with that. She is grateful that there is such a large well of decency, kindness and generosity in Portola Valley and that people step in when things sometimes go off the rail, so she does not have to be the only one moderating. She reiterated that the PV Forum belongs to all of them, and they all help foster a congenial tone and bind their small community together. She reminded them of Grizzly Jones' rather dubious advice for putting a mountain lion in a headlock or to lasso a rattler if attacked. Or, the missing pet boa constrictor that was finally found three months later, wrapped around the garage door opener, very thin and emaciated, but still alive, causing quite a few nervous flutterings. She said these things only happen in Portola Valley. Her parting words were to remember that your personality comes through whenever you post, so please spend a few extra minutes crafting the right tone in messages. And be kind. One never knows what someone else is going through. She encouraged everyone to join a Town committee. There are many openings in several of them, it is very rewarding and also gives a chance to provide input to the Town. She ended with the request to get a booster shot so that they can all get together in person next year. She thanked them for the recognition and support and said, "Here's to another 20 years."

Councilmember Wernikoff had no idea it had been 18 years for PV Forum, and she remarked that this is astounding. She has done many different volunteer roles over the years and shared that most people eventually get tired and ready to pass the baton, but Ms. Flynn's diligence and ability has blown her away. She affirmed Mayor Derwin's words and acknowledged that Ms. Flynn is a gem and an incredible asset to the community.



Vice Mayor Hughes observed how long Ms. Flynn has served the town over the years, and particularly the last couple of years, with the pandemic, the PV Forum has been a way for people to connect and made this year's award a well-deserved no-brainer.

Councilmember Aalfs commented that the PV Forum has been around for longer than he has in Portola Valley. He thanked Ms. Flynn and remembered 2020, when he was Mayor and the pandemic was breaking loose, the Forum and PV Cares were one of the bright spots, helping to restore his faith in humanity. He looked forward to continuing to work with her.

Councilmember Richards said he didn't know where they would be without the Forum and that it is hard to imagine the town without it. He thanked Ms. Flynn as well for all her work and for keeping the Forum going through the years.

John Silver affirmed the prior comments regarding Ms. De Garmeaux, as a former Councilmember and Mayor and member of the community. He was also delighted to see a good man like Melvin coming onboard. In reference to Ms. Flynn, he said he could not imagine the energy, efficiency, and emotional balance of equanimity she must have had, and must still have, to make the PV Forum work. He said much is heard about democracy lately in public discussions, particularly on social media. He felt people who run the large profit-based social media companies could learn a lot from Rebecca about how to keep democracy and community vital and safe. He said Ms. Flynn was kind enough to thank community members for having a lot of good sense, which is true; however, he said it is amazing how poor moderation and anonymity and bad practices can bring out the worst in people in any community. He was grateful they had an example of how to do it right. He shared that he trembles sometimes for the future of the country and the world at large and has often said they would be so lucky if their country or their world were governed half as well as Portola Valley. He thought, even more, they would be lucky if there were more in the world following Rebecca's example in making social media work the way it ought to.

Dr. Leslie Field shared that Rebecca has been a fabulous friend to the entire town by doing what she does so graciously. She said she loves when Rebecca lets a thread go on long enough – like Grizzly Jones – or when she steps in when people are not being civil to each other. Dr. Fields said when Rebecca stepped into her own personal, impossible, situation, having to be at a middle school and a high school graduation at the same time on the same day, Rebecca knew the “secret route” and gave her the right to “bend time and space.” She said she feels Rebecca is one of the most brilliant and kind people she has ever met, and she has been happy to see all the other congratulations today, for Brandi and for Melvin coming onboard. She said the town is helped by a number of people who really care and really know what to do. Dr. Fields concluded by giving an audible round of applause for Ms. Flynn.

Mayor Derwin's final comment was that Ms. Flynn may be the town's Mr. Rogers, with a little bit of an edge.

#### (4) **Reorganization of the Town Council**

Mayor Derwin offered a colorful summary of a long year, saying, “The global pandemic again dominated daily life, but little by little, as the vaccines became more available, the townsfolk began to emerge from isolation like sleepy, hungry bears, and after 16 months, they finally re-opened Town Center,” while still offering new online services. Mayor Derwin shared a lengthy list of activities, pursuits and accomplishments achieved, despite COVID, including:

- Public Works created a new pickleball court, and suddenly pickleball became the new hot thing.
- Cultural Arts put on a much-anticipated summer concert.
- Parks and Recreation spearheaded the beloved Zotts to Tots race followed by a big, happy town wide picnic and concert at Town Center.
- Nature and Science contributed five amazing lectures and a wildflower talk series. The community learned about the Texas power crisis; sudden oak death; attended an Emergency

Communications and Radio Day; and chose from an assortment of webinars and presentations on housing.

- The Town began the every-eight-year Housing Element Update and, to help with the effort, the Council appointed 13 community members and two Council Liaisons to a new Ad Hoc Housing Element Committee.
- Staff from HCD, the State Department of Housing and Community Development in Sacramento came in person to tour and learn about Portola Valley.
- The Town added two new committees – Woodside Highlands Road Maintenance District Resident’s Advisory Council, and the Race and Equity Committee.
- Upgraded the previously ad hoc Wildfire Prep Committee to permanent status.
- Entered into an agreement with Community Planning Assistance for Wildfire (CPAW), with Woodside Fire Protection District, Town of Woodside and the County of San Mateo to provide resource assistance to improve wildfire resiliency and adaptation.
- Partnered with ZoneHaven and hired a consultant to do an extensive Evacuation Study.
- Held the first meeting in the County with State Insurance Commission Lara to talk about insurers dropping homeowner policies in town.
- Adopted a recommendation from the Wildfire Prep Committee to ban the Flammable Five trees and shrubs.
- Public Works, in cooperation with Woodside Fire Protection District, completed 4.64 curbed miles of fire mitigation work on three major roads in town.
- Adopted a stringent fire safety checklist for ADUs built within town setbacks and will be discussing and taking action on a strict home hardening ordinance.
- Executed a virtual emergency operations tool (Veoci).
- Began an update to the Safety Element.
- Implemented a new finance and budget software as well as new permitting software.
- Conducted a community-wide code compliance survey.
- Permanently aligned the adoption of Council priorities with the annual budget process and held the first ever September Revision of the budget.
- Began compiling quarterly budget reports.
- Waived permit fees for stressed redwood tree removal.
- Completed a comprehensive website update and refresh.
- Hired a Senior Planner, Finance Analyst and Assistant Town Manager.
- Hired a lobbyist to be on the lookout for legislation of interest, grants and other funding opportunities and to help stay a step ahead of things coming down the pike.
- Officially banned gas-powered leaf blowers and completed the leaf blower trade-in program.
- Created the PV Donates program to fund small-scale projects.
- Executed a new Farmer’s Market agreement.
- Designated the Alpine Road Remnant, known as “the Frog Pond.”
- Contributed funds to the County Gun Buyback program, one of six out of 20 cities in the county to do so.
- Joined Peninsula Traffic Congestion Relief Alliance.
- Carried out parking improvement plans for Willowbrook Road and Portola Road to manage increased parking at Windy Hill.
- Executed a plan to bring hybrid meetings to the Historic Schoolhouse in early 2022.
- Implemented Phase 1 of the Pedestrian Safety Study.
- Brought invited guests to Council meetings, including the County Poet Laureate; Father Martin from The Priory; Rabbi Mayer Brook from Chabad Portola Valley/Woodside; and Reverend Jenny Warner from Valley Presbyterian.
- Hosted other guests, including Kellyx Nelson from Resource Conservation District, County Supervisor Don Horsley; Assemblyman Marc Berman; and State Senator Josh Becker
- Held numerous study sessions.

- Adopted resolutions, including condemning anti-Asian hate and violence, honoring National Poetry month in April; supporting National Mental Health month in May; supporting LGBTQ Pride Month in June; supporting the National United Against Hate Week in November.
- The Planning Commission dealt with several large projects, including Stanford's Portola Terrace project; the Neely Spring Ridge Wine Tasting Room project; Willow Commons, a supportive housing community project; new multi-family housing at The Priory; and remodel of the Portola Valley Fire Station.
- The Town received eight building permit applications for new houses and 17 building permit applications for ADUs.
- The Public Works crew resurfaced 25 streets; mowed 17.5 miles along roads; moved 25 miles of trails; cleared 18 miles of brush; replaced 25 street signs; checked 509 culverts and pipes; removed 65 gallons of trash; collected 720 gallons of litter on Alpine Road and Portola Road; reviewed and issued 103 encroachment permits, 17 site permits, 20 building permits and performed 160 Public Works and Engineering inspections.
- A three-person Public Works crew of Scott Weber, Justin Bixby and Chuck McAllister, under leadership of Public Works Director, Howard Young, worked every day during COVID in the office or out in the field, all while maintaining first class fields and managing COVID-related impacts.
- Within the Town's virtual office, the Weekly Newsletter continued; Council Meeting Summaries continued; communication with residents continued, more frequently and robustly; all accomplished with the smallest staff in the County – 16 full time staff, 1 part time, 1 Town Attorney, and a handful of Planning Consultants.

Mayor Derwin praised the remarkable team of people who adapted and pivoted when needed, putting in long hours to take care of all Portola Valley's 4,500 residents. For this, she said they deserved a hearty round of applause.

Mayor Derwin also thanked the 17 Standing Committees, the one Ad Hoc Committee, the ASCC and Planning Commission, a total 139 volunteers, for all they did this year to help staff and Council put on events, vet issues and render thoughtful recommendations, to review projects. She said one of the core tenants of Portola Valley since incorporation in 1964 has been volunteerism, and this is still true today.

Mayor Derwin thanked her colleagues, John, Jeff, and Sarah, for their dedication, hard work and commitment this year. She called out Vice Mayor, Craig, who was her true partner during this time of governing during a pandemic. Finally, she thanked all attendees for their awesome civic engagement, for showing up at meetings, bravely putting forth their arguments, asking hard questions, and taking part in the important conversations. She noted there will be many challenges in 2022. Willow Commons and Portola Terrace will be before them. The Safety Element and Housing Element will both need to be completed. Wildfire work will continue to evolve as they await recommendations from the Evacuation Consultant and the new Cal Fire maps.

Mayor Derwin said she did not succeed in bringing HCD, ABAG, Cal Fire, insurance industry CEOs and the State Insurance Commissioner to the table to work on getting all on the same page; perhaps the next Mayor can do this. She commented there is the probable drought and possible mandatory water rationing, the ongoing question of whether the staffing level matches the increased needs of residents and whether, or at what point, new funding streams may need to be pursued. She warned that tensions will continue to run high as land uses around housing and wildfire risk are discussed. Folks of differing viewpoints will struggle to truly listen to one another, creating anxiety, fear and mistrust.

Mayor Derwin shared that at the end of 2015, a few days after her 23-year-old son, Charlie, died in a fiery car crash on Portola Road, there was a knock on her door and standing before her were neighbors from across the canyon, Kristen and Rusty Day. They were carrying a jar of blackberry jam which they gently put into her hands, with few words. She was so moved by their gesture that she kept the jar as a reminder that where a person stands on a controversial town issue and what the person might say at a Council meeting or write on PV Forum is not the measure of that person's heart. In times of great tragedy, they

come together and help one another, an important truth to remember. Mayor Derwin thanked the attendees for the honor of serving as Mayor, a humbling and transformative experience. In a year of sorting through thorny problems, she will always be grateful for the opportunity she was given to represent the residents. She closed by remembering and reading a list of residents who passed away in 2021.

(a) Election of Mayor

Mayor Derwin asked for nominations for Mayor. Councilmember Richards nominated Craig Hughes. Councilmember Aalfs seconded the nomination. The vote to elect Craig Hughes as Mayor was unanimous, by roll call vote.

Mayor Elect Hughes thanked Mayor Derwin for her work in the past year. He felt their partnership over the last difficult year was very productive and was actually true of the entire Council working effectively as a collaborative team on a large pool of tasks

(b) Election of Vice Mayor

Mayor Hughes asked for nominations for Vice Mayor. Councilmember Richards nominated Sarah Wernikoff. Councilmember Derwin seconded the nomination. The vote to elect Sarah Wernikoff as Vice Mayor was unanimous, by roll call vote.

Mayor Hughes congratulated Vice Mayor Wernikoff.

**CONSENT AGENDA**

- (5) **Approval of Minutes**- Action and Detailed Summary for November 10, 2021
- (6) **Ratification of Warrant List** – November 24, 2021
- (7) **Approval of Warrant List** – December 8, 2021
- (8) **Request by Trails & Paths Committee** - Proposed Charter Amendment
- (9) **Request by Parks and Recreation Committee** – Proposed Charter Amendment
- (10) **Recommendation by Town Manager** – Vehicle License Fee Letter to State Officials
- (11) **Recommendation by Town Manager** – Amendment to Dependent Care (FSA) Flexible Spending Account Plan
- (12) **Recommendation by Public Works Director** – Approval to Apply and Receive Funds from State of California Proposition 68 Per Capita Grant Program
  - (a) A Resolution of the Town Council of the Town of Portola Valley Approving Application(s) for Per Capita Grant Funds (Resolution No. 2873-2021)
- (13) **Recommendation by Town Attorney** – Second Reading of Ordinance Adding Uniform Administrative Citation Process to the Portola Valley Municipal Code
  - (a) Second Reading of Title, Waive Further Reading, and Adopt an Ordinance of the Town Council of the Town of Portola Valley Adding Chapter 1.12.045 [Administrative Citations] to the Title 1 [General Provisions] of the Portola Valley Municipal Code to Provide for Administrative Citations (Ordinance No. 2021-442)

- (14) **Recommendation by Town Manager** – First Quarter Budget Report
- (15) **Recommendation by Town Manager** – Resolution Adopting Volume 1 and Introduction, Chapter 15, Town of Portola Valley Jurisdictional Annex), and the Appendices of Volume 2 of the San Mateo County Multijurisdictional Local Hazard Mitigation Plan (Resolution No. \_\_)
- (a) A Resolution of the Town Council of the Town of Portola Valley Adopting the San Mateo County Multijurisdiction Local Hazard Mitigation Plan (Resolution No. \_\_)
- (16) **Recommendation by Town Attorney** – Adoption of a Resolution Confirming the State of Emergency and Need to Continue Conducting Town Public Meetings Remotely
- (a) A Resolution of the Town Council of the Town of Portola Valley Confirming Existing State of Emergency and Authorizing Continued Remote Public Meetings Under AB 31 (Resolution No. 2874-2021)

Mayor Hughes invited comments from the public on the Consent Agenda.

Dale Pfau requested that item 15, which is a massive document be pulled, with it being the first time the public has seen it. Neither the Emergency Preparedness Committee nor the Wildfire Committee has seen the document. He said by his quick reading of it he feels it drastically understates the amount of Portola Valley that is in high and moderate fire danger areas.

Rita Comes also commented regarding item 15, requesting it be pulled and discussed. There are over 800 pages in it, and she felt it should be discussed. She said she has not seen this in any other meetings she attends in the Town, although perhaps it was in a Planning or ASCC or Wildfire Committee meeting, and she happened to miss it. She would like to know if it has been discussed in another meeting, but as far as she knows this is the first time it has been posted. She said it was posted after 8 p.m. on the past Saturday night, over 800 pages. With the other items on the agenda for tonight, she said this needs more than just a check without residents having an opportunity to understand it. She believed this item should be postponed for another meeting so that people can discuss it as a separate item, since there are two public hearings on the agenda.

Helen Wolter said she was representing State Senator Josh Becker, and on behalf of Senate District 13 they wanted to say thank you to former Mayor Derwin who has been a stalwart champion for social justice issues while serving on the Council for 16 years, with her thoughtful and regional perspective and kindness to all. She welcomed the new Vice Mayor Wernikoff and thanked for her work as a volunteer at the schools. She also congratulated Mayor Hughes and said on behalf of the Senator that they look forward to working with everyone. Mayor Hughes shared that he got a call just before the meeting from Senator Becker prospectively congratulating him should he be elected, which was much appreciated.

Rusty Day also wanted to request the Council to remove item 15 from the Consent Agenda. He said to his knowledge the 813-page plan has never been publicly discussed in any Town committee, including the Wildfire Preparation Committee, the Geologic Safety Committee, or the Planning Commission. He said the plan itself was not publicly disclosed until Saturday, December 8<sup>th</sup>, at 8 p.m. He asked whether anyone had time to read the 831 pages in the past 95 hours. He said he has not. He asked why this important, complex assessment was put on a Consent Agenda with no public hearing of it, no public input, no explanation or examination by the Geologic Safety or Wildfire Preparedness Committee, or even the Fire District. He wondered why it is critical to adopt this now without any opportunity for public scrutiny and informed input. He said he has not read it all and has not studied it but felt it was worth some scrutiny. He referenced the table on page 658 where there is a comparison of the assessment by various towns of the percent of their local population that is exposed to very high wildfire hazard. Woodside says 34.6 percent of its population is exposed to very high fire hazard. San Carlos says 22.4 percent of its

population is exposed. He compared that with Portola Valley, which says that 9.3 percent of its population is exposed to very high fire hazard severity and zero percent is exposed to high hazard, and zero percent is exposed to moderate hazard. He asked if this is really what they believe. He referenced the Portola Valley map on page 741 which shows how the extensive high and very high fire hazard severity areas throughout Woodside and Jasper Ridge miraculously end at Portola Valley's boundary. He said page 716 acknowledges some of the hazards but not all. For example, it points out that properties such as the Highlands have only one entry/exit route and are vulnerable to wildfires, localized flooding and wind events. He said a number of other neighborhoods in town are as well. Cal Fire lists very high, high and moderate fire severity zones throughout town; yet this document says there aren't any. He felt the item should be pulled off of the Consent Agenda and scheduled for hearings in the appropriate committees.

