

TOWN OF PORTOLA VALLEY
Open Space Acquisition
Advisory Committee Meeting
Thursday, August 25, 2022
7:00 PM

Terry Lee, Chair
Ticien Sassoubre, Vice Chair
Nona Chiariello, Secretary
Gary Nielson, Member
Craig Taylor, Member
F. Ward Paine, Member

SPECIAL VIRTUAL MEETING

REMOTE MEETING COVID-19 MEETING ADVISORY: On September 16, 2021, the Governor signed AB 361, amending the Ralph M. Brown Act (Brown Act) to allow legislative bodies to continue to meet virtually during the present public health emergency. AB 361 is an urgency bill which goes into effect on October 1, 2021. The bill extends the teleconference procedures authorized in Executive Order N-29-20, which expired on September 30, 2021, during the current COVID-19 pandemic and allows future teleconference procedures under limited circumstances defined in the bill. Portola Valley Town Council and commission and committee public meetings are being conducted electronically to prevent imminent risks to the health or safety of attendees. COVID-19 is still a major health concern and virtual attendance to the Town Council meeting is encouraged, particularly during case increases.

ASSISTANCE FOR PEOPLE WITH DISABILITIES

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Town Clerk at (650) 851-1700 or by email at mthurman@portolavalley.net 48 hours prior to the meeting start time. Notification 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting.

VIRTUAL PARTICIPATION VIA ZOOM

To access the meeting by computer:

<https://us06web.zoom.us/j/82134810851?pwd=Z04wL2Z2T1Q5Y3kzUHVaTkVMWHZTQT09>

Webinar ID: 821 3481 0851

Passcode: 239405

To access the meeting by phone:

1-669-900-6833 or

1-888-788-0099 (toll-free)

*Mute/Unmute – Press *6 / Raise Hand – Press *9*

- 1. CALL TO ORDER & ROLL CALL & APPRECIATION OF CHIP MCINTOSH**
- 2. ORAL COMMUNICATIONS FOR ITEMS NOT ON THE AGENDA**
Speakers' time is limited to three minutes.
- 3. APPROVAL OF MINUTES:**
 - a. July 7, 2022 Meeting Minutes
- 4. OLD BUSINESS:**
 - a. Use of Open Space Utility Users Tax (UUT) and/or other Donations for Open Space *Maintenance*
 - b. *Reconciling* Dorothy Ford Park / Field / Open Space and Affordable Housing
 - c. Committee Membership
- 5. NEW BUSINESS:**
 - a. Committee *Updates* via Town Website / PV Forum
 - b. Protecting Open Space Options
- 6. ADJOURNMENT**
The next meeting date is to be determined.



TOWN OF PORTOLA VALLEY
Open Space Acquisition Advisory Committee Meeting
Tuesday, July 7, 2022 7:00PM
Special Videoconference meeting via Zoom

OPEN SPACE ACQUISITION ADVISORY COMMITTEE MEETING MINUTES

This meeting was recorded: <https://www.youtube.com/watch?v=3nLBXFaTgml>

More than two dozen community members attended.

1. CALL TO ORDER: 7:05pm

a. Members present – Terry Lee (chair), Nona Chiariello, Gary Nielsen, Craig Taylor; Council Liaison John Richards

b. Appreciation of Chip McIntosh: Terry Lee, Gary Nielsen, and Nona Chiariello reflected on Chip McIntosh's long-standing service to OSAAC and to the Town. One memorable contribution was that Chip used to bicycle around town on Sundays, drumming up support for the new Town Center. He worked hard for both open space and affordable housing.

2. ORAL COMMUNICATIONS FOR ITEMS NOT ON THE AGENDA:

Nona Chiariello expressed concern about OSAAC meeting minutes that are missing from the Town website.

3. APPROVAL OF MINUTES:

a. February 8, 2022 Meeting Minutes: The minutes were approved with one correction—adding Craig Taylor to the roll call (he was present but the minutes did not list him).

4. OLD BUSINESS:

a. Update on Open Space Brochure and Map Mailer and Addition to Website. Terry Lee introduced the revised open space map and brochure. Nona Chiariello summarized the most recent edits to the open space map: the wording about Hayfields, addition of the "road remnant" next to Frog Pond Open Space, and removal of Rossotti Field as open space. Terry Lee moved and Craig Taylor seconded a motion to approve the map and brochure; the motion was approved unanimously.

b. Update on Other Website Updates. No updates at this time.

5. NEW BUSINESS:

a. Discuss Budget Proposal to Utilize Open Space Utility Users Tax (UUT) and/or other Donations for Open Space Maintenance. Terry Lee pointed out the late addition to the meeting packet of a memo from the Town Manager and Town Clerk explaining the recommendation to the Finance Committee and Town Council about using the Utility Users' Tax revenue for maintenance costs on open space—something that has been opposed by OSAAC in the past because those funds were understood to be designated for Open Space acquisition not maintenance. Terry noted that fire mitigation may be considered a form of maintenance.

John Richards said that an interim Town budget has passed and it will be finalized in September. Terry Lee added that the Council had directed staff to look at the part of the budget dealing with funding of open space maintenance. The interim budget assigned about \$112k to open space maintenance, to come from the UUT. Terry proposed focusing on the concept not just the dollar amount.