Bob Turcott commented in reference to item 15. He had questions, along with the ones Mr. Day had asked. He said on page 65, wildfire exposure in Portola Valley, very high was 9 percent; high was zero percent. He asked how that is possible. He said he presumed that very high refers to the region that Cal Fire recommended be designated as a very high fire hazard severity zone in 2008, which comprises about 10 percent of Portola Valley's area by his measurement. He said Cal Fire's analysis also suggested that an additional 50 percent of Portola Valley is at a high fire hazard severity, and this has been confirmed by multiple other studies, and insurance loss experience, including that of one of the members of the Town Council who reported twice losing insurance due to excessive fire hazard, despite living far from the very high fire hazard area that Cal Fire identified. He did not understand this and said it doesn't ring true. He referred to page 660, indicating impact, with Woodside, Hillsborough, unincorporated San Mateo County as high; Belmont, San Carlos as medium; Portola Valley, low. He asked if this is true. On page 661, Critical Facilities Exposure, Woodside is designated as 12; Hillsborough as 5; Belmont as 4; and Portola Valley, zero. He said this is great news if it is true, but if not, then there is a problem. He said regarding the map on page 741, he felt every resident of Portola Valley should look at the map and ask themselves whether their interests are being served. He said he read the Town Attorney's letter to the Council where she outlined the findings of Cal Fire, of Woodside Fire Protection District, identifying four very high fire hazard severity zones throughout Portola Valley including the area that is currently indicated as having no elevated hazard. He referenced the Moritz report which identified the 19 highest areas throughout Portola Valley. He questioned whether this might constitute fraud, or whether the Town or individuals possibly would be liable, because it conflicts so dramatically with the objective data that they have. He felt the item should be pulled and revised to reflect the true hazard that they face.

Zachery Ross, Assemblymember Marc Berman's District Director, wanted to thank Mayor Derwin for her service, acknowledging it is a very thankless job, as is all of Council. He said it has been great working with her and she has been a great champion for her city, especially during COVID, with so many compounding layers that make her service even more impressive. He congratulated the incoming Mayor and Vice Mayor.

Ron Eastman thanked Mayor Derwin and all of the Councilmembers as well. [audio lost]

Caroline Vertongen called in, but her audio was not working. Mayor Hughes advised her to try hanging up and calling again.

Victoria Klein reiterated and emphasized the request to pull item 15. She said she has lived at the Ranch in Portola Valley since 2004. When she received the information from Bob Turcott on the petition, she educated herself as best she could with different research reports. She said she felt very passionate about this and sent it to about 30 different people, and within approximately eight hours nearly all 30 people had signed it. She has never seen any item that the town feels as passionate about. She requested item 15 be pulled so that the town can be educated, understand, and have a voice.

Caroline Vertongen congratulated Mayor Hughes and hoped improving communication would be his first assignment. She said Portola Valley seems to be the only one that has problems with communications during Zoom meetings. She agreed with fellow residents who described in detail the reasons why item 15 should be removed. The maps and data do not correspond. [audio lost]

Mayor Hughes acknowledged that Ms. Vertongen wanted items 15 and 12 pulled and hoped that was the extent of her comments.

Mayor Hughes invited comments on the Consent Agenda from the Councilmembers.

Councilmember Richards asked Town Manager Dennis to explain the origin of the study that was the subject of item 15, where it comes from and how it has been developed. Mayor Hughes felt the appropriate way to do that would be to pull the item. Councilmember Derwin agreed with Councilmember Richards on this.

Mayor Hughes pulled item 12.

Motion by Councilmember Aalfs to approve items 1-11, 13-14 and 16 on the Consent Agenda. Seconded by Councilmember Richards, the motion carried, 5-0.

(12) Recommendation by Public Works Director – Approval to Apply and Receive Funds from State of California Proposition 68 Per Capita Grant Program

(a) A Resolution of the Town Council of the Town of Portola Valley Approving Application(s) for Per Capita Grant Funds (Resolution No. 2873-2021).

Town Manager Dennis explained that this item is an opportunity for the Town to receive grant funds through Proposition 68. Staff looks for opportunities to receive grant funds for a variety of typically one-time infrastructure-like projects. This item is allowing them to move forward on the process. It doesn't tie them to any particular project. There has been discussion started between Public Works staff and a former Parks and Recreation Chair. They will bring back in the future potential projects for submittal under this grant. This is just the first step that says they are interested.

Mayor Hughes allowed Ms. Vertongen an opportunity to speak. She said according to Proposition 68, the deadline for the grant is March 1, 2022, so she assumed the Town Manager and Public Works have some ideas of the projects they would like to pursue with this grant, and she would appreciate an explanation on that.

Mayor Hughes said his understanding from staff is that there is no specific project right now. There are a couple of ideas, but it is still in an early stage. This authorization is not to apply for a specific grant but to just get the ball rolling on figuring out what they might want to apply for. The applications would come back to them later. Town Manager Dennis concurred and added it is effectively an enabling resolution that allows them to move forward.

Motion to approve item 12 on the Consent Agenda by Councilmember Derwin. Seconded by Councilmember Richards, the motion carried, 5-0, by roll call vote.

(15) Recommendation by Town Manager – Resolution Adopting Volume 1 and Introduction, Chapter 15, Town of Portola Valley Jurisdictional Annex), and the Appendices of Volume 2 of the San Mateo County Multijurisdictional Local Hazard Mitigation Plan (Resolution No. \_\_)

(a) A Resolution of the Town Council of the Town of Portola Valley Adopting the San Mateo County Multijurisdiction Local Hazard Mitigation Plan (Resolution No. \_\_)

Town Manager Dennis addressed this item and stated that placing items on the Consent Agenda is not relative to the import of an item, or not. It is an opportunity should the Council not wish to have a discussion, to go ahead and pass things without having to go through the process. He said just because something is on Consent does not mean that it isn't critical or worthy of discussion. He said the Local Hazard Mitigation Plan has been in place in the State of California for some time, on a five-year cycle with

regular updates. The last time the Town Council looked at it was in 2016. From a process standpoint, it is not a particularly controversial item, but is intended to identify risk in communities so they are able to get grants at a future date through state and federal agencies. The process is to identify those risks and particular mitigation measures that could be implemented in the future. In the past it has been done through the Consent item, and this is typical for other cities as well.

Town Manager Dennis said the questions asked by residents are valid, and he has had those conversations with the State. He clarified that the majority of the document is Volume 1, which relates to mostly county-wide issues and analysis by the independent consultant hired by the County to look at a variety of data points that resulted in some of the tables seen at the end of Volume 1. He said Volume 15 is the Town's, and it is approximately 16 to 18 pages long. He made the decision to put the entire document in the packet for visibility. He said the conversation he has had with the consultant recently is that he was very concerned that in Volume 1 the ranking of fire was low, and also that because of the complicated structure used to score these mitigation measures, that it artificially lowered fire risk to the Town. He affirmed the validity of comments made by the public in this regard. He was told that the jurisdiction can make changes through a staff level process and indicate why they think local conditions require a higher ranking. This is mentioned in the discussion at the end of the staff report. He said he would love to have some direction to make sure that he can go back and have conversations and make such changes.

Town Manager Dennis said because of the nature of the package, which involves FEMA and others, the County gives a very tight timeframe to bring things forward, and the draft version was completed a few months ago, but it was only seven weeks ago that they were told to bring this forward to Councils. The first body in the County to review it was the County of San Mateo, and they took that forward on November 16<sup>th</sup>, so they are at the end of that cycle with all of the cities. They are requested to complete all of this by December 20<sup>th</sup>. He said he is not aware of a city that has not passed it yet. He stated that Woodside passed it through Consent a few weeks ago. He reiterated that he would appreciate some feedback based on what he put in the staff report indicating that he would like to go back to the consultant. He said in areas where their rankings, due to the scoring mechanisms that he had to use to put in the mitigation measures, that they increase the fire risk discussion. It is typical for a small city like Portola Valley to have a number of mitigation measures. He increased the number by 30 percent because he wanted to capture more issues, but also wrote some in a very high-level manner, intended to capture the breadth of the issues within each particular hazard. For example, Woodside only had 19 mitigation measures. He concluded by saying it is a messy process and he hoped if Council wanted him to drive it through future committee processes, he would be happy to do that. He said he has mentioned that this was coming in previous Council meetings, so he felt it was not a secret, but an opportunity for increased visibility.

Mayor Hughes invited questions from the Council.

Councilmember Aalfs asked what the practical consequences would be, given their fire risk is clearly understated. By allowing the understated fire risk to remain in the report, he wondered what the effect might be or what negative consequence might ensue.

Mayor Hughes asked, similarly, what the effect of Council not approving the item would be, but rather modifying it before approving it, as opposed to approving it and then modifying it as described. Town Manager Dennis responded that not approving it would mean the County's application would be incomplete and there may be some significant issues moving forward for the County. He said it was not an issue in 2016 at all for the Town. He said modification is a simple matter in which he has the conversation to increase the rankings. For example, on the one table that was mentioned he had the same reaction the public appeared to have, in that it is simply inaccurate and not appropriate. He said it really is, in the end, a means for the Town to say that if they do have an issue in the future around wildfires, whether actual wildfire in the community, or a variety of the mitigations, adaptations or resiliency efforts that they want to do, that they have access to those grants. As long as the ranking is medium or high, it is typically available for grants, so there isn't much of a change from a grant access perspective.



He reiterated, as indicated in the staff report, his request that the Council direct him to make the change, because he doesn't want anyone to be thinking in terms of fraud, which is the furthest thing from the truth.

Vice Mayor Wernikoff questioned if there was any way to do the change and update the data points first and then approve it afterwards, or if they need to approve it in the meeting in order to stay on the required timeline. Town Manager Dennis thought a special Council meeting would be needed in order to do that, as it has to be wrapped up by December 20<sup>th</sup>, and Portola Valley is one of the last cities to move forward on it. He felt that Council directing him to make the changes would be sufficient, and he is entirely comfortable making those changes that would at least indicate to the public that they take this seriously.

Mayor Hughes asked if they approved it in its unmodified form and then subsequently modified it, if on a five-year cycle, what the duration of the period was in which it could be modified. He said they are all aware that whatever happens tonight, this will be an ongoing process of working on wildfire risk and other risks over the coming years, many years. It will be a continuing and evolving process where they undoubtedly want to be able to take steps more rapidly than once every five years. He asked how the document will evolve within the five-year interim period before it comes back with the next revision, and if the County expects that if these changes are made and then more changes are made subsequently that substantially changes the data in the document and the conclusions, if there is a path for that, or if the document is important enough that it matters or if it is really more for the County's purposes in terms of them being able to get grants and that it will not materially impact the Town.

Town Manager Dennis responded that it is the latter. Over the course of the five years there are a couple updates given on mitigation measures, to report on how they are doing. The Town provided these in 2018 and he thought in 2019 as well. He wrote these in 2016 to be fairly high-level to capture a suite of things that can happen, particularly in wildfire, because he saw this as an evolving area. Any mitigation measure made more specific may become obsolete or incorrect or may change. He added that they can always update it as well. He can go back in six months and add updates, given new information. He anticipated this happening, particularly over the next year as they work with Woodside Fire Protection District and others. Town Manager Dennis stressed that this is a tool to access funds, and that has sufficiently happened by the method presented in the staff report. However, it is the reason why he advocated for making some additional improvements, and if the Council wishes, it can be driven through a committee structure. He apologized for causing concern by this method and would be happy to handle this differently if it would be helpful.

Councilmember Aalfs felt they should approve the item, direct Town Manager Dennis to make the changes and engage the public in this and give people a chance to comment on it. He acknowledged it was a huge packet.

Mayor Hughes invited further Council questions. Hearing none, Mayor Hughes allowed comments from two previous public speakers who did not use their three minutes.

Dale Pfau said he was shocked that they would consider approving something with factual misstatements in it. He said he doesn't care what purpose it serves, and he feels it needs to be pulled, sent out and vetted by the public, and it needs to be correct.

Rita Comes agreed with Mr. Pfau's comment. Regarding updating data after the fact, she said she has been sitting in on a lot of meetings, and the public does not get to see the updated information afterwards. She asked where they would get to see the updates. During the pandemic she has attended meetings where things have been approved with modifications, but the public does not get to see the updated document. She was concerned that insurance companies could look at this, with errors, see that the Town Manager and Town Council signed off on it, and it paints the wrong picture of the town. For people looking for insurance in the future, and with the modifications that will be made because of SB 9 and SB 10, she felt the document representing their town should start off with correct information. She was sure

there will be an hour between now and the December 20<sup>th</sup> deadline for this to be addressed again or put off for another time.

Karen Askey agreed with the previous comments and said she would never sign a document that she knew had inaccurate information in it. She said they need to be prudent and take the time to do things correctly. She asked the Council to exercise prudence in the matter.

Tom Hafkenschiel felt if the goal was to access funds, and then showing Portola Valley as being without fire risk, he didn't see how it helps the County access more funds. He felt the Council needed to change the document to realistically reflect their fire danger.

Ellen Vernazza said she didn't understand how Council could think of approving something, knowing it is incorrect, to be fixed later. She feels it is wrong to approve something that they know is incorrect.

Kathy Gurtner agreed with the previous public statements that the Town cannot approve something that is publicly stated as inaccurate information. Secondly, she asked why they don't take the time and do it right, since they have until the 20<sup>th</sup> to correct this.

Hearing no more public comments, Mayor Hughes brought the item back to the Council for discussion.

Councilmember Richards agreed that having incorrect information on the document was absurd. He felt there is a basic misunderstanding on what the document is and what it is used for, which is essentially for the County to access FEMA funds after an emergency. It puts them in a position to be able to show that they had anticipated the potential of an emergency in whatever way it actually occurs. He said this product comes out of the OES, the Office of Emergency Services, in the County, in response to a state mandate, as he understood it. He believed that every other town in the county does this basically the same way, with the approval occurring under Consent. Although there are likely mistakes throughout the massive document which probably should be corrected, he would be willing to have an extra special meeting to go through the document. In the interest of keeping people sane he said he thought it might be a good idea.

Councilmember Aalfs asked if Town Manager Dennis could make the corrections between now and the 20<sup>th</sup>. Town Manager Dennis replied that he recently had an interesting conversation with the County consultants on this. He had asked them about the various misrepresentations he found on various issues, as other cities have had. He was surprised at their answer, which was that he could make changes at his level, without the Council having to do it, as long as there is some general direction, something in the minutes documenting that the Council asked him to do this. He said he would have written the staff report in a different way had it been what he thought it was going to be, which was "Here are some of the things I think we need specifically address." He left it more general for purposes of the meeting. He stated again that there are other cities that caught things and have been making changes. Also, he suggested it is a living document with opportunity to continuously update it over time. Regardless of any particular mistake, the fact that the Town has identified a variety of wildfire mitigation efforts and it has a hazard regardless of what the County may have made an error on. He said in one area they were using state data to fill out some of the columns in Volume 1. He offered them better data.

Vice Mayor Wernikoff said, realizing there is a mechanism through Town Manager Dennis to update the data but given the nature of the conversation, it made sense to pull it, update it and then reapprove it. She thought there were too many other important agenda items, and although this was not less important, there were a lot of issues to address at the meeting, and she would rather start focusing on those things and address the edits that need to be made at an alternative time.

Councilmember Derwin agreed with Councilmember Richards, that this is a County document, used by the County to access FEMA money. It is incorrect, possibly much of it is incorrect, but she was in favor of

having Town Manager Dennis make the surface corrections to move it forward so that they don't hold up the County, and then update in the future if necessary.

Motion by Councilmember Derwin to approve item 15 with direction to Town Manager Dennis to make corrections.

Mayor Hughes' thoughts were that he didn't believe they could get all of the changes that they want done by the 20<sup>th</sup>, which is FEMA's deadline for the County. He also felt they should get as many changes as possible done before approving it, given how glaringly inaccurate it is in describing Portola Valley. He felt the County, working under pandemic conditions and limited ability to hold public meetings, et cetera, had not done a great job on it. He understood why the product looked as it did, but he tended to agree that it was so far off in its current state that it was hard to approve it. He recognized, with Brown Act notice time, they only have four weekdays before December 20<sup>th</sup>, with the three-day notice period. There is not a lot of time to make many changes and no time to send it to committees and then have it come back to Council. He said, unfortunately, they are where they are, but he did not want to lose access to FEMA funds because of not approving something that could be modified later. His inclination was to have it come back to a special meeting with as many changes made as possible, to approve whatever could be done by December 20<sup>th</sup>, have a special meeting on the 20<sup>th</sup> to approve and then continue to make additional changes afterwards as they have more time, and bring them through committees, et cetera. He said it is important to reduce the inaccuracies as much as possible before approving it and in doing so, make a statement to the County regarding their feelings about the quality of their description of Portola Valley. Given the current discussion, he felt they could have a quick meeting with this single item on it, to approve it, assure access to FEMA funds, and then continue to make changes.

Councilmember Derwin asked for a poll on whether Councilmembers are available on the 20<sup>th</sup>. Mayor Hughes agreed and asked Town Attorney Silver if this would need a majority, a quorum, so that at least three members could accomplish this in a meeting. Town Attorney Silver indicated affirmatively. Town Manager Dennis added they could also make it a special meeting with certain different rules. He would want to identify the date as early as possible for the benefit of the public and get the materials out as quickly as possible, but this would be another option.

Mayor Hughes asked the Councilmembers to check their availability on December 20<sup>th</sup>. Councilmember Wernikoff said on the 20<sup>th</sup> there is a Housing Element Committee meeting at 4:30. Councilmember Aalfs said this meeting was rescheduled. Councilmembers Wernikoff and Aalfs were available. Councilmember Derwin and Councilmember Richards were not sure. Mayor Hughes said he was available, so there would be at least three and hopefully, being a single agenda item meeting, and given the conversation on understanding what this is, they could make it a quick meeting.

Town Manager Dennis requested some time to provide additional education. He said this document has been in every city. The County has already approved it and most cities. Woodside Fire Protection District approved it on November 29<sup>th</sup> and had their own chapter of it. He felt it was useful to take a look at the content in it and look at other cities. Many cities have smaller hazard mitigation plans than Portola Valley, which usually means they have fewer mitigations. Woodside Fire Protection District does their own for the district that they are in and would have access to funds.

Councilmember Aalfs inquired if the County's application was incomplete on the 20<sup>th</sup> whether it jeopardizes their ability to get FEMA funds. He said the consequences of the inaccuracies, although not to excuse them, are probably less dire than the consequences of not having this approved by the full County. Town Manager Dennis said he wouldn't go that far because he does not have all the details. He had not anticipated this not passing so he had not asked the question of what would happen if they were the one city that did not bring it forward. He said he would check in with the consultants and advise them of what has happened and what they are going to do.

Motion by Vice Mayor Wernikoff to table item 16 to a future meeting. Seconded by Councilmember Aalfs, the motion passed (5-0) by roll call vote.

## REGULAR AGENDA

### PUBLIC HEARING

(17) **Public Hearing** – Adoption of an Urgency Ordinance Amending Title 17 [Subdivisions] and Title 18 [Zoning] to establish Regulations Implementing SB 9 Urban Lot Splits and up to Two Housing Units on Qualifying Lots and adoption of a Resolution Implementing Objective Design Standards for SB 9 Residential Development

(a) Adoption of an Urgency Ordinance of the Town Council of the Town of Portola Valley Amending Title 17 [Subdivisions] and Title 18 [Zoning] of the Portola Valley Municipal Code to Establish Regulations Implementing SB 9 Urban Lot Splits and Development of up to Two Housing Units on Qualifying Lots; this action is exempt from the California Environmental Quality Act (Ordinance No. 2021-443)

(b) Adoption of a Resolution Implementing Objective Design Standards for SB 9 Residential Development (Resolution No. 2875-2021)

Town Attorney Silver began the presentation on the SB 9 Implementing Ordinance by acknowledging the large number of residents in attendance and that it is a significant issue for the community. Also, there are many questions about the new State housing laws and the efforts that the Town is taking to address them. She explained that the intent of the presentation was to address four items – one, to put the State law in context; two, to explain what SB 9 mandates; three, to detail the approach Portola Valley intends to take to implement SB 9 and to retain local control; and finally, to discuss the fire safety elements of the proposed ordinance, an issue affecting everyone in the community.

Town Attorney Silver said in the past several legislative cycles the State adopted a series of housing bills which have led to a complex interconnected web of housing laws. The legislation places more and more requirements on local governments. The web of legislation can be challenging to understand, even for Town Attorneys and Planning Directors. The legislation contains many gaps, and there are wide-ranging interpretations which are still evolving. In 2019, the State Legislature declared a housing crisis, particularly acute in the Bay Area, which has created approximately 676,000 jobs, with only 176,000 housing units. The State has expressed concerns that many single-family zoning districts were created through red-lining practices and therefore constitute exclusionary zoning. The low supply of units has resulted in a dearth of affordable housing. Additionally, many cities' zoning practices make it difficult to add more housing. The housing crisis is causing homelessness, longer commute times, and causing people to leave the state. Because local agencies are not addressing these problems, the State has exerted its control into the field of housing.

Town Attorney Silver shared a slide prepared during the last couple legislative cycles which tracks graphically the number of housing bills proposed at the state level. The document showed a wide variety of housing bills that were proposed in 2021 on a variety of different topics, including permit fees, housing elements, antidiscrimination, tenant protection, ADUs, student housing, homelessness, taxes and zoning to name a few. Another slide illustrated the number of housing bills which were adopted from the array of bills proposed. Graphically, it showed that 35 housing bills were adopted during this legislative session – an extremely large number. The topics included anti-discrimination laws, tenant protection measures and, most notably this session were SB 9 and SB 10.

Town Attorney Silver explained that in terms of legislation, many of the bills dealt with removal of barriers to housing production. SB 9 removes discretionary review in many areas of the housing arena. SB 478 limits a town's ability to impose certain floor area ratios or square footage limits on housing projects. SB 9

and 10 remove CEQA review pertaining to certain housing development projects and AB 571 and AB 602 restrict a town's ability to impose certain development impact fees on housing projects. Also, as a state legislative trend there was use of objective development standards. This was seen in the last legislative season in connection with multi-family projects and they are now starting to see this creep into single family projects. There were bills dealing with low-density housing, involving projects with less than ten units, and encouragement of these types of low-density housing projects.

Ms. Silver said they are also tracking the compliance and enforcement procedures which have been significantly beefed up at the state level. This year all of the Bay Area cities are working on the Sixth Cycle Housing Element which is due January 1, 2023 and requires Portola Valley to zone for 253 new housing units over an eight-year cycle, a significant increase from the last cycle. ABAG, the agency charged with hearing the RHNA allocation appeals, has denied all of the Bay Area appeals relating to allocations, except for one city, and that was based on a technical correction. She said, additionally, they have seen HCD assert more enforcement authority, and the legislation itself has given HCD more enforcement authority and significant budget resources, building up its resources, particularly their enforcement unit. HCD is now enforcing not only housing element law, traditionally the one area they possessed authority to enforce, but now HCD is also charged with enforcing a number of state housing laws, including affirmatively affirming their housing law, the Housing Crisis Act of 2019, also known as SB 330, the streamlined ministerial permit process, commonly known as SB 35; the by-right supportive Housing Act, which is AB 2162; and also limitations on a variety of different housing types and zoning requirements.

Town Attorney Silver advised that as a result they are starting to see a real tension between the State and the Town in the area of zoning and land use. As a result, there is a statewide initiative recently introduced called Our Neighborhood Voices Initiative. This amends the State Constitution and provides that any local ordinance or regulation that regulates zoning or land use actually trumps state laws in this field, as opposed to the current constitutional provision that provides that state general laws trump local laws. The initiative is being circulated for signatures. It is expected to qualify for the ballot and will be voted on in the November 2022 election.

Town Attorney Silver went on to discuss SB 9, the California Home Act, which has two major components. It requires ministerial approval of, first, an urban lot split, which is a one-time division, only applying in single-family residential parcels. It does not apply in multi-family parcels or commercial zoning. The second component allows for the ministerial approval of up to two homes on a single-family residential parcel. She noted that the urban lot split and the two-unit provision can be combined so that an applicant is entitled to a maximum of four units on two parcels. Under the SB qualifying criteria, not all parcels qualify for SB 9, but only single-family residential zoned lots. In Portola Valley, that means the RE, the R-1 and the MR lots. The original lot must be at least 2,400 square feet, and the minimum size for a lot split must be 1,200 square feet for each lot. The split must be approximately equal in size and may not involve the demolition of affordable housing or other deed-restricted housing, provided the deed restriction is based on affordability. There are also some tenant protections built into the legislation, so if the lot split would affect a residence that was currently leased, it would not qualify for SB 9. There are also some location restrictions under SB 9. The property cannot be farmland, wetland, hazardous sites or a very high fire hazard severity zone. However, there is an exception to that, to be discussed later. This is only a one-time lot split. Town Attorney Silver said when the legislation was introduced there was concern that there would be serial or multiple lot splits, but the legislation now clarifies that there can be only one lot split. The permitting of the resulting units are exempt from CEQA, the California Environmental Quality Act.

With regard to the fire safety exception, Town Attorney Silver said it relates to properties located in a very high fire zone, which verbiage they have seen in other pieces of legislation. However, there are two exceptions to the exceptions. One is for those cities that have not accepted Cal Fire's fire maps, and there is also an exception for any developments that comply with Chapter 7A of the building code. In most very high fire severity zones, the city has adopted Chapter 7A of the building code because it is a

requirement to do so in such zones. The net result of these two exceptions is that Portola Valley, along with most other cities who have adopted Chapter 7A, do not qualify for this exemption.

Town Attorney Silver said in terms of the SB 9 development standards, one of the themes of the legislative session was to require imposition of an objective criteria on housing projects, wherein the State is trying to get cities to transition from subjective design review to more objective design review. Under SB 9, any lot split or residential unit may only be subject to objective criteria written and published in advance, and only to the extent that the standards do not physically preclude construction of two units of at least 800 square feet. Cities and towns must permit at least two units of at least 800 square feet. Under the legislation, towns are permitted to require one off-street parking per unit. There is an exception for sites that are close to transit or car share, which is not applicable in Portola Valley. The State requires a four-foot side and rear setback, which is the same setback required in the ADU legislation and is one of the issues that will most impact Portola Valley as opposed to more urban cities where a four-foot setback is more commonplace. There are no setbacks required for existing structures, which is also an issue of concern for Portola Valley. The legislation does not allow for right-of-way dedications or offsite improvements to be mandated by the Town and requires an owner affidavit to be signed once a lot split application is submitted to the Town. The owner must certify that they intend to live in at least one of the units after the lot split is approved, and that they intend to live there for three years.

In terms of denial, Town Attorney Silver explained that SB 9 is very specific as to grounds for denial. There are two separate grounds, the first being that the project does not comply with objective standards. If the Town publishes objective standards and those standards are not met by a submitted application, the Town does have authority to deny the project. The second ground for denial is based on health and safety findings. There are two findings required, both of which must be made. This is taken from other statutory schemes and has been interpreted by the court. It is a fairly high bar to meet, requiring that that the project would have a specific adverse impact on public health and safety or the physical environmental. Secondly, that there is not a feasible satisfactory way to mitigate the impact. If both of those findings are met, then the project can be denied.

Planning and Building Director Russell continued the presentation by presenting the proposed ordinance. She said on October 13<sup>th</sup>, staff brought this item to the Town Council for initial discussion and direction on how they should move forward. Council directed staff to draft an ordinance to maintain as much local control as possible, maintain discretionary review over normal review of larger single-family homes through the ASCC process to the degree possible; to emphasize fire safety and geologic safety in a way that complies with SB 9 to the best of their ability, since these interpretations have been evolving since that meeting, and they anticipate that they will continue to evolve. The Council formed a subcommittee of then-Mayor Derwin and Vice Mayor Hughes that provided feedback to Town Attorney Silver and her in drafting the ordinance and the objectives standards before the Council for consideration.

Director Russell continued by sharing a couple assumptions underlying the way the ordinance was constructed. First, that the Town must adopt some form of regulation before January 1<sup>st</sup>, or the law will go into effect. If the law were broadly interpreted without a local implementing ordinance, it would have significant consequences for the Town. Director Russell said they recognize this is challenging to implement and they expect that going forward they will need to make adjustments and refinements as needed. Another underlying assumption was the desire to preserve discretionary review of large single-family home projects by the ASCC, an important part of maintaining the town values and ethos and ensuring that a development is appropriate, tied closely to the general plan policy related to houses being complementary and subordinate to the natural environmental. Also, it is very important to maintain discretionary review to look at the physical conditions, topography, fire safety, and geologic conditions of a given site. Some of these ideas were woven into the areas of the ordinance where they could, as well as the objective standards.

Director Russell explained that what they did was to draft an ordinance creating regulations to comply with the State law and also maintain the current requirements for larger projects that do not fall under the

state law. Working with the idea that they have to permit at least two 800-square-foot lots, they can have objective standards but cannot physically preclude the two lots.

Director Russell explained that looking at the outline of the ordinance, first they looked at the state law requirements related to location restrictions. There are a number of provisions in the ordinance from other housing laws that have been taken and added into SB 9. There are also regulations related to the lot splits, lot sizes and the review process. As drafted, they have carried forward existing policies related to geologic safety. They have an existing ground movement potential map and an implementing resolution, that would apply to SB 9 projects as well, so they do have the benefit of all of that past work. In regard to fire safety, the ordinance carries forward the fire safety exception that was developed for ADUs, so it would also apply. That states that all properties less than one acre in size, if accessed by a road that is less than 18 feet wide and there is only one way in or out, those properties would not be allowed to have lot splits or new SB 9 units. This is a policy developed with the ADU regulations in 2018 and 2019, working closely with the Planning Commission and the previous Fire Marshal. This addresses some of the issues related to evacuation that they have heard the community asking to be addressed.

Looking at how this would be applied, Director Russell referred to AMFA, adjusted maximum floor area, a special calculation the Town does to decide how big a house can be, how much floor is allowed on different parcels. If there is a lot split, then the newly created parcels would have an AMFA that would be calculated according to the Zoning Code. Each resulting lot would have a new AMFA calculation. To create a small SB 9 unit according to the numbers outlined in the ordinance, they would be allowed to do that through a ministerial process. If they wanted to exceed those numbers, then there would be a discretionary process of going through the ASCC as with the normal process. The only caveat would be that they always must allow two units of 800 square feet on those properties. They also have created draft objective standards, which would regulate the building envelopment, exterior materials and form of the resulting units. They have also included incentives and disincentives to encourage compliance with local setbacks. When the Planning Commission was considering ADUs with the state-mandated four-foot setbacks, they came up with this approach. Since they cannot tell people they are not allowed to build at a four-foot setback, they wanted to create strong incentives for people to comply with the local setbacks, often 20 feet, as opposed to going with the State-allowed four-foot setback. They took the same incentives and disincentives that were created for the ADU ordinance and applied them likewise to SB 9 units. This includes detailed requirements, including very few amenities allowed for units that do not comply with the setback, to try to discourage aspects of the project that could create privacy, noise concerns or disrupt the aesthetic or rural character.

Director Russell continued, reiterating that a person can create one or two units that can be the smaller size under the SB 9 ministerial process, or they could be developed up to the maximum AMFA through the Town's ASCC discretionary process. Without this process through ASCC, they needed some way to control the design of these units. The mechanism under state law is the objective standards. Staff's approach to developing these was to look at existing Design Guidelines and adopt some of the things that have subjective language and convert them into objective language. They tried to address common issues that come up through the ASCC review process. The proposal is to adopt the objective standards by Council Resolution so that they can be amended from time to time as needed. It is easier to amend something that is adopted by resolution than something adopted by ordinance. They also wanted to note that through the process of the last ADU ordinance, the Town developed a fire safety checklist, included in the staff report. It was adopted by the Council in August. This same checklist would apply to SB 9 units if they did not comply with the Town's setback, so it aligns that policy with the existing ADU policy. The checklist was developed by Planning staff and the Fire Marshal and was approved by Council.

Director Russell described highlights of the objective standards which were adapted from existing policies by strengthening the language so they would withstand a test of being an objective standard. They created a limit on the amount of grading, which aligns with the current Planning Commission review threshold of 1,000 cubic yards. They put into policy a ten-foot separation between buildings on the same property, which has been a long-time policy of staff but not codified. They created regulations for second driveways that align with the ADU regulations. Colors and materials are subjective in the design

standards, and they put those into numeric values with stronger language. They addressed noise for air conditioning units and generators being in compliance with the setbacks. Lighting regulations are from the Design Guidelines, as well as nonlinear planting requirements and tree protection.

There were things that were desirable to regulate based on the ASCC process but were not otherwise covered, so staff created some new policies to address some of those things that commonly come up. There is language related to retaining wall height and separation to avoid viewing large retaining walls from neighbors' properties or from the public right-of-way. There is a requirement for driveways to be shared unless they are a distance apart so there are not a lot of new driveways that would be visible from the public right-of-way and disrupt the rural character. Light spill is to be limited and an objective standard for windows not being able to take up more than 30 percent of any elevation. Director Russell explained that if units are attached, there would be no internal circulation, such as a hallway, a staircase or internal locking door. The purpose of this is because they would want the SB 9 unit to actually be a separate unit and wouldn't want owners to just use the law as an opportunity to make their existing houses larger for more of their own living area. This makes it so they function more independently. They are proposing no roofs, decks or balconies, which is very strong language, but those things raise a lot of privacy concerns and are very closely scrutinized during the ASCC process. Balconies can also raise fire safety concerns, so they recommended that there be no decks or balconies on SB 9 units. They proposed that planting associated with an SB 9 unit be limited to 30 feet around the building, chosen because it aligns with the common defensible space requirement. They would want all of the plantings to be native, so it is the most restrictive list of plants in the Design Guidelines that would apply. They have new language related to site visibility at trail crossings just for safety that they wouldn't otherwise be able to address and some new language around the removal of significant trees.

Director Russell commented on why they are taking this approach and said there are numerous reasons. It is a very challenging law to implement and potentially very impactful for the community. They wanted to put something in place that achieved as many of the goals as possible and to try to balance the different priorities as well as possible. They believe that the draft ordinance complies with SB 9, preserving the rural character and lower density that the town wishes to maintain. They have aligned the SB 9 units with the ADU unit sizes and believe it will help to provide the overall character of the town without changing things significantly, providing clarity and consistency between ADUs and SB 9 units. They have also heard from the Town Council in the past an interest in housing unit production, as long as those housing units are consistent with the rural character and town ethos. They recognize that the setback issue is a very big one for the town, so they wanted there to be strong incentive for people to comply with the local setback as crafted by the Planning Commission for the ADU ordinance.

Director Russell said, in looking at the setback issues, the Planning Commission and public talked a lot about fire safety and making sure they had those setbacks. She said they are interested in hearing from the Council how to balance those priorities if this is the right fit or if there is a different way to do that. There is a multi-pronged approach to fire safety. The ADU fire safety area restriction – less than one acre, 18-foot-wide road. The fire safety checklist would apply to all projects that do not comply with the Town setbacks. The next item is the home hardening ordinance. If the Council passes that then it would apply. The Town is currently working on an update to the Safety Element in compliance with state law which is timed at the same time as the Housing Element Update on purpose, two chapters of the General Plan. They are updating that now, doing research, gathering data, and there will be a lot of new information coming forward, so the Town may update the Safety Element with new restrictions. If those are adopted by the Town with the Safety Element, then they would automatically apply to SB units the way the ordinance is drafted. So, there may be more objective standards or fire safety standards that come into play in the future. This approach may result in a small number of SB 9 units that could be a positive in terms of meeting the Town's requirements for RHNA, the Regional Housing Needs Allocation. Importantly, if the Town does not do something to comply with SB 9, things will be worse. The state law would govern, and local control would be lost. They would lose discretionary reviews for ASCC of all new houses. If they do not adopt something, on January 3<sup>rd</sup> people would be able to come in and apply for a new house under a ministerial process, with nothing in place to be able to regulate them. They could also apply for four-foot setbacks without any local mitigation or application of any incentives or disincentives.