Nona Chiariello said the Council understood, when they unanimously approved the Open Space Fund (OSF) Guidelines in 2017, that the guidelines did not allow use of the fund for ongoing maintenance, and that the later adjustment in Council's approval was for initial upgrades of an open space property, which is something that was already part of the 2017 wording of the guidelines.

Terry Lee noted that this is the opening of a discussion, which hopefully will continue with Town Manager Jeremy Dennis present.

Craig Taylor suggested that this OSAAC meeting adhere to the standard sequence of committee questions, followed by public comment, and then committee discussion.

Public comment:

Danna Breen expressed concern that OSAAC was unaware of the budget proposal whereas it should have been involved from the start.

Betsy Morgenthaler commented that the UUT was approved by voters based on the language of the ballot initiative, which doesn't include mention of using the funds for maintenance, and the voters' intentions should be honored. UUT funds should not be redirected without taking it back to the voters.

Maria Southgate asked for clarification on the definition of open space.

Karen Askey seconded the concern about a change in the use of open space funds without OSAAC's involvement. Majda Jones later shared the same concern.

Kristi Corley advised OSAAC to be attuned to OBAG3 funds that are available for open space, possibly for maintenance, and also for acquisition.

Karen Vahtra commented that while she was a member of the Wildfire Preparedness Committee (WPC), she was approached about use of UUT funds, and that some percentage should be considered.

Terry Lee thanked community members for comments and brought it back to the committee.

Craig Taylor agreed with the concern over process, arguing that there should have been a concerted effort to engage the committee. A more open process on the part of the Council is also important, with both OSAAC and Conservation, because the current situation puts the two committees in adversarial roles. Nona Chiariello and Gary Nielsen agreed about a more open process, though Gary Nielsen said that there may be a need for the OSF to contribute to maintenance, especially given the drought and fire risks. Craig Taylor argued for a robust discussion and an open airing, which is a time-honored tradition.

John Richards said that typically the Council does not preview the draft budgets until they are presented to the Council. As budgets have tightened, he said it might be reasonable for the Town Manager to suggest the UUT as a source of funds for maintenance of open space, but he noted that the Council did put a hold on it.

Nona asked whether a subcommittee should be appointed to make sure all the old minutes are posted, given everyone is looking for the history on the issue. Terry Lee

said the current website committee could do an audit to see what's missing. Craig Taylor suggested all OSAAC members take a look at the website for what's present and what's missing.

Craig also proposed two separate discussions: 1) Have the Town Manager Jeremy Dennis meet with OSAAC to discuss process. 2) Have an open forum on open space money, whether the proposal is to use it for maintenance or fire prevention or other things.

Terry Lee summarized that the next step is a followup with the Town Manager and perhaps Town Counsel Cara Silver.

b. Acknowledge / Discuss Upcoming Fire Mitigation Assessments and Recommendations Expected by Fire Marshall. Terry Lee noted this topic is directly related to the previous discussion. The Town is in the process of consulting with the Fire Marshal about wildfire mitigation, and budget questions will be forthcoming. Terry did not know the timeline of that process.

Danna said the process is very troubling because of the lack of process.

David Cardinal said there is a lot of open space in town that needs work, and the funding has to come from somewhere.

Karen Vahtra recalled coming to OSAAC while she was on WPC and discussed assessing the open space properties in the field as a group; that goal fell apart during the pandemic. She also noted that a very large majority of open space in PV is under MROSD, whereas the Town-owned properties are a much smaller responsibility.

Terry Lee thanked everyone in the community for their comments.

Committee comments:

Nona Chiariello noted that the WPC will have presentations on fuel reduction by MROSD in September and by Stanford (regarding the Wedge) in October.

Craig Taylor said OSAAC should be open to a discussion and to looking closely at the Town-owned properties for their individual needs. First have the discussion and then start considering funding, but don't assume maintenance funding should come from an Acquisition fund.

Terry Lee concluded the discussion by saying that wildfire mitigation is a chance to have a better process from the start. Terry affirmed that he has communicated to the Town Manager that OSAAC wants to be included.

c. Discuss Potential Affordable Housing Site Recommendations and Implications Regarding Open Space (<https://www.portolavalley.net/departments/planning-buildingdepartment/housing-element-update-for-2023-2031>) Terry Lee introduced this by noting that a vast amount of work has gone into this, and that comments are due tomorrow for the Town Council's meeting on July 13. Craig Taylor summarized the provision of greatest relevance to OSAAC: potentially using Dorothy Ford Open Space for housing, which is a gateway to the community and has substantial oaks in it.

Community comments:

Karen Askey spoke in favor of the Planning Commission subcommittee proposal from Nicholas Targ and Craig Taylor for a sunrise provision to allow time to plan for the development of housing without impacting Ford Field.

David Bailey asked for clarification on the purpose of community feedback and how the committee plans to use it. Terry Lee said that hearing from the community helps the committee decide whether and how to advise the Town.

Betsy Morgenthaler said that converting Dorothy Ford open space to housing would be extraordinarily damaging to our future development efforts for acquisition funds, and that honoring our word only when it's convenient to do so would be a horrible precedent. She also expressed concern about "by-right state's entitlement for low barrier navigation centers" which is something that has not been recognized. She asked that the Town probe unrecognized issues that are buried in legislation.

Peter Lipman said affordable housing should be in the densest part of the town. As a lead donor to Shady Trail open space, he questioned whether other donors would trust the Town enough to contribute if Ford Open Space becomes housing. OSAAC should be disbanded if it fails to protect Ford Open Space.