Director Russell concluded by stating they have been coordinating closely with the Fire District on many of these items, so she turned the presentation over to Don Bullard, Fire Marshal, to share his thoughts.

Fire Marshal Bullard advised that the Woodside Fire Protection District has been working closely on all fire safety issues for the town. They have collaborated on joint resources, grants from the Community Planning Assistance for Wildfire, CPAW, to support wildfire mitigation, resiliency and adaptation efforts in town. They have collaborated with the Town to publish stringent fire safety checklists for all ADUs built within the Town's setbacks. They have worked with the Town and Planning Commission to develop ADU fire restricted areas and have supported Wildfire Preparedness Committee efforts, including "Ban the Flammable Five," and the Home Hardening Ordinance. Marshal Bullard reported that they are currently working on a three-year comprehensive update to the Fire Code based on new studies and will be working closely with CPAW to make recommendations on new fire code, including the building separation. The District is not currently prepared to adopt the 1140 separation requirement piecemeal without reviewing an entire set of updates. They are looking very closely at the 1140 standards, and their goal has been to spend the entire year next year trying to come up with a comprehensive fire code that will bring a fire adapted community to the Woodside and Portola Valley areas through the Fire District. He said the District does not have jurisdiction authority or resources to take on extra zoning review authority for the Town.

Fire Marshal Bullard shared the District's recommendations, including supporting the Fire Safety approach in the SB 9 ordinance; supporting the Home Hardening Ordinance and future updates; and consideration of 1140 separation requirements be studied in connection with the upcoming Fire Code Update, expected late in 2022.

Planning and Building Director Russell advised that the Urgency Ordinance was before the Council implementing SB 9. There was also a Resolution adopting the SB 9 Objective Standards Checklist. They anticipate continuing to review the SB 9-unit potential and find ways to study how many SB 9 lot splits there may be or units that might get built, to determine if those can be included in the Housing Element. They anticipate having to revisit this and make adjustments as needed to see how it is working out and make any additional policy changes or bring them to the Council for consideration. She said they recognize the complexity of the subject matter and have tried to bring forward an ordinance that addresses the subcommittee's interests and concerns, the Council's direction from October 14<sup>th</sup> and tries to balance priorities while bringing previous feedback received from the Planning Commission and the Council.

Mayor Hughes thanked the participants in the presentation, acknowledging the work put in to get this done by the January 1<sup>st</sup> deadline that the State has forced upon them. He said the amount of work has been enormous and the presentation laid out how much work was involved and what is at stake if they don't approve something before the beginning of the year. Mayor Hughes invited questions from the Council.

Councilmember Richards said it was a fabulous effort and remarkable set of recommendations. He inquired about how they arrived at the 30 percent window limit per elevation. Director Russell responded that it was using best judgement, inspired by a standard that was adopted in Woodside for a similar purpose. A team of three staff in the office thought about what it would be like to have too much glazing, too many windows on an elevation, so they played around with some of the different proportions. Councilmember Richards said the reason he thought of it was that it potentially may have some conflicts with energy codes, as 20 percent is kind of a common number that is used in energy codes, for non-analyzed buildings. He said it may not be an issue, but he was just curious.

Councilmember Aalfs answered Councilmember Richards' question by informing that in the energy code the prescriptive requirement for a west-facing wall is 20 percent of the area. It limits window area on a west-facing wall to 20 percent of the wall area. He said almost every project in California is using the performance method which is a way to get around that limit if there is a west-facing wall and someone wants to put more windows on it. It is less restrictive than the energy code, so there is no conflict there.

Councilmember Aalfs inquired about prohibiting SB 9 subdivisions in the high fire severity zone, but there were two exceptions, and one was if you hadn't adopted the maps but also if you have adopted Chapter 7A, which they have for the entire town, the law basically says that Chapter 7A is an effective mitigation for fire safety, even in a high fire severity zone. On the owner affidavit, he asked if they sign the affidavit and move if it has any consequence or teeth. Town Attorney Silver replied that it is based on the present intent of the applicant. If there is evidence to show that the certificate was submitted fraudulently and there was absolutely no intent, then it would not stand up. However, it is an unusual affidavit. They generally see just straight-out owner occupancy requirements which are easy to enforce. This is just based on present intent at the time that the application is filed. She added that one thing it does from a practical standpoint is it essentially limits the ability to apply for these types of application to natural persons. For example, a corporation cannot have an intent to occupy the residence.

Councilmember Aalfs asked in regard to the floor area, if someone takes advantage of the second provision of SB 9 and builds two units without a lot split, if they could sell the second unit even though it is on the same parcel. Director Russell said yes, they could, although there would have to be a legal mechanism in place, such as a small condominium or tenancy in common or some kind of legal instrument. Councilmember Aalfs asked if he had a lot and the main house had maxed out the floor area, if he could have up to 800 square feet above his maximum floor area for an SB 9 second house. Director Russell said that is their understanding and interpretation. They cannot physically preclude someone having two units. Councilmember Aalfs said up to 800 square feet, but that could be the cap, basically. Director Russell said yes, the way the ordinance is written is that if you were maxed out on floor area already, you could only add an 800 square foot SB 9 unit. Separately, the ADU law also requires them to allow an 800-square-foot new, detached ADU. Councilmember Aalfs said if he didn't split his lot and didn't want to tear down his house, he could build a second unit, an SB 9 and an ADU. So, he could have three separate buildings and a junior ADU in the main house. Director Russell said that was correct. Councilmember Aalfs said but if he splits the lot, then he could have two units on each lot, but not an ADU on those lots. Director Russell said that was correct.

Town Attorney Silver said that was a good hypothetical and another reason to implement a local ordinance, because the state law allows towns to prohibit additional ADUs in the case of a lot split. However, it needs to be done through a local ordinance to make that prohibition as they have done in their implementing ordinance.

Vice Mayor Wernikoff asked Town Attorney Silver to review how updates would work after an ordinance is passed. Town Attorney Silver explained that there are two ways that they would make updates. If an update is needed to the actual ordinance, they could adopt those via another ordinance. If the urgency findings could be made, they could do that via an urgency ordinance, so updates would go into effect immediately. If not, then they could proceed during the regular course with the first reading and the second reading and pass the ordinance at any time. She said there is another aspect of the action they are being asked to take tonight which is codification of the development standards. These are adopted by a resolution, so those can also be adopted at any time by the Council. Since they are adopted by resolution it is unnecessary to go through the ordinance process, and it would just be a regular action item by the Council to change to update those objective standards.

Vice Mayor Wernikoff asked in terms of the objective standards what the direction is on fire sprinklers, since this was a big issue with ADUs. Director Russell advised that the state law has specific requirements related to ADUs about which ones can have fire sprinklers and which ones cannot. She said the SB 9 language as they interpret it does not have that provision, so SB 9 units would have fire sprinklers.

Vice Mayor Wernikoff asked about the discretionary review process and said her concerns about SB 9 relating to Portola Valley are whether it is actually going to create any housing inventory here, just because market conditions are that the lots are expensive no matter what. She assumed that at least if a unit is smaller there would be a better chance of it being a lower market rate which would get at least closer to moderate. She was skeptical about affordable. She said if they have an SB 9 unit that has the

full ability to access the discretionary process it could be a whole big house. Director Russell said the way it is drafted, a person could split a lot and build smaller units of 850 square feet, 1,000 or 1,200 square feet, depending on the different circumstance. It could be more naturally affordable because it is a smaller unit. The way it is drafted, if they wanted to go through a discretionary process then they could build a larger home up to the AMFA maximum so the result could be more larger homes in the community if people would take that path, so it is a policy question for the Council to weigh in on.

Vice Mayor Wernikoff asked for the rationale and thinking behind the strategy of the unit size. Director Russell responded that when the Planning Commission considered the four-foot setbacks, there was discussion about the pros and cons of the ordinance, which had some similarities to the SB 9 state law. It was about creating incentives and disincentives largely to comply with the setbacks. The current ordinance has two different sizes for SB 9 units that are the same as ADUs, so there could be an 850-square-foot one-bedroom and a 1,000-square-foot two-bedroom. Those numbers come from state law for ADUs, not for SB 9 units, so they do have discretion over that if they do not comply with the setbacks. Their intention was to align it with ADUs because they have that as an existing policy, it created clarity in the application process and consistency and that there was an interest in getting a range of different unit types and unit sizes. Then there was previous Council direction that additional housing stock is good as long as it complies with the local ethos, so they were trying to balance those two things. Director Russell said if the project does comply with the local setbacks, they would move up 1,200 square feet, which is the same size as an ADU that complies with the local setbacks. For properties that are three-and-a-half acres or larger there can be 1,5000 square feet, the same as the ADU law. It was about consistency trying to align with existing policy that had been found to be an effective policy for ADUs.

Vice Mayor Wernikoff wanted to echo all of the comments about the incredible amount of work that Town Attorney Silver and Planning and Building Director Russell had done and said it has been a tremendous effort.

Mayor Hughes replied to Vice Mayor Wernikoff's last question regarding different sized lots and where those numbers came from, as opposed to 800 feet across the board, or something like that. He said it really was because of the work that the Planning Commission did on a very similar situation. If adding a second unit, whether an ADU or an SB 9 unit on a lot, the circumstances are pretty much the same. The Planning Commission considered this at length and came up with these numbers for the different sized lots and different circumstances and felt that since there is no material difference between and SB 9 unit or an ADU as a second unit on a lot, that the same rules ought to apply, for consistency and because they didn't have time with the time between the State finalizing this and the Governor signing it and having the final text of the law and the January 1<sup>st</sup> deadline for putting something in place to go through another round of Planning Commission process. Staff has pulled as much as they could from the work that was done for ADUs where there are similarities, and carry it over, because if it made sense then, it presumably would make sense now. If that is not the case, they can continue to amend this over time as they learn new things, get new fire codes, et cetera.

Mayor Hughes brought up the element of the fire hazard maps and Cal Fire maps, the Moritz maps and what the current state of that is. He expected that at some point in the coming year they will adopt a new set of maps. He said Cal Fire is bringing out their update after a number of years. There are consultants that are hiring, and the Fire District is looking at the issues as well. He remarked that if they were to adopt a new map, he thought that was another path, because in their ordinance they do say that if you're in a very high fire severity zone under an adopted map then different rules apply. He felt there would be a number of paths for things like that, where the work ongoing in town will automatically roll into this. He wondered if his understanding there is true. Town Attorney Silver said it was and that they had discussed different language for that eventuality. At the Subcommittee's direction, they wanted to ensure that their ordinance would incorporate those updates. They included essentially placeholder language any restrictions, not only prohibitions and very high fire severity zones, but any type of prohibition or other regulation that is codified in the Safety Element that would automatically apply as soon as the Safety Element was adopted by the Council.

Mayor Hughes commented that, as Fire Marshal Bullard had said, he is working on Fire Code updates for them and he wanted to make sure as they adopted them those would also apply to projects, unless they conflict with state law. This has been designed as much as possible so that any future fire code changes or other changes of that nature would also apply as much as possible. Town Attorney Silver affirmed that this was a typical objective standard that is applied, so if a project does not comply with the most up-to-date fire code or other building code, there would be grounds for denial.

Mayor Hughes invited further questions for staff or the Fire Marshal. Hearing none, he invited comments from the public.

Bob Turcott said he keeps intending to thank Town Clerk Hanlon for showing the number of attendees and updating it. It means a lot. There are limitations to this format, but it is helpful to know how many residents are also engaged. He thanked the staff for all their hard work, and the presentation of complex material. He said he continued to be perplexed as to why there is so much attention paid to the very high fire hazard severity zone exception when they don't have any. They have not adopted any maps as he understood it. He was glad to hear the Town Attorney mention the other method for denying applications based on safety, which is the specific adverse impact on public health and safety. He did not see any written objective standards addressing that in the plan. He said if sold half of this lot, he would drive economic benefit and would transfer the cost of increased hazard and risk to his neighbors. He felt there should be a mechanism for a safety evaluation to be in place, and that is what the petition calls for. He said their petition was not based on what Woodside Fire Protection District but is based on what town residents want the District to do – apply its expertise to enforce fire prevention development and building standards to protect their safety. Mr. Turcott remarked that it is often said that Woodside Fire Protection District already is involved in the review of applications. That is true, but their involvement is limited to things such as verifying that there are smoke and carbon monoxide detectors, verifying that fire hydrants within 600 feet of the front door, et cetera. He said these are all important but don't come close to evaluating the fuel complex on the site, the topography and safety of development there. He paraphrased a comment he heard Fire Marshal Bullard say with respect to a particular application – less than 30-foot separation in this location would be madness. Building separation should be increased, or the project should be moved to a safer location. But right now, there is no authority to enforce that. It is said that the 30-foot separation is onerous, or merely a standard that has not been adopted into law, which is not true. Had Portola Valley accepted Woodside Fire Protection District's recommendation of very high fire hazard severity zones, right now in Portola Valley Ranch, Western Hills, Alpine Hills and Westridge, it would be illegal per existing state regulations to have building separation less than 30 feet or less than a 30-foot setback. His question to Fire Marshal Bullard was if a building ordinance modeled on the existing state Regulations to require 30-foot separation between structures help reduce the hazard of structure-to-structure wildfire ignition and spread?

Tom Hafkenschiel questioned Town Attorney Silver on if one meets all the objective standards for division of the property but is to develop the new property or subdivision of it requires the removal of ten Heritage Oaks, if it means that the tree part doesn't apply anymore. Mayor Hughes advised him that his question would be in the batch with all of the other speakers and addressed at the end.

David Cardinal was blown away by how much staff has gotten done in such a short period of time. He said he is not a particular fan of SB 9 and was rather frightened by the effect it might have on the town, but he was impressed by how much the staff and committees had been able to do to put something in place to deal with it locally, and he congratulated those involved.

Ron Eastman said Gavin Newsome signed SB 9 on September 16<sup>th</sup> and Los Altos Hills was able to pass an emergency ordinance on November 18<sup>th</sup> after listening to resident input. Their residents most likely only had four days to look at the ordinance before it was voted on. They compensated for this by adding a 45-day sunset clause to the emergency ordinance. He felt starting from January 1, 2022. As complicated this measure was to pull together with only four days to digest the contents, he felt the responsible thing to do would be to likewise sunset this ordinance, allowing sufficient time to go through the appropriate committees, especially to receive additional community input from residents. He said they have heard a

lot of comments from people about how dissatisfied they were from the reporting out of the groups. So perhaps 90 days or 120 days, he wondered what it would take. Mr. Eastman said SB 9 specifies the minimum floor space of 800 square feet. He understood the idea behind combining it with the ADU ordinance for efficiency, but he felt the purpose of this is to push back against what he feels is democratic overreach by the State. He wondered about making the allowed floor space for SB 9 primary units 800 square feet. They could add carrots for other things, like observing the discretionary setbacks. He pointed out on page 960 of the agenda the first item labelled number three looks like a loophole. It states that if the developer of an SB 9 unit wants more floor space, they can go through the ASCC. He felt that language needs to be tightened up, because it looks like if they want more floor space, they can do the SB 9 but then if they go through the ASCC maybe you can get more floor space. He also suggested providing a carrot for deed restrictions against lot splitting. He said this is something else that Los Altos Hills has done, and he thinks is a great idea. He thought the older, most fire-risk neighborhoods in Portola Valley where they will see SB 9 most invoked. It will be economically advantageous for people in those neighborhoods to do that.

Rusty Day seconded Mr. Eastman's suggestion to put a sunset provision in the ordinance as Los Altos did. Regarding the ordinance, he thought the 550 people who signed the petition to protect public safety were trying to tell them something about this ordinance. He believed they feel as he did, that wildfire poses and existential threat in the community. He feels they are deeply concerned about the immediate hazards they confront in the ability to evacuate if needed. He thought they want to see specific, clear-sighted, prudent steps promptly taken to reduce and contain the hazards they confront – promptly taken, not next year, not a year from now or three years from now. He felt they want to make sure that future development projects in town do not expand the wildfire hazards and risks without careful professional review and appropriate measures to reduce and contain them. The petition calls upon the Town Council to give the Fire District authority it currently does not have, and residents believe it needs to protect our long-term safety and prevent structure-to-structure fire spread. This would be done by first authorizing the District to interpret and enforce the provision of the Municipal Code that regulate the size and placement of structural fuels on each parcel of land and the likely effect a fire on that land would have on neighboring parcels. Secondly, by adopting a presumptive 30-foot minimum building separation standard throughout Portola Valley until more comprehensive, objection fire prevention standards are developed and implemented. State regulations already mandate and require a slope-adjusted 30-foot separation between buildings in every very high hazard fire severity zones, both state and local responsibility areas. The regulations require an increase in separation for sloped sites and allow reductions in separation if appropriate steps are taken to prevent structure-to-structure spread. Mr. Day related that over 12 years ago Cal Fire and the District both asked the Town to designate by ordinance very high fire hazard severity zones identified by them in town. The 30-foot separation requirement that the petition asks the Town to adopt would already be required today if those recommendations had been adopted. Mr. Day asked the Town Council if they would grant the WFPD the authority it needs to review the effect of proposed development and building projects on wildfire hazards and risks in town and require a 30-foot separation. He asked Fire Marshal Bullard if he believes there are very high fire hazard severity areas in town.

MJ Lee remarked that in the objective standards it says ten-foot separation between buildings on the same property, existing policy. She wondered if it is possible in the objective standards to increase that separation to 30 feet, or whatever would be safer, or if it would have to go through the fire safety checklist.

Danna Breen followed up on the previous comment by asking if the ASCC was brought into active dialog about SB 9 objective standards.