Jon Myers said the housing plan refers to the Dorothy Ford open space as "vacant portion of Ford Field housing site" which raises concern over what has been approved already. Craig Taylor explained that in technical language, any land that doesn't have a building is termed vacant.

David Cardinal said the current zoning on Ford Field makes housing an option, and also in other places in town. Housing will have to go somewhere.

Dale Pfau commented that money was donated to acquire the land for open space, so regardless of the legal options, it would be an abrogation of the agreement with the donors and that is completely unacceptable.

Karen Vahtra said we should not violate an agreement with a donor. Open Space and Ford Field are different and their designations should be different. The Town hasn't had Town volunteers explore every other possibility for meeting the housing mandate.

Karen Askey asked about the timing to re-zone—does the Town have 3 years before rezoning needs to happen, which might allow time to explore every option? She also suggested ways to survey residents about other alternatives.

Maria Southgate asked again for clarity on what open space means, and how it can be locked in or changed. Why do playing fields seem to have a precedence?

Danna Breen said that going forward, OSAAC should meet every month, engage the community, and be more proactive.

Kristi Corley agreed that OSAAC should meet more often. Committees should hold a conversation back and forth with the community in a more relaxed environment, relative to Town Council. She also said the creek setback and scenic corridor setback might be reduced under bonus density law, and this could end up allowing even more than 50 units. Once land is upzoned, it can never be rezoned. Multiple housing developments are on Alpine Road.

David Bailey expressed support for playing fields.

Caroline Vertongen said community members should be approved to serve on committees when they want to.

Committee comments:

Gary Nielsen read comments he previously submitted to the Town Council, many of which were consistent with comments made by the community, even to the specific words.

Craig Taylor said that the state is asking us to rectify 30 years of lack of housing in an 8-year cycle, leaving people in an untenable spot. OSAAC needs to be the defender of open space. If we give it up, we're not getting it back. OSAAC needs to have a resolution to pass on to the Council. Finding other solutions is a long shot, but it's worth a shot. If nothing else, maybe there would be a reduced need for housing on Ford Field.

Nona Chiariello clarified her comments about Chip McIntosh's deep commitments to both affordable housing and open space, saying he could sometimes see them happening on the same land but more generally on separate land. She stated that Ford Field still appears in county parcel maps as a single parcel, albeit with a restriction on the playing field due to special funding; and that some plans show moving the baseball diamond to the Frog Pond road remnant, which would be a bad decision. She said she worried about the sunrise provision because there have been instances where the Town Council seemed committed to open space protection but it's not clear whether it would be a lasting commitment.

Martin Miller, who lives directly across the road from Dorothy Ford Park and is very familiar with traffic on Alpine Road, said traffic can be challenging at that location and it would be illogical to put all the low income housing there. He understood Ford Field was gifted in perpetuity, and changing that would affect him and his investment more than anyone else.

Synthesizing all the comments, Terry Lee suggested that the committee submit a consensus statement to the Town Council.

Committee comments:

Gary suggested that committee members submit individual comments as well as a committee statement. He suggested the committee consensus could be a single sentence, "The Open Space Committee opposes building housing on open spaces in Portola Valley." Details could be added individually. Craig agreed with the sentiment but said that if that's all OSAAC does, then we haven't given the Council any additional help. Honoring the General Plan, coming up with a marketing plan for JADUs...the Council needs help finding a way out. Terry suggested making a strong statement about honoring commitments of open space. Nona Chiariello suggested using open space protection as leverage for finding other solutions. Craig said he agreed with a strong statement, and that the sunrise provision is a backstop that at least provides a commitment while buying time for an alternative. The fundamental problem, he said, is that we have to put a marker down in order to satisfy the housing plan requirement.

Gary Nielsen and Craig Taylor continued the discussion, noting that over the next three years some uncertainties will get settled, such as fire risk maps, and there could be changes in laws, efforts by citizens to purchase land specifically for affordable housing, significant increases in ADUs. The sunrise provision might provide time for these factors to expand the options.

Terry moved the discussion toward a committee resolution, emphasizing that actions we take today could influence how much open space the Town has going forward. If we don't safeguard the open space we have, there may not be any additional open space in the future. People won't contribute to open space if they don't trust that it will be protected.

Terry recognized a few more community members to speak:

David Cardinal paraphrased the committee sentiment as having three themes—an "over our dead bodies" opposition to developing open space; support for developing on currently developed properties; and working with the town to achieve that.

Kristi Corley asked whether Tom Ford's donation was the first to the Town. Kristi said we need to take Susan Ford Dorsey's understanding of the intention and honor it.

Caroline Vertongen argued that HCD has not documented the need for more affordable housing in Portola Valley.

Terry Lee suggested an official recommendation from the committee to the Council, to be made by the comment deadline. John Richards advised that it would be most impactful to have a statement voted on by the entire committee.

For the remainder of the meeting, committee members worked through the wording of a brief statement, which was finalized as:

"The OSAAC strongly opposes building any housing on our open spaces. Open Space is a fundamental value in Portola Valley. We have open space properties and donations that were made in good faith. If we violate that trust, we compromise our ability to receive or acquire open space in the future. We recognize the need and mandate for affordable housing. We encourage the Town Council to provide the time needed to explore additional options to achieve our affordable housing needs."

Terry Lee moved that OSAAC submit this advisory statement to the Town Council; Craig Taylor seconded; the committee approved unanimously.

Terry thanked community members for their engagement and comments, which helped OSAAC move in a good direction; he thanked John Richards for advising the committee. Terry concluded that this meeting was an important step toward finding a better solution.

6. ADJOURNMENT - The meeting was adjourned at 9:55PM. The next meeting date is yet to be determined.

PV OSSAC – 7 7 22

Public Comment To Town Council RE: Housing Element

The Portola Valley Open Space Acquisition Advisory Committee (PVOSAAC) unanimously and strongly opposes building any housing on our open spaces (including at Dorothy Ford Park and Open Space). Open Space is a fundamental value and characteristic of Portola Valley. We have received tax revenues, financial donations, and gifts of properties for open space in good faith. If we violate that trust, we could irrevocably compromise our ability to receive or acquire open space in the future.

We recognize the need and mandate for affordable housing. We appreciate the efforts of the Ad Hoc Housing Element Committee, Staff, Planning, and Consultants. However, we respectfully encourage the Town Council to provide additional time to explore alternative options to achieve our affordable housing needs.


Terry Lee, Chair, on behalf of the PVOSAAC, 7/7/22
submitted 7/8/22



TOWN OF PORTOLA VALLEY

STAFF REPORT

TO: Chair and Members of the Open Space Acquisition Advisory Committee

FROM: Jeremy Dennis, Town Manager 

DATE: July 7, 2022

RE: Use of Open Space UUT Funds for Maintenance of Open Space Properties

RECOMMENDATION

Staff recommends that the Committee accept this report on the use of the 2% Utility Users Tax for Open Space use for maintenance of open space properties

BACKGROUND

Since 1997, the Town of Portola Valley has collected a 2% utility user's tax (UUT) for exclusive use for open space projects. The ballot question used for the measure's initial vote in 1997 was:

“...shall the Town of Portola Valley impose an additional utility tax at a rate not to exceed 2.0% to amend Ordinance No. 1985-207, as amended, the proceeds of which shall be used only for funding open space projects of the Town?...”

The Impartial Analysis (Attachment 1) written by then-Town Attorney Sloan states that the purpose of the funds are “to fund open-space projects selected by the Town”. The “in favor” language describes the use of the 2% UUT for the “purchase key prices of undeveloped land and easement as they become available”.

Available information indicates that it was the position of the Town that the fund would also be used for open space maintenance.

1. According to the Town's Website, on the page entitled “Open Space in Portola Valley” under “Get Involved: About the Open Space”, it says:

“The Open Space Acquisition Fund is used solely for the purchase and maintenance of open space within the Town.”¹

2. Council minutes from the July 9, 1997 meeting when the resolution ordering the 1997 special election for the 2% UUT describes the purpose of the fund as for “open space projects”. The minutes also detail differences between short-term projects that should be funded by such a funding source, which appears to indicate tasks not associated with property purchases. (Attachment 2)
3. In the minutes from the January 26, 2005 Town Council meeting, in a discussion about the 2003-04 audit, the following was mentioned:

“Councilmember Merk said the Town’s website indicated that the Utility Users’ Tax that went to the Open Space Fund was for the “acquisition and preservation” of open space. Note 1 indicated that the Open Space restricted fund could be used solely for the purchase of open space within the Town. Ms. Sloan confirmed that the money could be used for purchasing, leasing, or maintenance of open space. She suggested “...solely for open space purposes....”

4. In 2009, the last year the item was placed on the ballot², the proponents of the measure (Measure R) [stated](#) the following in a rebuttal to opposition:

“Proceeds from the 2% Utility Users Tax for Open Space are applied to the Town’s restricted Open Space Fund and are used solely for open space acquisition and maintenance.”

and:

“The Town is investigating new open space projects in Town. However, the current balance of \$2,357,000 in the Open Space Fund falls far short of likely acquisition costs in light of current real estate values and open space maintenance costs. We need a continued source of revenue”

5. At their November 11, 2009 meeting, the Town Council discussed a further refining of the Town’s definition of “open space preserve”. Attachment 3 are the minutes to that meeting, with emphasis on resident comments on maintenance of Town open space.
6. In an update in the minutes of the Town Council meeting on August 25, 2010 from then-Mayor Steve Toben regarding the Open Space Committee, it was stated:

¹ Note that this statement does not make a distinction between other funds that are included in the Open Space Acquisition Fund, such as donations and interest

² The two percent increase was intended to be in perpetuity but was placed on the ballot every four years to ensure the Appropriation Limit was not exceeded. It was later determined that such a ballot measure was unnecessary.

“A question that continues to emerge concerns any opportunity to use Utility Users Tax (UUT) open space funds for maintenance or capital improvements as well as purchasing. Ms. Sloan (then-Town Attorney) said that the answer is yes, the language consistently refers to "open space purposes.”

and:

“The Open Space Committee has developed a number of ideas and is exploring use of the Herb Dengler Trail as an educational/interpretive nature trail. Town Attorney Sloan confirmed that use of UUT monies is appropriate for trail construction and maintenance.”