Kristi Corley inquired if the entire Planning Commission had commented on this ordinance and whether it is being done through emails or verbally. She hoped to hear what each member of the Planning Commission has to say and would like to see them poke holes into something that's a law and plans for land use in Portola Valley. She wanted to know what is being done about basements and bunkers. She noticed that another city will not allow that, and she wanted to know what Portola Valley is going to do. She wondered if they had considered high fire zones versus just very high and if they could make their

standards even greater. She asked if they had considered increasing impact fees for developers, as they can buy every other lot. They cannot buy a whole street, but she asked if two or developers would be able to work together in buying every other lot, and what the Town could put in place to protect from that. Regarding equal splits, she said 40/60 is not an equal split, so she was not sure what was meant by equal. She noted there are many ways to do a 40/60 split. She commented on the tree size and getting rid of shade for animals and humans. She asked how the Conservation Committee was in the loop to be able to comment on the environment. She referred to what happened at the Sequoias where a large area was cleared with a large number of trees, and then they were instructed to plant more trees. Her question was, for solar, if a duplex goes up next to another house, if their solar goes away, how can that be protected? She asked how to put teeth into the three-year clause to hold people accountable to living in the unit for three years. Also, she asked what happens after three years.

Vice Mayor Hughes interjected that although Ms. Corley's three minutes had run out, staff and Council Members are available anytime by email or phone if anyone has further questions.

Karen Askey focused on understanding what Fire Marshal Bullard said about getting the new fire code in place and not wanting to adopt pieces of 1140. She inquired if they have the ability as they learn more to fast-track, learning that building separation is a very important part of fire safety, to fast-track that element and put it into the fire safety checklist. She saw that there is 100-foot setback on a 20 percent slope. She wondered if there was capability as they learn more and become more certain of that.

Alyson Wood Illich commented on Ms. Askey's comment and encouraged the Town Council to look at including the 30-foot separation in the urgency ordinance. It will take the fire department some time to consider all aspects of 1140, but she felt that standard is very pertinent to the town's situation, and she believed the Town Council has the authority to include that in the ordinance in anticipation of it becoming part of the fire code in the future. She also wanted to echo others who had referenced Los Altos Hills actions, where they were even a little more aggressive than the proposal that she has seen for Portola Valley. She said they have some interesting aspects that she would encourage staff to look at and incorporate as appropriate. She commented that what the staff has done tonight is a great start.

Roland Crawford explained that he is a fire protection consultant. He said the reality is that when there are structures located ten feet or closer together, they are considered one common fire area, so the comments regarding separation of building, particularly Mr. Day's comments, were right on. It is something that should be considered, and he didn't think the Legislature took into consideration the fact that there are wild land urban interface scenarios that are much different than urban scenarios for SB 9. He said SB 9 is probably more of an urban document than a rural document, and the separation distances need to be taken into consideration.

Rita Comes commented that no matter what is agreed upon or discussed that night, she asked how all of it will be enforced in the future. From what she sees, they are not doing a good job of enforcing standards right now, so she wondered how they will enforce these requirements for the future with respect to 253 possible future units, when there were only 10 houses approved in the past year. She liked what Los Altos Hills did with the 45-day and strongly suggested that Portola Valley try to put something like in place since they do not have all the information, they need at this time to move forward.

Dale Pfau came back to the fact that many people in town are quite concerned about fire. The awareness has been raised. They have a method to at least defray some of the mitigation or some of the danger in the new building that will be taking place. He said he is incredibly uncomfortable waiting for the new fire code, a full year. The prior Mayor had said there were big projects coming, plus SB 9, plus more ADUs, and there is a huge potential for the impact of fire in the community. He said that the Town could adopt a 30-foot separation requirement as part of this urgency ordinance that would at least help a little bit moving forward.

Hearing no further public comments, Mayor Hughes brought the item back to the Council for discussion.

Mayor Hughes asked the Councilmembers how they wanted to go about approaching the discussion, given the questions that were raised, the comments from the public, the petition and letters received, as well as their own thoughts. He proposed making general comments first and then the specifics of the ordinance, or any other thoughts.

Vice Mayor Wernikoff felt because there is a lot of information and her big thing lately is that all of the conflating makes it very confusing, she liked the suggestion of addressing general comments, perhaps some of the ones related to the petition, and then focusing on the detail of SB separately. She did not want SB to get lost in the shuffle because it is so important and there are many specifics.

Councilmember Derwin hoped the staff took down the questions, and she wished to hear some of their opinions on those questions.

Councilmember Aalfs agreed with collecting the questions and answering as many as possible. Regarding the Mayor's original question, he thought it would be nice to split the items up and talk about SB 9, talk about the petition, and then talk about other items outside those two categories.

Mayor Hughes, therefore, suggested starting with questions. First, he asked Planning and Building Director Russell to address some of the specific questions that have fairly straightforward answers. The longer policy questions it may take further discussion from the Council to answer them and perhaps getting back to people afterwards where appropriate.

Director Russell addressed the question regarding removing significant trees. She stated the tree removal process under the current code has a discretionary component to it ,so they would not be allowed to enforce that anymore. Staff has drafted in the objective standards checklist criteria for removal of significant trees which is based on industry standards for when trees can be removed. One of the criteria in order to comply with state law is that there is no alternative design that could preserve the tree but allow the state-mandated SB 9 unit it would have to dead, diseased, a fire hazard other hazard, or it would have to meet that criterion to be removed. Those would be approved at a staff level under their proposal. Regarding whether amendments could be made to the fire safety checklist, according to the Council's interest and direction her answer was yes. The fire safety checklist is adopted by resolution, so the Council could ask for amendments to that at any time consistent with any other policy work that the Town is doing or any other work the Fire District does in the future.

Director Russell next addressed the question about basements and explained that they are handled two ways in the proposed ordinance. If the SB 9 unit complies with the setbacks of the base zoning district, then the basement would have the same rules as an ADU, the same code language, when the floor area counts and how they calculate it. If SB 9 unit does not comply with the setbacks of the base zoning district, then they would not be allowed to have a basement of any kind.

Regarding the fire safety checklist, she said there were two questions. She said everyone is probably wondering about the ten-foot separation that was included in the checklist and said this was on purpose, for transparency, so that the Council would know what the Town's existing policy is in case they wanted to weigh in on it. When staff is reviewing applications, this is the individual buildings that are on a property, not a relationship to the setbacks or to anyone else's property, just the relationship between two different buildings on the same property. The Town has had a ten-foot separation requirement for that condition for many years and it was included in the ordinance for transparency so everyone would be aware of that. Mayor Hughes asked for verification that it would include not just SB units or ADUs but also things like garages, carports, pool sheds, et cetera, so that the carport can be near the house, for example, .

Director Russell answered the question about the meaning of having an equal split. The state law says it needs to be approximately equal and defines that as no more than a 60/40 split. This comes directly from the state law. Regarding the question on Conservation Committee comments, she advised that through

the ministerial process these projects would only be subject to the objective standards within the code and within the checklist so there would not be Conservation Committee review of these project for any other discretionary actions or recommendations. Mayor Hughes clarified that if they took the discretionary process that it would go through the current process.

Mayor Hughes asked Fire Chief Linder to address the questions regarding the petition about providing new powers and authority to Woodside Fire Protection District. He asked him to share his thoughts on that and whether he is prepared for and wants the extra authority in what the petition is asking for. Fire Chief Rob Lindner responded that they are definitely not in a position to do this right now, and there would have to be a longer process of discussion and what it entails. It could be very broad when talking about their opinions, but he said they do not want this to be to the point of their opinions. It has to be fact, written and objective. He understands that the residents want something now, but there is no way that can be done right now. He said this is what Fire Marshal Bullard is working on with the intelligence that he is getting through CPAW, other studies, other experts, to come up with a more specific plan to be able to give to them as they move forward.

Fire Marshal Bullard elaborated on adopting parts of 1140 but not a comprehensive plan. He said the part they are specifically talking about is the 30-foot separation. He said he didn't feel there is any one single solution to solving the wildfire problem. They have some of the best minds in the science world working on this problem. The National Institute of Science and Technology has scientists trying to solve this and looking into the idea of structure separation. He feels their assumptions are correct, but they do not have the science yet to tell them what the magic threshold should be. He assumed that 60 feet would be better than 30 feet, which is better than 15 feet which is better than 5 feet, but they must also remember the other variables to think about. He said wildland fire is driven by fuel, weather and topography. There is nothing they can do about the weather, so they have to talk about the fuel and the topography. Topography involves smoke, aspect, terrain. Fuel pertains to the built environment including houses and also the vegetative material surrounding those houses. He said he has confidence that things like home hardening and defensible space are things that are in place that will work. He said it would be erroneous for him to say right now that 30 feet of separation will solve it all. Maybe it will, or maybe the magic threshold will turn out to be 45 feet, but right now they don't have the science, and it is an unknown. He felt right now home hardening, defensible space and more restrictive building codes is a good first step for them. Anything else will be putting the cart before the horse. He is working with CPAW, with many experts, to try to figure out the best fire code for this district. He responded to Mr. Day's question regarding whether he believed there are very high fire severity zones existing in Portola Valley, and said his answer is yes, and what is on the maps he does believe exists, and that there is more than that.

Mayor Hughes said the legal questions he recalled were around sunset provisions and potentially having this ordinance expire. He asked Town Attorney Silver to speak to these questions. Town Attorney Silver responded that if they were to adopt the ordinance and it expired in 45 days, then they would automatically revert to the state law. All of the protections with respect to local control would then evaporate. She felt the speaker was referring Los Altos Hills, which took a 45-day urgency ordinance. Which is a process that typically is adopted in two steps, where the ordinance is adopted for 45 days in one action and then later a second action is taken to extend the ordinance for a two-year period, which is another way of adopting an urgency ordinance. She said Portola Valley took a different approach and relied on the Town's health and safety power to adopt an urgency ordinance because they thought the facts justified it, given the fire risk they've talked about and the need to get something in place to avoid some of the more general consequences of just having the state law apply. She said in their situation the ordinance doesn't necessarily sunset, but the Council always has the ability to amend, to rescind, or to update their own ordinance.

Town Attorney Silver responded to the question of whether the Planning Commission had commented on the ordinance. Given the short time period, unfortunately they did not have the time to bring this to other Boards and Commissions, but the ordinance does implement some fire safety policies and very similar local land use policies that the Planning Commission spent numerous hearings on, and they have faithfully carried forward that analysis into this ordinance. Mayor Hughes added that the ordinance and



checklist and other parts of it can be amended, so they are able to send to committees for them to opine on how it might be revised after January 1<sup>st</sup>. Town Attorney Silver agreed.

Mayor Hughes noted that Town Manager Dennis had been involved in talking to the authors of the Camp Fire paper that was heavily referenced in the petition. He asked if he had any input from this perspective. Town Manager Dennis responded that he has been communicating with one particular author but had the opportunity to communicate with all of them. He wanted to let them know that there had been a petition in the community directly referencing the Camp Fire study as it related to the requests therein. He asked a series of questions about whether or not their study was intended to make the conclusions that were being discussed in Portola Valley, and the answer was no, that their study was not intended to discuss density issues or a particular standard related building separation. The conversation was interesting in that apparently his questions spurred them to consider further studies they would like to do, particularly around 7A and what happened with those building in Paradise. He encouraged people to read the conclusions of the Campfire document both at the beginning and end. He said he asked the authors directly if they had intended to have that kind of conclusion, if it would have been included in the concluding remarks and they said yes, they would have. He agreed with Fire Marshal Bullard's comment that there is evidence to support a standard at some point, but folks like the Insurance Institute are doing a whole suite of work to determine whether or not there is a standard to have, particularly around home hardening, defensible space and other concepts.

Mayor Hughes brought the discussion back to Council for general comments.

Vice Mayor Wernikoff had prepared a comment, because she wanted to make sure she got it all out. She said she has talked to many residents over the last couple of days and weeks. She has had to reach out to people. She said she saw only one name on the list of attendees who reached out to her. None of the signers of the petition reached out to her. She felt they needed to figure out a way to get back to talking to each other. Given all the conversations, she felt there is wide agreement that the town needs more affordable housing, and that there is support for its development; however, she also knows and agrees that everyone wants to do it in the safest way possible for their unique topography and environment. She said, in short, the big picture to her is that their goals are the same, but they are getting tripped up in the process. Different people are learning about how the process works at different times. Part of it is because they have been conflating a lot of important concerns, laws and projects right now, whether it's the Stanford Wedge, vegetation management, the canyons, fire code development processes, home hardening codes versus more structural fuel mitigation issues with relation to building separation and all the best practices around that, RHNA, SB 9, et cetera. She envisions the web that Town Attorney Silver described with the state law and said Portola Valley has a web of all these issues going on in their conversations right now. She appreciated and did not disagree with the sentiment of the petition, because she lives here too and is raising her family here. They are all concerned about wildfire, and the concern is exacerbated when they have a series of state laws like SB 9 or the RHNA mandates that require compliance.

Vice Mayor Wernikoff shared that her concern with the petition is the approach that is suggested within it, which she feels is implausible. As they heard, it is inconsistent with the Town and Woodside Fire Protection District and the town's well-established fire code development processes. As it is written it is just not actionable, and she feels they need to focus on things that are actionable if they are to be productive. There is an incredible amount of detailed work that goes into the development of codes, and they need to rely on the expertise of their partners to go through the process and ensure the best outcomes. She said that she, along with all the people they have engaged in this conversation, look forward to expanded regulations to bolster their safety, but only when they are vetted and recommended through the process guided by their experts, as they heard from them.

Vice Mayor Wernikoff shared that her friends consider her one of the most impatient people they know, so she appreciates the stress and frustration for how long these things take. Another thing that is clearly heightening anxiety is the lag time, where they have development mandates but are still waiting for fire maps, waiting for code development. She encouraged trying to work together, and troubleshoot issues

together, because she felt that is where the stress is happening. She said she thinks within a year when they have the maps and the Fire Department has had a chance to go through the process and make the recommendations for code, they will be at a much better place.

As a segue into SB 9, she said what she has been thinking about is whether they want to think about some of the aspects in their ordinance as a way to tighten things up more than they would necessarily ultimately want to be, initially, just for this temporary time, until they have the Cal Fire maps or other maps and also the Safety Element. She wondered if they should go with tighter restrictions on unit size on a temporary basis, until they can get caught up on the other things. She also had been thinking about the discretionary aspect and whether they should have that in the ordinance. If the intent is to build affordable housing, what is the benefit of having the discretionary process? Having said that, when she puts on her Housing Element Committee hat, which she is co-chairing, she said she also knows that they need inventory. They need opportunities to meet the 253 units, so they want to have all the levers available that they can, so they need to balance all of these things in trying to make this decision.

Councilmember Richards spoke next and affirmed Vice Mayor Wernikoff's comments. He agreed and also totally understands the source of the concern that the petition represents. He appreciated the efforts put in by Planning Department staff to put this package together to try to address it. He felt they do have to follow their processes as they have been established over the years. The impatience problem they run into is real and disturbing but is the nature of municipal government in that things do move slowly, in large part because they want everyone to participate. He felt the conflicts with the idea of affordable housing versus putting more buildings at risk and larger buildings. Increasing inventory to create opportunities for affordable housing is something he has also been struggling with. He said there is an argument to be made for decreasing the size in the small lot zones, the 15 and 20 M zones where the visual impact is much greater, even for a small building. On one hand, he acknowledged the argument for increasing the size slightly in the larger lots which would be suitable for a family to live in and not make the huge visual impact. Other impacts like traffic will be similar in either case, but also of concern.

Councilmember Aalfs expressed thanks to everyone in attendance and all that signed the petition. He said it is important to see that the residents care about this and he shared that they care about it, too. They all live in Portola Valley, and he raised his family here as well. They worry about these issues as well. He said that if following processes makes it look like they are not taking this seriously, he apologized for that. It is complicated and they do have to follow the rules – rules which are there almost to protect the residents from the governing body so that they can't impose their will on the town without their consent. He acknowledged the frustration and apologized for that. He reiterated Vice Mayor Wernikoff's point that the items in the petition are not really actionable, certainly not before January 1<sup>st</sup>. However, he said he completely understands the sentiment of it. People are concerned about fire and want Council to place their faith and trust in the Fire District. He assured them that he does and does not consider himself a fire expert. He said Fire Marshal Bullard has a lot of weight on his shoulders with this but also has a lot of help to do it. The Town and the Fire District have been working together since the Town's inception. He hoped and believed it is clear to the Fire District they are supported in doing whatever they need to do to keep everyone as safe as possible, and he wanted people to understand that they do take that seriously.

On the separation question, Councilmember Aalfs expressed that, while there is no magic number, the consensus is clear that greater separation is unquestionably better, and he could see that becoming a provision of a future code. He said after the previous night's fire meeting, in response to a question he was asked, he was thinking about this. They cannot act on this right now and he is not suggesting they should, but an idea he had was, since they can't immediately pass a 30-foot separation, the experts do agree that one of the biggest concerns about buildings close together is the transfer of radiant heat, and one of the mechanisms by which radiant heat causes building-to-building transmission is windows. He was thinking of the approach they took with ADUs and SB 9, a carrot-and-stick approach. If you have a building that for some reason is within 30 feet of another building you could add a requirement of either no windows on the walls facing each other or limited windows and tempered windows. He said it doesn't address all of the problems but is more actionable in the short term and would make adjacent buildings safer, particularly in a limited area with small setbacks where it is hard to put a building 30 feet from

neighboring buildings. If the building is going to be within 30 feet of another building, there can be no windows on that side. There may be other aspects as well, but the windows are the thing that was more obvious to him in reading about the science of it. He said, again, it is not what everyone wants but it might be a short-term fix that would have a positive impact in some places. He said he was putting the idea out there. He talked with Town Manager Dennis about it briefly. He said he brings this up because he is not dismissing or taking lightly the notion of building separation. He agrees it is important and they all want to dig deeper into it, but codes take time, and he wants to look at things they can do in the short term to help.