7. In a staff report to the Town Council on June 12, 2013 from then-Town Manager Nick Pegueros regarding appropriation limit issues, it was stated:

“UUT revenue for open space of \$245,000 – The intent of this revenue is to acquire and improve land for preservation as open space. In any one year, the open space UUT is insufficient to provide for the acquisition of land in Portola Valley. Therefore, the funds are put into a reserve for future use.”

Open Space Acquisition Advisory Committee Discussions

1. January 26, 2017 – The Committee recommended to the Town Council a policy (Attachment 4) that was subsequently adopted. That policy stated that the fund could be used for:

“Preservation and enhancement of existing open space. Preservation and enhancement activities are typically “one-offs”, not general maintenance. Addressing the initial onset of sudden oak death or creating a wildlife corridor would be preservation and enhancement. Routine mowing, weed abatement and annual spraying for sudden oak death would be examples of maintenance.”

But that the fund would not be used for the following purposes:

“The cost of maintaining properties after the property has completed the transition process and general use established. For example, mowing, resurfacing trails, or repainting signage should come from the town's General Fund or other sources and not the Open Space Fund. On rare occasions endowments could be created for maintenance.”

And:

“The cost of enhancing already-owned open space property when the enhancement simply restores attributes that the property possessed at some time during the Town's ownership. For example, removal of invasive plants from a property that was clear of

invasive plants at the time of acquisition or reconstructing a bench that has fallen into disrepair.”

2. September 25, 2019 – The Committee discussed a proposal from staff to fund open space maintenance from the Open Space Acquisition Fund that consists of, in part, by the 2% UUT. There are no minutes available from the meeting, but minutes from the Town Council meeting mentioned below describe the Committee’s denial of the proposal.

The Town Council discussed the matter (Attachment 5) on September 25, 2019 and adopted a policy change that would allow use of the funds to bring a property up to the desired level of use.

FY 2022-23 Budget

Per the direction of the Town Council, staff has been reviewing potential funding sources for a range of Town needs. As part of this process, staff reviewed the language of the 2% UUT ballot and previous discussion on the topic, and the current Town Attorney concurred with previous interpretations of the funds use to include maintenance.

Staff alerted the Chair of the Open Space Acquisition Advisory Committee of the proposal in an email in April of this year. In that email, staff indicated that the proposal was not intended to decrease the existing fund as it stood at the start of FY 2022-23 (moneys budgeted for maintenance work as described would never be more than the full amount of the 2% UUT received annually), and would not be budgeted to be more than what was necessary to support work recommended by the Conservation Committee and adopted by the Council through the annual budget process.

DISCUSSION

The draft FY 2022-23 budget included funding town open space activity with the Open Space Acquisition Advisory Fund, and staff recommended that the existing policy on the use of these funds be amended to recommend maintenance expenditures. The Council directed staff to modify the proposal to fund these expenditures with the General Fund until the Committee could further discuss the proposal.

The staff proposal would also have the effect to create discrete subaccounts in the Open Space Acquisition Fund to ensure that moneys from donations, park impact fees and from interest were not utilized for maintenance. Only funds from the 2% UUT would be employed for this purpose.

FISCAL IMPACT

Current budgeting for open space maintenance work is typically approximately \$100,000/year.

ATTACHMENTS

1. 2009 Measure R Impartial Analysis, Arguments for and Against;
www.smartvoter.org

2. July 9, 1997 Council meeting minutes
3. November 11, 2009 Council meeting minutes
4. Open Space Fund Guidelines
5. September 25, 2019 Council meeting minutes

This is an archive of a past election.

See <http://www.smartvoter.org/ca/sm/> for current information.



League of Women Voters of California Education Fund



San Mateo County, CA

November 3, 2009 Election



Measure R

Appropriations Limit

Town of Portola Valley

Majority Approval Required

👍 Pass: 967 / **65.9%** Yes votes 500 / **34.1%** No votes

See Also: [Index of all Measures](#)

Results as of Dec 29 12:09pm, 100.0% of Precincts Reporting (3/3)
27.8% Voter Turnout (77,340/277,759)

Information shown below: [Impartial Analysis](#) | [Arguments](#) |

Only if the Town of Portola Valley Proposition Q adjusting the Town's Appropriation Limit passes shall the Town additionally adjust the appropriations limit each fiscal year commencing July 1, 2010 by the amount of money collected from imposition of the 2% Utility Users Tax (for open space purposes only) during the time of its levy and collection, provided authorization to adjust the appropriations limit shall not exceed four years from the end of Fiscal Year 2009-2010?

Impartial Analysis from the Town Attorney of the Town of Portola Valley

The Council of the Town of Portola Valley has called for a municipal election to present the Town's qualified electors a ballot measure, which if approved by more than 50% of the voters voting on the measure, and if Ballot Measure Q authorizing an adjustment in the Town's appropriations limit is approved, will authorize an adjustment in the Town's appropriation limit for each of the next four fiscal years starting on July 1, 2010 by the amount of money raised from the imposition of the current 2% utility user's tax to fund open-space projects during the time of its levy and collection. Following the final fiscal year of these four fiscal years, the Town's appropriations limit will revert to the amount it would have been had this ballot measure not received a favorable vote.

If the measure receives a favorable vote and if Ballot Measure Q is approved, the special utility user's tax will continue to be levied and collected at a rate not to exceed 2%. Money

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collected from this tax levy will be placed in a special Town account to fund open-space projects elected by the Town. If the measure does not receive a favorable vote and/or Measure Q does not receive a favorable vote, the special utility user's tax may not be collected and expended in an amount that would cause the Town to exceed its current appropriation limit.