Regarding the SB 9 approach Councilmember Aalfs said he has gone back and forth about adhering to the 800-foot limit versus expanding it. He was leaning towards Councilmember Richards' suggestion. There could be many scenarios, but if a developer comes in, tears down a big house and builds two smaller structures on that property with a cutoff of 1,200 to 1,500 square feet for an objective standards, or much larger if they go with discretionary review, if their intent is to build two new structures, in his mind two 1,500 square foot buildings is better than two 3,500 square foot buildings. If there were situations where that was the tradeoff, he thought that would be a good thing, although he was open to disagreement on this. He thought it might actually forestall certain developments and would also provide for more diversity in the housing stock. If they limit the objective standard to 800 square feet, all they will get is small buildings, if any. Initially, he thought that anybody who does SB 9 will go for the discretionary path in order to maximize value, but on the off chance that they could get a few smaller buildings in exchange for very large buildings, it seemed worth exploring to him.

Fire Chief Lindner wanted to comment on Councilmember Aalfs' statement, part of which reminded him to mention for people watching and listening who are rightfully concerned that they are happy to the extent everybody is taking this seriously, and the petition is well-intended. The collaboration Councilmember Aalfs mentioned and the workload that is on the Fire Marshal, the residents are quite aware of, but there were comments in the petition that ought to be addressed to put minds somewhat more at ease. In January, the Fire Marshal spoke in Oral Communications, and the comment had the effect of questioning why the Fire District had to resort to Oral Communications to make its point on something as concerning as wildfire. Chief Lindner responded to this by stating this was a miscommunication, and they have never been denied access to any meetings. If they have wished to voice a concern on a subject, the Council and staff have always been receptive. There was never any intent from the Town to not work together, as they have for years, and they see that moving forward. He wanted to make sure people were aware that this is how they will operate as expected. He agreed with other comments, that essentially, they are all in this together. The concern is real. Residents' voices are real and valid, but the Councilmembers are residents, as they have voiced to them as well. They are concerned, and that is why they want to make a prudent recommendation to all residents with this code moving forward.

Councilmember Derwin was in agreement with much of what had been said. She said she had a flashback to many years ago when Denise was the Fire Marshal. She was on a committee doing a lot of work in that realm, doing workshops and tours and other things. She said Denise was unwavering in her zeal about making everything as fire safe as possible. Councilmember Derwin remembered telling her that she was not going to be happy until everyone was living in concrete bunkers with gravel gardens. She said maybe that's where they are going. Instead of managed retreat, maybe that will be the adaptation. She felt the proposed ordinance was very good, very thoughtfully created. She did not feel they should tighten things up other than tweaking around Councilmember Richards or Councilmember Aalfs' window idea. She felt it is a sound ordinance. She felt they need to reserve some discretionary review, because that is where people could really take advantage. She said she wanted to go back to the question of what are they talking about with SB 9? What is the problem SB 9 is trying to solve? Town Attorney Silver talked about it. The State has a housing crisis, and there aren't enough of them. Houses are out of reach, financially, for most people, even for the middle class now. She said there are unprecedented numbers of housing insecure and unsheltered people. This is what SB 9 is trying to solve.

Secondly, Councilmember Derwin wanted to remind everyone that the Council has always tried to plan for and build, a diversity of housing. She said no housing is affordable anymore, but something other than

a \$3 million house. They tried Blue Oaks. They tried Al's Nursery. It was even hard to get lots on a list as possible sites for affordable housing in the Town-Owned Property Committee. In every place they tried neighborhoods rose up and fought them, and this is essentially why they have a draconian law like SB 9. They are not unique, and this is what has happened and why they can't build housing.

Councilmember Derwin said the other piece of this is that they cannot dismiss the legacy of residential segregation both racial and economic caused by redlining and blockbusting and racial covenants on CC&Rs. She said she had a house that had had a racial covenant on it. These prevented people of color from getting mortgages and buying houses and creating wealth through equity in the house. She said she doesn't want to forget that. She doesn't want to say, "We're an enlightened community. Who cares if we're the most white segregated community in the county, or that we are one of the most economically privileged communities in the county?" She would like to see that broken up, and posed the question of how to do that, unless a law like SB 9 is passed. She felt the ordinance still allows for the possibility of creating a diversity of housing while preserving some discretionary practices. She said that obviously they all care about fire danger, and as soon as the standards come through, they will adopt them.

Mayor Hughes agreed with much if not all of the comments. He said he has been reaching out to people whose names he has seen on the petition. He said, likewise, he has not had anybody reach out to him. He was doing all the reaching out. He had some very good conversations with people, some of whom he talked to regularly about town issues and some whom he has not interacted with on town matters for some years. He wanted to get a sense of not just what the specific demands in the petition are, because as discussed, it would be hard for them to act on those specific recommendations. In fact, one of them Town Attorney Silver had thought might require a state constitutional amendment for them to actually be able to adopt, because they don't really fit with the process and the stage of where they are at with this complex web of processes going on. He said fire is the highest priority of the Council. They annually set their list of priorities, and this year fire was set as their highest priority, substantially increasing the amount to funding in the budget for fire safety and emergency preparedness for this year compared to last year, which was an increase from the year before. He said they have about three-quarters of a million dollars assigned just for projects around fire safety. The Woodside Fire Protection District has another \$20-million budget, and a big part of that is also around safety planning. As one of three major communities they cover, with most of the money going to pay salaries to work on these things, it is a lot of people and hours and consultant time being focused and addressed on these issues. He said they are in the early stages of some of it, in the middle stages of other parts of it, and in a rushed, emergent stage on other things. He said he didn't view any of this as the first step or last step. It is both a sprint and marathon with elements they need to act quickly on and those in which they need to take the time to think. He has heard that in comments of people he has talked to over the past days as well as tonight. "Act quickly but involve people in the discussions. Respect the science but do things that have no scientific support." Balancing all of the concerns and figuring out how to do that is a difficult task, one that's been worked on for a while, at Council level, various committees, staff, interactions with Woodside Fire staff, conversations with authors of papers to understand what their findings truly meant, looking at things like the Camp Fire. He referred to Councilmember Aalfs' notion of adopting different rules for closer buildings and said it is actually the conclusion of the paper that is behind the petition. It is not saying buildings should be separated by a certain distance. Rather, they say that the closer they are together, the more stringent are the rules around materials that are allowed to be used to prevent one structure igniting the other, because there will always be a situation where a building is needed or existing close enough to another building that you can't move them.

Mayor Hughes continued, saying he has thought about something similar to what they used to do with sustainability with their green points checklist that said they didn't want you to have a huge lawn, but if you want a slightly bigger lawn then you need to make up those points somewhere else. Similarly, if you want your buildings to be closer together, then you have to be in a concrete bunker with gravel, whatever the balance is that overall makes the project safe. He did not feel there is any magic silver bullet. He said Marshal Bullard's approach of considering the code holistically and understanding how all of the elements interoperate is critical to coming up with something that will work in town and give property owners the flexibility that they need to be safe but build the house that they want to live in. He did not think of it as

new affordable housing, because of the 253 units, 99 of them need to be market rate units. That's 99 regular Portola Valley houses that are not designed to be affordable. They're just regular houses. He said that brings them to the dual path approach for the SB 9 ordinance where, if you want to work under SB 9 it is a fairly restricted thing. If you opt into the discretionary process, you don't necessarily get two houses. There's no guarantee that the ASCC is going to say, "Yes, two houses are appropriate on that lot." If you do opt into discretionary there is the potential to have a larger house, but essentially you go through the review process the town has today. The ASCC uses existing rules to say what is appropriate on a given lot, and it may not include a second one. If someone wants a second one, they will be limited to the SB 9 square footage limits in place.

Essentially, he said choosing the discretionary process through the way that this ordinance is structured eliminates a lot of the rights that you otherwise might have under SB 9. They try to encourage through the carrot-and-stick approach in the ordinance to guide people into the system they already have for reviewing houses, with some exceptions. If you add an ADU today under SB 9 instead of under the ADU ordinance, then you get a chance to build what you would have been able to build as an ADU anyway. It is designed to make sure that when the office reopens on January 3<sup>rd</sup> a developer doesn't come in and see that there is no SB 9 ordinance, so under state law he can apply to subdivide and build this lot to max MFA houses on each of the two lots on January 3<sup>rd</sup>, and they have 30 days to review and approve the application. He said that the importance of the ordinance and why it is an urgency ordinance is because without adopting the ordinance or giving it a sunset date of 45 days from now, in 45 days a developer will be able to come in and apply for something completely unacceptable in Portola Valley. They need to make sure the rules are in place and that they stay in place. They can replace them in the future with better rules but doing that with a clock ticking and the possibility that it might expire and not be replaced with something else is too dangerous to contemplate.

Mayor Hughes stated that a lot of work has gone into the ordinance. As the subcommittee and staff were working on it, they already appreciated the concern everyone had about fire safety. The petition is very helpful in reinforcing that and reminding them that it is very high on everybody's list of concerns, although they already knew that. He looked forward over the coming weeks, months and years to continuing the work on this and continuing to make it better. He was sure the state has not adopted its last housing regulation, and if the ballot measure that Town Attorney Silver referred to gets on the ballot in November, it may change things in a different way. They are probably bound by the RHNA number one way or another, so whether under SB 9 or otherwise, they will have to build a number of housing units in Portola Valley and figure out how to do it in a way that's compatible with the community and does not increase danger to the people who live here. He said one of the conversations he had in the last weeks was around the concepts of risk and fire safety. The only way to get to a state where they have no fire risk for the residents would be to have no residents in the town. There will always be fire risk. They have chosen to live in a place that has flammable materials and hillsides and all the rest. That is never going to go away. They just have to minimum the risk to a level that they are comfortable with. He said he is convinced they can do it, as they have a great brain trust in Portola Valley. He thought they had the highest Nobel Prize per capita rate, the highest average education level in terms of number of post graduate degrees per capita of any town in the United States. He said they can figure this out together. The pandemic for the last couple years has made that harder and he felt that by itself has led to more difficult community, a bigger sense of frustration and fear on everyone's part, but hopefully they can reassure everybody that they are paying attention, they are working on this, talking to the best experts. Mayor Hughes said they do have a great team at Woodside Fire helping them with all of this, and they are moving as quickly as they can where they can and talking their time where they feel the need to. He said one thing that works in their favor is that houses don't get built quickly so while it seems like they need to change the rules it is not a lot of houses per year, so if it takes three months to get some changes in, there be maybe three or four applications in that time and not the end of the world. He added that the do want to make sure that those three or four are as safe as they can be, but they will learn as they go. The background situation won't change. They will understand the science better, and it will all get better with time.

Mayor Hughes suggested moving into the specifics of the ordinance. One would be the allowed size and if they want to ratchet it back to the 800 everywhere or leave it as the same numbers as they have for the ADU ordinance, which was discussed in the subcommittee and with staff. They discussed starting very conservatively with very tight restrictions and then liberalizing it later, or not. He thought they ended up settling on the idea that there is not a huge difference between 900 or 1,200 square feet and the 800 that would be allowed. The number of applications is probably going to be relatively small at any of those sizes anyway. If someone wanted to build such a structure they can already, do it under the ADU ordinance, and the number of people who are going to do it under SB 9 is probably not going to be material, so for the simplicity of having one set of standards in each zone was why they thought it would be best to have it drafted that way.

Mayor Hughes shared that this is not standing alone by itself, and part of the reason the next agenda item is an urgency ordinance is because it ties into this. The safety of buildings, however far separated they are, however many of them there are on a lot, is of critical importance, and the changes that SB 9 is bringing about that might allow buildings to be within four feet of the setback on one side of the property line is part of the reason why the next item is an urgency item, to make sure that all houses in Portola Valley are constructed to a higher standard to address a lot of the issues around fire safety, not just for SB units but for all construction in Portola Valley, because the two go hand in hand.

Mayor Hughes invited further comments on the ordinance.

Councilmember Aalfs thought the two items they were going back and forth about were the question of the 800 versus the graduated approach based on lot size, and the idea of sunset or periodic review, he felt he would be fine with it as written on both counts. He hoped they would review it fairly soon, such as in three months, to see what's happening. He will be curious to see what happens in January. He agreed that he didn't feel it would be a huge impact, at least not immediately, but they don't know. He said he is comfortable with it as written.

Vice Mayor Wernikoff said as far as the sunsetting, based on what they heard from Town Attorney Silver, they can make this update at any time, so she didn't think it was necessary, stating that they all know they will be making updates. Based on the conversations she's been in on and the dialog at the Wildfire Preparedness Committee last night, she felt there is a sense in town of wanting to slow down the development in the short term and wait for the fire maps, wait for the Safety Element and for those things to get caught up. She said they need to meet their RNHA obligations and will need a lot of levers for that, but they have an eight-year period, and she said she would be in favor of more restriction in the short term until the maps and the Safety Element are caught up. She said she would never recommend that at the expense of not having ordinance. Having an ordinance as it's written is something they absolutely need to do. If there is a way to make it more restrictive for the short term, that is something she would be interested in doing.

Mayor Hughes referred to Director Russell's advice on the technical aspects of that and what it would mean for the Planning Department in terms of having separate sets of rules for ADU versus SB 9. If they were to say it's 800 feet for any SB 9 unit regardless of lot size, for example, he wondered if it would be difficult for staff, or entirely manageable. Director Russell replied that it would be challenging. There are a couple different policies they have which have a lot of complexity to them, because they are trying to adapt them to fit into the community as well as possible. The ADU ordinance is already very complex, more complex than other peoples' the way that they built in the incentives and the disincentives and the different size under different circumstances. She said it is an important policy document that reflects a good way of interpreting the state law to fit the community. She said it is a great effort and something to be proud of. From a practical point of view, implementing every day takes a lot of time, as staff has to explain these things to every person, because they are different than every other city or town. She wanted to convey that to the Council so they can make that part of their decision-making. If they have two sets of rules, for ADUS and for SB 9 units, they really need to create two sets of handouts and the Council needs to know that the staff will have to spend oftentimes an extra 20 minutes to an hour per applicant at each phase of the project to make sure they are doing that. So, there is a staff time element

involved, and if the Council wants to do that, of course they will do it, but she will continue to report back to Council on their resources and how things are going. They will have to look at fees, staffing, and all those things as these complicated ordinances start adding up. She said as long as they make that part of their decision, then she is happy to do whatever they would like her to do, but she wanted that to always be part of the conversation.

Councilmember Richards appreciated the complexity issue on this in regard to staffing time. He was rather concerned about the impact of SB 9 projects in the small lot zones, of which he thought there were only two. He could see a case where an SB 9 application came in where the four-foot setback was used and built to the maximum allowable. The state rule is 800 square feet, and the Town has allowed it to be a little bigger than that. He felt the 800 square feet is also potentially pretty dramatic in those small lot zones, if there are two of them added to a lot. Someone could potentially not tear down the first house on the lot, split the lot and build two in the back, with very narrow setbacks, and that would be a very dramatic impact on those lots. If that was the case with the current proposal, it would be another couple hundred square feet in each case, which on that side of the building can make a big impact. Mayor Hughes asked him to clarify if he would be more in favor of the 800 at least on the smaller lots. Councilmember Richards said 800 square feet on the small lots, but slightly larger on the bigger lots, in order to allow for homes that actually could be used as a family home under SB 9.

Councilmember Derwin pointed out that on the small lots they can't build very big homes. She asked how big a house can be built under SB 9. Planning and Building Director Russell said as drafted right now it could be 850 if it's a one-bedroom or 1,000 if it's a two-bedroom. Councilmember Derwin wondered if that is a huge difference from 800, because by law everyone is allowed two 800 square-foot units. She said that she strongly supports the ordinance as written.

Mayor Hughes said he was on the subcommittee and did think about the small lots. It's not small lots everywhere because of the restrictions on road width, et cetera. He said what he came back to is the Planning Commission considered exactly these things when coming up with the numbers for the ADU ordinance. So, on those lots today, they could have a main house with a detached ADU of the same size as what's in the SB ordinance. So, if you come in with an application to build a main house with an ADU versus building two SB 9 units, he asked, what is the difference, essentially? Either way you can put that 800- or 850 square-foot unit within four feet of the property line. In the end, he thought about making it simpler on Planning staff, since there is no effective difference in what a property owner could actually develop. They just do it under path A instead of path B.

Councilmember Richards said it looks possible on many lots where the house is built up in the front of property to make the lot split, leave the original house there, and put two 1,000-square-foot units in the back, which will be a major impact. Even two 800-square-foot buildings on those lots would be quite a bit less of an impact. Mayor Hughes said on small lots there is another constraint which is that there are requirements for access, so you need to have a certain width of access so a fire engine can get back there. The front/back might not be as much of a problem, although it could be in some weird-shaped lots.

Councilmember Aalfs said he thought about his own property, where he has 0.73 acres. His house is 3,100 square feet, which is pretty close to his AMFA because he is on a steep slope. He assumed that if he divided his property into two, his AMFA for each parcel would be roughly half of what it is now, so he was thinking about what he could do. If he added a second house on his property, or subdivided, and he wanted to maximize the value of this property he wondered if he would do one of these two things, or just sell it as one whole lot. He said he felt, personally, it would probably be more valuable as a lot someone could build a big house on. He said, as the Turner Center Report referenced, there are many lots in California where if you're simply maximizing the value of a property, you will keep it intact with potential for one big house, especially out here. He felt people don't want to move here to live in a duplex. He was curious what people think about this because he has been trying to think about what the actual impact will be. He felt there are a lot of lots in town, maybe even at a higher rate than the Turner Report, where none of these things actually pencil out. He was curious what other people think about that.

Vice Mayor Wernikoff agreed and thought the actual impact is going to be low in their area, particularly as it relates to the intent of the bill, which was affordable. Mayor Hughes also thought this was true and there are other exclusions as well. For example, SB 9 does not preempt HOA CC&Rs, so Westridge, for example, would be completely excluded from this. Residents cannot split their lot in Westridge because their CC&R says you can't split your lot. You can't build a second house for the same reason, so SB 9 does not apply at all wherever there are HOA rules that say something different. So, this doesn't apply in Brookside or places where there are no CC&Rs, but in large areas of town it is not something that applies.

Fire Chief Lindner asked what the potential would be for being able to cap the number of SB 9 applicants the first year. Mayor Hughes did not think they are allowed to do that. Any applicant has a right to apply under SB 9. Town Attorney Silver said that is correct, unless the location requirements are not met.