Arguments For Measure R

VOTE YES ON MEASURE R to protect and enhance the Town of Portola Valley's rural ambiance and undeveloped open spaces.

In 1964, Portola Valley residents voted to incorporate, thereby providing local control to protect the community's natural environment. Our Town government has been remarkably successful in accomplishing this task, allowing reasonable development while protecting Portola Valley's rural character. In 1997, 2001, and 2005, Town residents voted overwhelmingly in favor of a 2% tax on utilities with revenues dedicated to the protection of the Town's scenic landscape.

To successfully protect the remaining critical vistas and corridors, our Town must continue to have adequate resources to purchase parcels and obtain conservation easements as they become available. During the past few years, the Town has added 19 acres to its open spaces by completing the purchase of six acres of Spring Down Farm along the Portola Road scenic corridor, contributing toward the purchase of a parcel which protects the sanctity of Shady Trail and facilitating the gift of the recently named Dengler Open Space, 11.8 acres of dedicated open space and new trails. Several new projects are currently under review.

Our open spaces and scenic vistas add value to our properties, enrich our lives, and contribute to make Portola Valley a magnificent place to live. Let's carry on the tradition of funding that which we cherish.

Please support Measure R that maintains the 2% tax on our utility bills for the continued protection of open spaces in our Town.

On November 3, vote YES ON MEASURE R.

/s/ Beverly Lipman, Organizer, Committee to Protect Shady Trail

/s/ Nancy Lund, Town Historian

Arguments Against Measure R

(2% Open Space Utility Tax)

Please note: The Town made this open space Utility Tax dependent upon Measure Q. See the trick? But with Defeat of Q we can work with the Council to initiate a voter approved, income tax deductible, graduated parcel tax for long-term, well-defined open space acquisition and enhancement programs.

Our beloved open space funding will not be impacted by California's financial problems. The Town now has more than \$2.8 million in cash reserves for open space. There are currently no planned open space projects or expenditures. The Town's doesn't need to stockpile any more of our "non-deductible" cash from our utility bills.

The Town used only about \$100,000 out of all the open space funds available for the Shady Trail land acquisition. More than \$2,000,000 of private donations were raised for the Shady Trail and the Sausal Creek projects. Planning for open space and fields at Dorothy Ford Park can be accomplished with private donations.

Only a few cities in the State still have Utility Taxes. Portola Valley's authorized 7.5% Utility Taxes are the highest in San Mateo and Santa Clara counties. Why do we continue to impose Utility Taxes on our few retail businesses when such taxes are not assessed against similar establishments in Ladera, Menlo Park, and Woodside?

Vote Yes on R to show your support for an open space tax. But be sure to vote No on Q so that the people of Portola Valley can have the opportunity to enact carefully planned, tax-deductible programs to improve and protect our properties such as open space enhancement and undergrounding.

Give the vote back to the people of Portola Valley.

/s/ Gary Nielsen, Former Mayor

/s/ Craig Taylor, Chair, Emergency Preparedness Committee

/s/ Ron Walter, Open Space Acquisition Advisory Committee

Rebuttal to Arguments For

Measures R and P are controlled by Q. This is counterintuitive.

Note that it says "only if" Proposition Q passes. Since 1997, every four year election for our beloved OPEN SPACE program has been held hostage. For each \$2 we want to use for open space, we have to give \$4.5 or \$5.5 to the Town for "general purpose expenses." That means "Blank Check." Vote No on Q.

With Defeat of Q, we can work with the Council to initiate a voter approved, income tax deductible, graduated parcel tax for long-term, well-defined open space acquisition and enhancement programs.

We have \$2.8 million in Open Space cash reserves, if needed. The Town received significant private funding for trail building and maintenance along with the gift of the "Dengler Open Space". Only limited staff time was required for implementation. Over 90% of the Shady Trail parcel was paid by private donations. The Town paid only \$100K. Projects "under review" are: A trail around the "Springdown" property, a new baseball field at Ford Park and new tables and limited landscaping at Triange Park. There are no major projects proposed.

We all want Open Space. Vote YES on R to show you care. Then, let's pass a carefully planned, sustainable parcel tax to support open space. BUT STOP this non-deductible, inefficient, unfair utility tax. VOTE NO on Q.

/s/ Bruce Campbell, Taxpayer

/s/ J. Michael Pinneo, Taxpayer

/s/ Leo F. Hoenighausen, Taxpayer

/s/ Eric H. Denys, Taxpayer

/s/ Helga A. Hoenighausen, Taxpayer

Vote No on Measure Q for NO Utility Taxes.

/s/ Gerald G. Henderson, Taxpayer

/s/ Edwin A. Wells, Taxpayer

/s/ Alison D. Wells, Taxpayer

/s/ Carol W. Henderson, Taxpayer

/s/ Georgia Baba-Clark, Taxpayer

Rebuttal to Arguments Against

We agree with our opponents who also recommend to VOTE YES ON MEASURE R to preserve the natural beauty of our town.

Proceeds from the 2% Utility Users Tax for Open Space are applied to the Town's restricted Open Space Fund and are used solely for open space acquisition and maintenance. Since the passage of the 2005 Utility Users Tax, the Town has wisely used \$1,744,000 of Open Space Fund monies for the purchase of the second of the Spring Down parcels and toward the purchase of the Shady Trail parcel.

The Town is investigating new open space projects in Town. However, the current balance of \$2,357,000 in the Open Space Fund falls far short of likely acquisition costs in light of current real estate values and open space maintenance costs. We need a continued source of revenue.

With so many charitable organizations supported by our generous residents, we cannot rely completely on donations for open space acquisitions. The Utility Users Tax monies remain a vital component of funding. In tough economic times, private donations can fall short of expectations. Last year, for instance, the Town's private fund raising for the Sausal Creek project at Town Center fell \$452,000 dollars short of the goal, requiring the use of funds from the Town's General Fund to complete the project.

Let's continue the successes of our open space program. On November 3, vote YES on Measure R to ensure the protection of open spaces in our Town.

/s/ Nancy Lund, Town Historian

/s/ Gary Nielsen, Former Mayor

/s/ Craig Taylor, Emergency Preparedness Committee

/s/ Ray Villareal, Trustee, Portola Valley School District

/s/ Ron Walter, Open Space Acquisition Advisory Committee

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SPECIAL AND REGULAR TOWN COUNCIL MEETINGS, JULY 9, 1997

~~Councilmember Vian said she didn't like having to drive so slowly but had voted for the ordinance because there was a problem. She agreed people were still going too fast and that the changing limits were confusing. If the whole stretch was made 40 mph however, it would actually increase the speed limit at the very dangerous spot where the long crosswalk adjacent to the Alpine Hills Club was. She liked the idea of extending the center lane, putting in some kind of a barrier, or using some Bott's dots to remind people they were coming to a blind intersection. She felt the issue should be reconsidered.~~

~~Responding to Mayor Merk, Town Attorney Sloan said the interim ordinance reducing the speed would expire 7/9/97 and that the limits would go back to what they had been. She said the draft ordinance could be converted to an urgency ordinance provided there was a statement of urgency and a vote of all four members present.~~

~~Mayor Merk said he supported the reduced limits. While people still tended to speed in the two sections where the limit had been lowered, he felt it was dropping off as had been the case on Whiskey Hill. He felt 45 mph was too fast for the section between the Alpine Hills Club and Rossotti's Field and the section with the Westridge intersection. He added that the sections were clearly marked with large speed limit signs which should not be confusing to anyone. He supported adopting the permanent ordinance and felt that Bott's dots on Alpine or extending the acceleration lane would also be appropriate.~~

~~Councilmember Driscoll said he supported extending the interim ordinance and referring the issue back to the Traffic Committee and Traffic Engineer. He agreed the Arastradero intersection stretch was very dangerous and felt the limit should be kept at 35 mph; 35 mph on the straightaway however, was difficult to obey.~~

~~Councilmember Brown agreed with the reduced speed from the tennis club to Arastradero. He said an urgency ordinance would be preferable to switching the limits back to what they had been. Ms. Whelan added that a report was forthcoming from the traffic engineer that addressed bicycle safety with the new speed limits.~~

~~After discussion on the length of time an urgency ordinance should be in effect, Councilmember Driscoll moved an urgency ordinance be adopted for 120 days in order to maintain consistency with existing limits. Councilmember Vian seconded and the motion carried 4-0.~~

(5) Utility Users' Tax Election:

UUT
ELECTION

(a) Adoption of a Resolution Ordering and Calling a Special Municipal Election to be Held on November 4, 1997, for the Purpose of Submitting to the Voters of the Town, a Ballot Measure Authorizing the Continued Imposition of a Utility Users' Tax within the Town, Raising the Town's Appropriations Limit, and Ordering the Election Consolidated with the General Municipal Election to be Held on the Same Date.

and,

UUT
OPEN SPACE
ELECTION

(b) Adoption of a Resolution Ordering and Calling a Special Municipal Election to be Held November 4, 1997, for the Purpose of Submitting to the Voters of the Town a Ballot Measure Authorizing the Imposition of Utility Users' Tax Within the Town for Open Space Projects, Raising the Town's Appropriations Limit, and Ordering the Election Consolidated with the General Municipal Election to be Held on the Same Date.

Ms. Sloan referred to the two resolutions and said, as drafted, ballot measure A would reduce the utility users' tax to 5%. The funds would be used for general fund purposes and a majority vote was required. Measure B would only be effective if measure A passed. It imposed a 2% utility tax for open space purposes only and required a two-thirds vote.

Ms. Whelan noted that Michele Takei, Bill Urban, and Ed Davis of the Finance Committee were present to discuss the Committee's viewpoint. She said Councilmember Nielsen had also submitted a memo dated 7/5/97 stating his views.

Ms. Takei said the consensus of the Finance Committee was to keep the current rate at 5.5%. There had been some concern that if there were two rates, there was a chance that the general tax might not pass. The Committee felt that if there were specific target properties, that would be the time to try to get additional funding. Mr. Davis added that the Committee unanimously felt there should be a clear separation between the two taxes and what the funds would be used for. Secondly, the Committee felt the current rate should not be changed because if it was changed,

SPECIAL AND REGULAR TOWN COUNCIL MEETINGS, JULY 9, 1997

there would need to be an explanation for the change; a continuance of the current rate would not need any explanation. Regarding a second utility users' tax, he said the Committee preferred there be a specific proposal representing what the tax monies would be used for. Also, the Committee thought it would be difficult to explain to residents where the money would go, who would make the decision, how the money would be held, etc.