Mayor Hughes asked for a sense of where the Council was in terms of 800 square-foot versus larger. He said his inclination was to stick with what they have because it is simpler on staff and also the Planning Commission worked through this indirectly on the ADU ordinance. He said, more broadly, his inclination will be to send the ordinance to the Planning Commission for them to review and suggest tweaks to it. They have talked about bringing it back within 90 days. He said he would send it to the Planning Commission and have them tell the Council on their timeline and terms what they need to consider, if they want to make any suggestions for changes. He thought as applications for permits come in, Director Russell will keep them updated on what is going on, and any failings or loopholes or things she finds as they come in. He said the urgency of this doesn't mean they can't send it through a regular process once the urgency ordinance is in place. He said it may mean they have quite a short window if the Planning Commission came back and had a problem with it. He said since houses get built slowly, the opportunity for damage will not be enormous.

Town Attorney Silver advised that if they start making substantive changes to the size of the units, there is a noticing issue, so it is unlikely that they would be able to do it at this meeting. It could be agendaized for another meeting. Changes made would not be able to be adopted tonight, or they could adopt it tonight and then amend it at a later time with the new size restrictions if they weren't able to meet again before January 1.

Mayor Hughes said then there were two options – adopt it as is and send to Planning Commission to come back with any recommendations for changes. Or adopt what they have tonight and then bring it back at the December 20<sup>th</sup> meeting. However, he hoped to keep that meeting short. He asked whether Councilmembers would be in favor of adopting and then sending it to the Planning Commission. Councilmember Richards said this would satisfy his concerns and thought it was the right approach. Vice Mayor Wernikoff said her goal is to slow down short-term development and she would be in favor of the smaller unit size and no discretionary review, temporarily until they have the fire maps and the Safety Element. Mayor Hughes said to be clear the no discretionary review would mean no single-family regular houses in Portola Valley for as long as it takes to get those things in place. Vice Mayor Wernikoff responded that she thought the objective of SB 9 was to encourage the lower income, but she also realizes that, depending on what the map is from the Housing Element, they also need to get the moderate ones in. She said her goal is to decrease the volume in the short term, so her vote would be for that intent alone. Mayor Hughes said on the discretionary review one of the aspects of SB 9 that may have been a misfire by the State Legislature, paragraph 1, section 1, sentence 1 of the law says, "All housing applications of two units or less will be ministerially approved." So that's all. That's not small units or if you do a lot split. It is saying that all housing applications would have to be ministerially approved, which would mean for the next year or whenever they change that, they would have no ASCC. The Planning Commission would not review housing applications, et cetera, which would be a big departure from what they do now. Vice Mayor Wernikoff said she thought that was just SB 9 applications. Mayor Hughes thought it would be all applications for two units or fewer. Town Attorney Silver noted that this is a complexity of the law. Staff thinks the provision Mayor Hughes cited is modified by other subsequent sections in the ordinance that talk about the ability to limit ministerial review just to 800 square feet. She thought those two provisions needed to be reconciled, and that is a reasonable interpretation, but



probably requires implementing a local ordinance, but she believed the intent of the law is to allow agencies to apply discretionary review to projects over 800 square feet.

Councilmember Derwin commented that she thinks people are predicting that SB 9 will produce housing for the “missing middle,” not the lower middle. Secondly, she was ready to make a motion. Mayor Hughes inquired if there were any other comments.

Councilmember Derwin asked Town Attorney Silver if this required two motions. Town Attorney Silver advised the Council to do it in two ordinances. The passage of the urgency ordinance requires four votes.

Motion by Councilmember Derwin for adoption of the Urgency Ordinance implementing SB 9 relating to lot splits and development of additional units in single-family zones. Seconded by Councilmember Aalfs, the motion passed, (4-1), by roll call vote.

Motion by Councilmember Derwin for adoption of the Resolution adopting objective design criteria for SB 9 projects. Seconded by Councilmember Aalfs, the motion passed (5-0), by roll call vote.

[The Council took a five-minute break]

(18) **Public Hearing** – Wildfire Preparedness Building Code Amendments – Urgency Ordinance Amending Code Requirements to Enhance Fire Resistance in New Buildings, Additions and Alterations to Existing Buildings to Enhance Public Safety, and Reduce the Risk from Wildfires (Ordinance No. \_\_)

(a) Adoption of an Urgency Ordinance of the Town Council of the Town of Portola Valley Amending 15.040.020 [Amendments to the Building code] of Title 15 [Buildings and Construction] of the Portola Valley Municipal Code (Ordinance No. 2021-444)

Planning and Building Director Russell presented this item, related to some of the previous discussion. She said that Ron La France, Consultant Building Official, has been assisting with the code amendment process. Director Russell emphasized that, as an urgency ordinance, this is designed to go into effect right away. In this case, that would mean that any new projects submitted January 3<sup>rd</sup> or later would be subject to the ordinance. Anything that has been submitted as a Planning application for ASCC review up until December 8<sup>th</sup> would be exempt from this ordinance, because they have been actively working on their projects and they are underway. For everything new this would go into effect on January 3<sup>rd</sup>. The urgency reflects the ongoing commitment to improve fire safety considerations and in light of the SB 9 ordinance discussion previously discussed.

Director Russell said the Fire Marshal was in attendance and had collaborated with Mr. La France. He was available for questions and to provide feedback. Director Russell turned the presentation over the Mr. La France.

Mr. La France explained that during the 2019 California Building Standard Code adoption cycle the Town carried forward the previous 2016 code amendments addressing Wildland Urban Interface requirements, which were applying the requirements of Building Code Chapter 7A to residential buildings for the entire town, not just in the high fire hazard area as prescribed by code, retaining the Town’s 50 percent rule for application of new building requirements to existing structures and defining the requirements for alterations to existing buildings, such a re-roof, windows and new siding. Mr. La France stated that the Town Council created the Wildfire Preparedness Committee to address outstanding resiliency issues. The Committee made seven building code amendment recommendations, which were to require a minimum Class A roof covering, with wood roof coverings being prohibited; ember resistant attic and foundation vents, decks to be constructed with non-combustible deck material; structures attached to home be built of non-combustible material; non-combustible siding material; enclosed eaves; dual-paned tempered glass windows and skylight and mesh screens installed on the underside of operable skylights.

Mr. La France said the proposed amendments and ordinance are intended to further enhance the existing requirements. They now apply to both residential and non-residential buildings, and address all of the recommendations of the Wildfire Preparedness Committee. He noted that the WUI vents, tempered windows and skylights, and mesh under the operable skylights were incorporated into the codes in July of 2021, so amendments were not required. Two proposed amendments refine the Town's current 50-percent rule to apply to additions with interior alterations to existing buildings, including interior wall area to the current wall area calculations and include a combination of wall/floor area percentage calculations. If adopted, the new requirements will apply to new building permit applications made after the effective date of the ordinance. He noted that the ordinance was developed in conjunction with the Woodside Fire Protection District, and their input was greatly appreciated.

Mr. La France said that during the development of the ordinance, other opportunities for further home hardening enhancements were identified that warrant further research and are intended to be brought to Council for consideration during the 2022 Building Standards Code Adoption cycle in 2022. These opportunities are to remove the exceptions to the enclosed roof/eave requirements for gable and overhangs and roof assembly projections, remove the exception to the WUI attic vent requirements when the attic is fully sprinkled and vents are 12 feet above a walking surface; remove the exception for the installation of fire sprinklers in agricultural and telecommunication buildings; include a requirement for exterior walls to be constructed using non-combustible assemblies, not just non-combustible exterior siding; amend the exception to installation of fire sprinklers in accessory dwelling units that do not exceed 1,200 square feet; and amend the building-to-building distance and building-to-lot-line distance requirements if proposed with the Fire Code.

Planning and Building Director Russell invited Fire Marshal Don Bullard to make any statements regarding the ordinance or provide any other feedback to the Council.

Mr. Bullard stated that the Woodside Fire Protection District does recommend this ordinance and the adoption of it. They encourage consideration of additional measures referred to earlier with the next Building Code Update. They will start working on getting those incorporated into this Code right away. With conditions as they were for the evening, they recommended the Code as is, and felt it would be good forward progress.

Mayor Hughes invited questions from the Council.

Councilmember Aalfs asked about the term non-combustible assembly and if it means wood framing cannot be used. He wondered about the difference between combustible and flammable. Mr. La France explained that a non-combustible assembly would be a wall assembly designed for the interior of the wall to not combust and to prevent combustion of materials inside of the house. It addresses radiated heat from outside of the building into the building.

Vice Mayor Wernikoff asked if there was anyone who could speak to their codes relative to other municipalities in the state of California or along the WUI, and if Portola Valley was ahead of the curve or on par, et cetera. Fire Marshal Bullard responded that this would be more restrictive than the Woodside code, and he believed it would probably be more restrictive than many other jurisdictions, as far as the requirements they are asking for.

Mayor Hughes invited comments from the public.

Ron Eastman commented that Los Altos Hills in their emergency SB 9 ordinance for non-setback compliant SB 9 units included the requirement that the wall facing the plat line have a one-hour rated firewall with no openings. He wished that had been included in their SB 9 ordinance, also. He said you wouldn't that for buildings that have a compliant setback, but he believed that it should have been added to the emergency ordinance. He said his suggestion of the emergency ordinance was not to imply that there would be no follow-on ordinance, and he was sure that that is not what will happen in Los Altos

Hills. The idea was to have public hearings, have it go through the committees and get the proper public input, and come up with something that was amended. He said he was not sure how the necessary changes are going to get on the Council and committee agendas.

MJ Lee asked, on page 979 of the agenda packet, the table on decks where it says that “non-combustible materials shall be used for the decking material,” she wasn’t sure if non-combustible decking material meant that it cannot be a composite and has to be either cement, tile or metal. She thought it would be wrong to rule out some of the composite materials if they are Class A. Secondly, she asked about page 980 in the packet, the table called, “Attached Buildings” which mentions that miscellaneous structures at a distance of less than 50 feet need to be constructed of non-combustible materials or ignition-resistant materials. She asked if miscellaneous structures included things like chicken coups, gazebos, fabric shade canopies or playground structures. Thirdly, she noted page 981, the table on siding says, “Remove the allowance for ignition-resistant wall coverings, log walls and architectural trim. She asked if architectural trim included things like window, wood shutters, awnings and things like that which would stick out of the side of the wall.

Roland Crawford spoke, stating that he spent just under 34 years of active duty in the fire service with over 31 years of that working for the City of Loma Linda, California as Fire Marshal and Fire Chief. He has been a part time consultant, retiring at the end of December of 2008. In 2011, he had to give up code development due to taking care of his mother, who developed dementia. Over the years he was Co-Chair of the Wildland Urban Interface Committee for California Fire Chiefs Association, Fire Prevention Officers Section Southern Division. He is currently Co-Chair Emeritus. He also served as a member of the Code Development Committee for the International Fire Code for four terms and had direct participation in the code development process for years 1985 to 2011. In part of this process, he also worked with Cal Fire and the State Fire Marshal’s Office for the committee that developed Chapter 7A and also worked with the Advisory Board with UC Berkley Forest Products Laboratory under the direction of Dr. Brady Williamson. He took part in some of the testing of building materials there. He said this is a subject that is near and dear to him. His main point was that he felt the exclusion of Class A rated fire-resistant wood materials is a bit of an overkill, because if it meets a Class A rating and it passed the test – and this is a very rigorous test – then it should be considered as not quite noncombustible but certainly desirable. One of the questions that comes up is do people want to live in a bunker? That was raised in the previous discussion. He said they have to take this all in a systems approach. The protection of communities and structures depend upon defensible space, particularly paying attention to the ignition zone, Dr. Jack Cohen’s concept; vegetation management, particularly looking at natural and ornamental placement. Where are the trees? Where are the bushes, particularly the junipers? Access, placement of structures, building materials, especially vents and windows, built-in fire suppression and maintenance. Of these, what they are talking about with hardening the structure is primarily addressing keeping the structure from igniting from the ember storm. He said, as mentioned earlier, that there is radiant heat, and that is a consideration, but the primary problem in wildfires is the wind-driven ember storm. The embers get caught by projections, so the real problem is trying to stay practical and reasonable and eliminate the things that will catch the embers as they are cast upon the structure. A Class A rated treated wood product actually does that, and he felt it is a little bit of overkill to exclude it.

Bill Hendricks introduced himself as a Fire Safety Consultant who works with NFPA on their development for codes for Wildland and Urban Fire Protection. He is also on the ASTM Committee to develop firesafe testing for different materials. He said was representing the Fire Treated Wood industry. As Mr. Crawford had pointed out, he felt that it was a little overkill. They are allowing comp roofs, which are a combustible roof. When a blowtorch is put to them, they will ignite, and self-extinguish after the torch is removed. The same thing with treated wood. Putting a torch to it will not ignite it, however it chars, but will not sustain a flame, which is why they have an ignition-resistant rating for siding and decking and a Class A roof rating assembly for roofing. One of the things they had to pass on the roofing test was a flying brand test, which showed that treated wood will not contribute to a fire elsewhere by spreading embers. He said there is a lot of misconception about fire resistant wood. Some people think it needs to be re-treated, but it does not. It is permanent. He said the company he represents, CHEMCO, is the only treater that is allowed to do roofing for California, and they give a lifetime transferable warranty on the fire retardant. They have

proven that even tile roofs are susceptible, and this is why he got into the new WUI code that you have to put a cap sheet underneath tile roofs in the WUI to prevent embers from getting underneath the tiles and igniting the felt and bats, so you have to look at everything as an assembly, not just a standalone. There are big misconceptions about ignition-resistant construction. In fact, there are several homes in Paradise that were built to the new WUI standards, and they survived the fire with combustible but fire-resistant material on them. He said he would love to do a formal presentation and share more information, so people don't have to live in a concrete block.

Rusty Day noted that any improvement in the Building Code is progress. He commended the work that the Wildfire Preparedness Committee did. He said as a matter of process it would be laudable that after the ordinance is drafted and proposed it goes back to the Wildfire Preparedness Committee so that they can see that their concerns were addressed and there can be a public hearing on them. He didn't see the urgency in taking this without public input or public comment. He commented that a couple aspects that he said seemed peculiar. It was said earlier that SB 9 does not exempt SB 9 units from sprinkling requirements, but this ordinance would, because this ordinance exempts all structures 1,000 feet or under from sprinkling requirements. He asked why they are doing this. He said if, as Vice Mayor Wernikoff said, she wants to slow this down and make sure they have time to catch up to the standards, they should require sprinklers in SB 9 units. Secondly, he noted the ordinance will exempt all agricultural buildings, an exemption that has been in there since 2008, and he asked why they are exempting agricultural buildings, not only from the home hardening provisions, the fire resistant or non-combustible roofing and services, but also the sprinkling requirement. He asked why they are exempting facilities for telecommunications, batteries and power supplies from the internal sprinkling requirement as they are certainly a source of fire hazard and propagation. Finally, he asked why they are not specifying the standard by which they assess or determine whether wall surfaces are non-combustible and why they are not requiring non-combustible assemblies. He recognizes that it is to be done, but said it is the non-combustible assembly that provides protection against radiant heat and structure-to-structure fire spread. He asked whether Fire Marshal Bullard would comment on the need for and desirability of internal sprinkling in structures the size of agricultural buildings around the town and the communications facilities and the SB 9 units.

Karen Vahtra said it was exactly two years since the Council approved the initial ordinance, also in the middle of the night. She said she was excited that they were there, and if they have not covered absolutely everything that can be covered, it's fine and they can do it later. She said they found some new things to add in, and also gutter guards is another new thing that she has been recently informed about. She wanted to distinguish between home hardening light and non-combustible home hardening series of ordinances that are really drastically different. She said what happened in the Camp Fire was California Chapter 7A Building Code, Home Hardening Lite, as she was calling it, was compared to older buildings. She said what is nice about this code, and if going further as Mr. La France suggested, they can build homes that are truly resistant to fire. She agreed that embers are the majority of the problem that impacts home, but with more and more heat the fires are so much hotter, and they have to consider that wood self-ignites at 300 degrees centigrade, but noncombustibles start collapsing at 1000 degrees centigrade, so it is a lot more protection. She said she is thrilled that they are going forward with this now and hoped everyone agreed.

Bob Turcott said they have been talking about improving communication, and one of the strong suggestions he has is if staff wants to offer commentary, they should do it before the public has an opportunity to speak. He applauded the Town Manager for talking with the authors of the Camp Fire paper but said he is mischaracterizing the results. He said it is true that the paper was not designed to identify the optimum building separation. The paper was designed to identify the factors associated with structure loss in the Paradise fire, which it did. He said the factors most strongly associated with structure loss were building separation and vegetative canopy at 30 to 100 meters. Building separation consistently, in all their analysis, was the strongest factor and the optimum distance for discrimination was 59 feet. So, to suggest that building separation does not matter after a conversation with those authors is to either misunderstand what the authors were saying, or to mischaracterize it. He posed the question to everyone on the call, what effect do you think that paper showed of home hardening according to Chapter 7A standards? The paper analyzed that and looked at the effect of home hardening based on Chapter 7A

standards, and the answer is no effect. They were not able to detect an effect of home hardening based on Chapter 7A, meaning it was statistically insignificant. If there was an effect, they could not detect it. So, the data is very clear from that paper that building separation matters. He applauded the more aggressive home hardening they are considering and thought they should do it. He said protection from embers is important, but in the topography that describes Portola Valley, canyon networks, it is more than just embers. It is radiant heat coming up hillsides. He said when they rebuild, it will be a bunker. He said his point was he asked that staff make their commentary before public comments, and he felt it cowardly to mischaracterize papers like that when there is no opportunity for correction.

Janey Ward said the conversation has been very enlightening. She thought after to the meeting that it would be helpful for residents to have a sort of design charrette and talk about different material and maybe have vendors at the Town Center, perhaps have people come in that can show different alternatives as to how to solve this problem. She said one of the great houses she has seen in town that uses the shou sugi ban technique, the Japanese pre-burning, so that the exterior is pre-burned and resists fire. She felt they should have some kind of community meeting on how to meet the challenges instead of these long meetings. She added that they do have to have them, and she has appreciated learning from the participants.

Kristi Corley said she was enjoying listening to the person who had all the degrees and she wanted him to finish talking. For him to be up at 12:30 to share his opinion, she felt he needed six minutes instead of three, because she wanted to hear about the type A deck that he would recommend, and she was wondering if that was a Trex deck. She wanted to know exactly what he was talking about. Also, because they were talking about lot splitting and building, she wanted to see a list of all the building and splitting that is going to go on in Portola Valley. She felt they should see a list and be able to go online and see what's going on. If everything was going on on one street, she asked if they would ever limit that, so that the number of trucks coming in wouldn't preclude the current residents from getting where they need to go. She said this could really take off, or it could be slow, but she had a feeling in January, at least by year seven, they are going to see a lot of changes. She said she would appreciate a list of building in Portola Valley and possibly some pictures and more diagrams of how this works, because a visual always says a lot. She felt the residents probably need more visuals than words to really describe what is going to happen.

Seeing no further public comments, Mayor Hughes said there are a number of questions that are directly addressable and some that may require getting back to people. He said there were a number about specifics of why noncombustible versus Class A were chosen in a variety of situations. He asked Fire Chief Lindner or Fire Marshal Bullard to answer why those choices were made. Fire Chief Lindner said the recommendation out of the committee was for no wood roofs, so that is what was carried forward.

Mayor Hughes said he heard an attack on the Town Manager from Mr. Turcott that he felt deserved a response. He said Town Manager Dennis was not the only one to have extensive discussion over the last week or so with the authors of the paper to better understand the study that they did, the findings that they made and dig deeper into the paper. He said he also had extensive conversations. He said Mr. Turcott's characterization that building separation was the most important factor is categorically false. They actually found that there is little to no correlation between building separation and survival. They did find a fairly obvious finding that proximity to another burning building was highly predictive of survival outcome, but that is very different from what Mr. Turcott stated. The correlation between building separation and survivability was nonexistent and the P-value for that was 0.97, which means there is only about a three-percent chance that it's not entirely random, the correlation between building separation and survivability from a fire like Paradise. Mayor Hughes said he thought Town Manager Dennis's characterizations were entirely accurate as he heard them represented by the authors of the paper and the people who did the study and Mr. Turcott's characterization he felt was somewhat unfair. He did not believe Town Manager Dennis was acting cowardly but thought he has been doing very good work and gone out of his way to dig deeper into this issue in response to the petition to better understand what the issues are.

Mayor Hughes asked staff if there were questions, they heard that they are prepared to answer or get back to people on. Director Russell replied that Ron could respond to the questions from MJ as well as the question about residential units under 1,000 square feet whether they would need sprinklers or not. Mr. La France stated that the sprinkler requirements for one- and two-family dwellings and townhomes are in the California Residential Code, and the sprinkler requirements for all other buildings are in the Building Code. The 1,000 square feet is from the California Building Code, so it does not actually apply to the residential structures. There were several questions about sprinkler requirements, agricultural buildings, telecommunication buildings and the 1,000 square feet. He said those are all per current Code. The committee made no recommendations on those, so the Code language was carried forward. Specifically in answer to the other questions, Mr. La France said on structures, chicken coops, et cetera, the Code defines buildings as areas that are occupied for work and living. Structures are things that are not occupied, so sheds, chicken coops, things of that nature are structures. The Ordinance talks about the structures less than 50 feet being noncombustible. That would be things such as the chicken coops and those things. Mr. La France said noncombustible material for decks, non-combustible is defined in the Building Code and the Fire Code as material that meets ASTM Standard E136, which is a testing standard. He did not know what is in the testing standard and has not had a chance to read it but if the material is tested to that standard, then the material would be allowed to be used. If not, then that material for any application where the Ordinance says noncombustible if it does not meet that standard, then it cannot be used. He addressed the last question regarding architectural trim and explained that this is the moldings around the windows, the doors, the shutters referenced on the exterior of the building.

Mayor Hughes invited discussion from the Councilmembers.

Councilmember Aalfs thanked staff, the Fire District and everyone they worked with to bring this forward. He said the Fire Committee recommended this to Council a little over two years ago. They approved this at his first meeting as Mayor in December of 2019. He said they all wanted this to happen faster than it did. COVID had a lot to do with that, but it is here. He said this is actually a very aggressive code in his understanding. He didn't think there were a whole lot of jurisdictions in California that have something that has gone as far as this, although he has not done exhaustive research on it. He was happy that they were finally able to approve this. He said it is one piece of the puzzle they are putting together to make Portola Valley as safe as possible. He was excited to be voting on it tonight and thanked everyone who got it together.

Councilmember Richards agreed with Councilmember Aalfs that this is a very strict code. He said he has always been a little surprised that Chapter 7A does allow and has for many years a considerable amount of combustible material on the outside of the house. The allowable siding listed in the building materials listed on the State Fire Marshal's site are pretty much anything that you would ever want to put on your house, including wood shingles, wood siding. His own house has cedar siding on it that is like a tinder box, and would easily burn, and it is absolutely allowable under 7A. He said this Ordinance changes that dramatically, and he did not know of any other community that had anything near it, so he was pleased that they are pushing this far ahead. He said in some cases it would have severe cost impacts. Siding is not necessarily one of them, because one of the cheapest sidings available is the composite cement siding which is certainly non-combustible. He said in spite of the fact that it is going to raise costs, he thought it was the right move to make.

Councilmember Derwin said it is great and she was glad to see this. It has been a long time coming, and she wanted to make a motion to pass it.

Mayor Hughes concurred with the previous comments. The couple of concerns from the public around whether it would stop people from building decks like they're used to. He thought in some cases it may, but he was glad that the Wildfire Prep Committee has done the work of figuring out the right place to draw the line and say, "These are the fire safety things that we really need to do, despite the fact that it may lead to increased cost or may lead to fewer options for materials and different looks for your house, et cetera. He remarked that what would really increase cost was having everyone's fire insurance cancelled. He thought, reading through the list of things, he said reading it side-by-side, the paper that Mr. Turcott

discussed on the Camp Fire, and its recommendations for buildings that are close to each line up very closely with what they are putting in place. That is for buildings that are close together. They are applying this town wide to all buildings, whether they are close together or not. He thought it showed a strong commitment from the Town, the committees, the residents and the Council to really make sure that they are strengthening the safety of their town and doing everything they can to do that as quickly as possible and this is one mechanism for that. He was very much in favor of the Ordinance and ready to entertain a motion.

Motion by Councilmember Derwin that the Town Council adopt an Urgency Ordinance amending Building Codes to enhance fire resistance and enhance public safety. Seconded by Councilmember Richards, the motion passed, 5-0, by roll call vote.

Mayor Hughes thanked staff and all participants for their work on this.

(19) Appointments by Mayor – Council Liaison Appointments for 2022.

Mayor Hughes said they typically don't do this until into the new year, but this year he thought it might be a good to get ahead of that, since they always have the problem for the first couple meetings of ASCC and Planning Commission where nobody knows who is supposed to be going there. He said he did the best he could to pull together everyone's availability and scheduling options into this proposal. He said if everyone thought things looked good, that's great. He said on some of the meetings, the times and dates have changed, and he did his best to pull the new updates from the website. Some were corrected by Clerk Hanlon because what he did was incorrect. He asked the Councilmembers to look through their list and make sure they are okay with their assignments. If so, he was ready to entertain a motion.

Councilmember Derwin said there was just a tiny error, her Board position on the Flood and Sea Level Rise should be deleted because she is not running for re-election on that board. Mayor Hughes said they will strike that one out.

Vice Mayor Wernikoff asked if she was interested in seeing if anyone wanted to trade the three months that she has Planning Commission if that was possible. Mayor Hughes said absolutely and asked if anyone would like to swap with Vice Mayor Wernikoff. Vice Mayor Wernikoff said she was going to be on the East Coast with her daughter a lot again this summer and it is hard to do those meetings starting at 10:00 p.m. Councilmember Aalfs said he had October, November, December and would be happy to trade.

Mayor Hughes said he saw all three people offer to switch. Vice Mayor Wernikoff requested the next quarter, January, February March, which was Councilmember Richards. Mayor Hughes noted that this is appointment by Mayor, so a motion was not needed.

Vice Mayor Wernikoff announced she needed to get some sleep as she had to be at the airport at 5:00 a.m. Mayor Hughes said she was welcome to depart. Vice Mayor Wernikoff thanked the staff for their incredible amount of work.

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

Councilmember Aalfs attended the Airport Roundtable meeting last Wednesday. The big item was that for 20 years Palo Alto has wanted to join the San Mateo County Airport Roundtable, and back in June they had what seemed like very positive sentiment towards that. He made a motion at the June meeting saying that they would form subcommittee to develop criteria for membership expansion and explore funding options ,because people were concerned, they weren't getting enough money from members to fund all of the operations of the committee. It passed. He then did not get nominated to the subcommittee to explore that. The committee came back and recommended that they not expand outside the county but that they add East Palo Alto and Colma to the Roundtable. He declined to speculate on the reasons, but

said it was a strange reversal from June to December going from very broad support for Palo Alto to very staunch opposition to them. Cecilia on the subcommittee voted against the recommendation. She continued to support Palo Alto. Councilmember Aalfs said he spoke out against it as well as Bill Widmer of Atherton in support of considering Palo Alto. The motion ended up passing. The vote was close, but he thought the committee basically decided it was too much work to try to figure out how to add someone outside the county. He said adding Palo Alto is valuable because they bring a lot of people to the meetings and have a similar problem to what Portola Valley has, which is arrival noise. The northern part of the county is much more concerned with takeoff and field noise around the airport. Councilmember Aalfs said he disagreed with it but thinks it has probably settled the issue once and for all, because the majority of the Board made it clear they don't really care to expand outside of the County.

Town Manager Dennis added there was discussion about funding Jennifer Youstra. Councilmember Aalfs explained that Karen, before she left the committee had started trying to create a catalog of all of the fire-related expenses and come up with what it would cost to do all of the things they think they should do to make the town firesafe. Jennifer wants to continue that work, just to identify all of things they might do and then think about if they were going to go out and pursue funding, which ones would they prioritize and how much money they would actually try to raise. He thought the discussion would continue and be brought to Council at some point in the future.

Councilmember Richards reported that he had an Emergency Preparedness meeting. Fire station construction will begin soon. The big one was a modified Santa visit at the Main Station in Woodside on December 15<sup>th</sup>. There was discussion about staffing at Woodside Fire. It sounded like there is a shortage all over California of people to take spots, but they have done pretty well and are fully staffed at the moment. There was continuing discussion about the AM radio slowdown due to changes in staffing at Cal Water. He said Mr. Young is in the process of working on satellite internet solutions. He had the Conservation Committee meeting where they discussed planting at Spring Down, revised redwood guidelines, worked on goals for 2022 which will be coming to shortly, and a tentative date for the broom pull of February 26<sup>th</sup>.

Councilmember Derwin summarized the meetings she attended included San Mateo County ExpressLanes Board met on November 12. She was there. San Mateo County Library met on November 15<sup>th</sup>. OneShoreline San Mateo County Flood and Sea Level Rise met on November 15. One thing from that agenda was that they adopted the San Mateo County Multi-jurisdictional Local Hazard Mitigation Plan. She shared a comment, "Cal OES looks at San Mateo County as a go-to county. We are the only county that has all 20 cities in the county, in the special districts in the plan." That is why it is important that they signed it. She attended Resource Management and Climate Protection Committee on November 17. She said at some point she would love to share about the micro-grid program in La Honda. She said the water report was a little better than the month before. She attended a Board of Directors Finance Committee meeting for One Shoreline on November 18. Also, on November 18 she had two meetings at roughly the same time. She first started to at the C/CAG meeting and then went to the Sustainability Committee meeting to introduce the speaker, Laura Allen from Greywater Action, whom she heard was excellent. She then went back to C/CAG. She attended the Council of Cities virtual meeting on the 19<sup>th</sup>, hosted by Menlo Park and Drew did a very nice job. The guest speakers were Josh and Mark. She said her favorite thing to do was attend and speak at and light the giant ice menorah at their first ever Hannukah festival on the field. She said it was the best.

Mayor Hughes said he has been doing a lot of work on the subcommittees discussed earlier in the meeting. The one that hasn't been covered yet was Woodside Highlands Road Maintenance District Resident Advisory Committee meeting. The big issue there of relevance to the broader community was that they spent time talking about the intersection where Santa Maria dumps out onto Portola Road and what the striping looks like there and making it clear to people coming in and out where the bike lane is and how to paint the road safety. They just completed a resurfacing project on the entire length of the road, and it has led to repainting and stripes. They were now wondering whether the new stripes were in exactly the right spot and addressing the broader consideration of the intersection there and whether it should have a separate left and right turn and some other issues. He directed them that it might be a



good idea to have at least a brief conversation with Mr. Young about it before they decide on a re-striping of their own road, given that any re-striping they do there may be in the Portola Road right-of-way and would impact Portola Road with traffic entering and exiting there. They will probably be contacting Mr. Young to get an impression from him on what they are doing. Among a variety of things, they are working on, this was the one of broader interest to the rest of the town.

Mayor Hughes invited public comments.

Rita Comes said she sent a message to Clerk Hanlon earlier, because she is also part of the South San Mateo County League of Women voters and thanked the Council for honoring them in 2020. Councilmember Aalfs had given them a signed piece of paper from the Town. They originally had their 100<sup>th</sup> Anniversary planned for 2020 but that did not happen. They planned it again for the past summer, and that didn't happen, so on February 13<sup>th</sup> with February 14<sup>th</sup> being the actual 102<sup>nd</sup> anniversary of the League of Women Voters, they will be having an event on that day. She sent an invitation for people to click on. It will be \$10 to \$102 to attend and will be a great event. It is also the 102<sup>nd</sup> anniversary of women getting the right to vote, the 19<sup>th</sup> amendment. She said hopefully somebody from the Town will be able to come and have a good night. Mayor Hughes asked who she sent that to. Ms. Comes said she sent it to Clerk Hanlon, who advised it would be in the next day's digest.

(21) **TOWN MANAGER REPORT**

Town Manager Dennis reported that the ABAG Wildfire Working Group has concluded its four-part series. The last was last week, related to land use issues, particularly around building separation and such matters. It was an interesting discussion, with a number of wildfire experts in attendance. It was interesting in that there is still debate relating to how to look at building separation issues as it relates to home hardening defensible space. That community is still trying to come up with answers that could be helpful to the Town as they develop the Code. He mentioned the EnerGov permit tracking software system will be moving to the cloud and they are in the middle of that process. He said it is actually very exciting because for the first time they will have a portal for citizens to be able to pull up information about permit applications that have been requested in the community. They can be looked up by type or by address. It also provides contractors with an internal way of tracking permits and gives some good tools to staff in a dashboard system from a project management standpoint. He said they are delighted to be working on it. It is one of Mr. Gaines' first projects to help on some of the specific integration pieces making sure their different tools talk to one another.

Town Manager Dennis mentioned that at the end of the year the Department of Public Works would be putting out its first annual report. Some of what Councilmember Derwin discussed will be part of the report. It's a part of what they do that gets little visibility. He said in some ways that may be a good thing, because when its working people don't notice it. But if he was Mr. Young and members of the Public Works team, he would love to have a report. They are delighted to put it together, and he hoped people will enjoy it.

Town Manager Dennis shared that the staff had its holiday party Saturday at the Dutch Goose, outside, and it was lovely and an opportunity for some folks who had never met to actually see each other.

Mayor Hughes said he has been noticing Public Works things around town – the limbing up of trees and trails, and anywhere you go you run across one of the three guys out there chopping away at something, or sweeping something up, or hacking something back. He said it does show, so their report will be great, because for everything they do see, there is a lot more that people don't see. Town Manager Dennis added that they are very thankful for the trucks they were able to purchase at the end of last year, which have made their jobs that much easier, so thank you to the Council for making that happen.

Hearing no public comments, Mayor Hughes moved to the next item.

**WRITTEN COMMUNICATIONS**

(22) **Town Council Digest** – November 11, 2021

Mayor Hughes commented that on Item 8, City Selection Committee meeting, he is planning on going. He hasn't had a chance to look through the various positions and who has been nominated. He wondered if anyone had any particular ones, they have their eye on or recommendations for how to vote. Councilmember Derwin did not think there were any contested seats this time. Except for the Chair, which she was not sure what would happen there. Councilmember Aalfs asked if the Colma meeting was going to happen again. Councilmember Derwin responded it was the Fire Station. Mayor Hughes said he hadn't seen anything about a call-in thing if you didn't want to be there in person. Councilmember Derwin said they could pull that together at the Fire Station. Mayor Hughes expected that anybody else can go and have dinner. Councilmember Derwin said it is fun if you like that sort of backroom, Chicago thing. Mayor Hughes said he will read through it and if there are no contested seats it will be pretty short.

Kristi Corley wondered if they had seen her letter regarding minimum wage. Mayor Hughes said yes, they did and thanked her for it. He said at this time they don't have time to address it properly, but it is definitely something that will be on their radar going into next year and setting Council priorities for next year. Ms. Corley asked if they are going with the State minimum wage of \$13 and \$14 an hour and said East Palo Alto is at \$15-plus. She said that didn't sound right to her. Mayor Hughes said he understood but there is a limited number of things they can do, and this is not on their priorities for this year. They will likely consider it for next year and he thanked her for her input.

(23) **Town Council Digest** - November 18, 2021

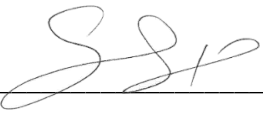
(24) **Town Council Digest** - December 2, 2021

Mayor Hughes said Ms. Corley's email is located here.

**ADJOURNMENT** [ 1:18 a.m.]

Councilmember Aalfs moved to adjourn the meeting. Seconded by Councilmember Richards, the motion passed unanimously .

Mayor Hughes adjourned the meeting.



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Mayor



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Town Clerk