Councilmember Driscoll said he felt a specific open space project was unlikely to present itself in synchrony with the electoral process. The point of having an open space acquisition fund was to provide the flexibility to be able to move when an opportunity presented itself. Responding, Mr. Davis said the Committee understood this but that there was a concern that what was being requested in terms of the tax was not enough; the Committee felt that with a specific project, more money could be raised. The Committee also felt the base tax should not be jeopardized because it was the source of funds for the Town's endeavors.

Mayor Merk said there was a prioritized list of open space compiled by the Open Space Committee. Money needed to be bankrolled now for when the opportunity arose to acquire open space. A 2% additional tax specifically for open space that went into a restricted fund would not stop the Town from putting in more money from the general fund; a lot of money currently in the open space fund was general fund money. Mr. Davis said the Finance Committee was clearly in favor of contributions to the open space fund but felt more could be raised if there was a clear target. Mayor Merk questioned how the Town could specify a certain target.

Mr. Davis said the Committee had also discussed a delayed vote on a tax for open space funding. The Committee had been very concerned about risking the base tax and thought that some of the surplus resulting from that tax could be given to the open space fund, as opposed to changing the tax rate. Councilmember Driscoll said the problem with leaving it to the Council to allocate the money to open space was that it might not be done; as with the previous year, no money had been allocated because the Town was confronted with a number of short-term, very large projects.

Regarding the suggestion to reduce the base rate by .5%, Mr. Davis felt it should not be reduced; any short-term projects should be funded and if there was any surplus, it should go to open space. Councilmember Driscoll said the hope was that a decrease in the base tax might bring a more favorable response to the open space tax. Mr. Urban questioned whether the electorate would give it that much thought or support an additional tax for open space even if they were provided with a proposal for a specific property. He did not feel most people knew enough about the benefits of and reasons for raising taxes to generate an open space fund. From a tactical standpoint, he felt it was very important to separate the measures.

Mayor Merk asked if the Committee had seen the survey of residents on open space. Ms. Takei said she had read all the responses and that overwhelmingly the responses supported open space. However, most residents did not want their taxes raised. She was concerned that a 2% tax without a specific target would not pass. She felt the base tax should remain unchanged and that when properties became available, the Town should form a committee and react. With enough creativity and wealth in the Town, she thought it could be done.

Jon Silver, 355 Portola Road, asked if the school districts had any plans for a tax on the ballot. If that was the case, it might be an argument for not having three taxes on the ballot. Additionally, he said it was important to refine whatever was put on the ballot to optimize the chance for success. Though many of the questions raised by the Finance Committee needed to be answered, he felt money needed to be set aside for open space now for when properties became available. If the community had an active fund, it could attract matching funds from other agencies. He added that if a measure didn't pass in November, the citizens could come back with an initiative drive the following spring. In terms of the support for the measure, he felt the case could be made very easily and that there would be support for a modest tax increase to accomplish something very important. Unless there was a very good reason not to include it on the November ballot, he did not feel there should be a delay until the spring. He agreed it would require a tremendous campaign and that no stone should be left unturned. He added that having two measures would be preferable to one measure that raised the basic tax to 7%.

Mayor Merk said historically there had been good support for the utility users' tax. However, there had been a threat by those opposed to the Priory project to not support the tax and this needed to be discussed. After speaking with some who had signed the opposition letter to the Planning Commission, he said many had signed the letter without reading it. Mr. Davis said he had spoken with 20 of the signers of the letter. Of the 20, 18 did not remember it being mentioned in the letter; the two who recalled it being mentioned felt that it was a high leverage item that would get the Council's/Planning Commission's attention. He thought rational thinking would prevail and that people would realize that the services they relied on on a daily basis depended on this very modest

SPECIAL AND REGULAR TOWN COUNCIL MEETINGS, JULY 9, 1997

tax.

Councilmember Vian said in the election in 1993, 1,860 votes had been cast and she used that figure to run some numbers. Subtracting half of the Priory objectors, half of the Wayside residents and Woodside Highlands residents who were facing their own special taxes, and 26% representing those who objected to the 1993 tax, still left a 70% passage rate. She agreed a hard sell would be necessary and that good public communication and education would be important. She supported maintaining the 5.5% rate and adding a second measure for open space. She felt the voters would be concerned enough to read and understand what was proposed, although 2% might be too high. She agreed the two measures should be kept separate and did not want to run the risk of not getting the 5.5% tax. She did not feel that reducing the tax to 5% would make that much difference in voter psychology.

Councilmember Brown said he had been somewhat nervous about the original reduction of the tax from 6.5% to 5.5% and was reluctant to support an additional reduction even though the Town was in good health financially. It was difficult to anticipate unusual demands that the Town could be faced with. If the electorate had confidence in the Town and Council, he felt there would be confidence in continuing the existing rate, knowing that the funds would be administered prudently. He said all of the concerns expressed by the Finance Committee were legitimate and it was difficult to know which option would lead to a degree of greater success. He felt the 5.5% rate should be continued and concurred with the Finance Committee that a one-issue ballot measure to raise money for open space, unattached to anything else, would be the best way to present it to the Town.

Councilmember Driscoll agreed it was a difficult call though he was inclined to go for two measures. Otherwise, open space would be put off for another year. He felt 2% was an appropriate amount. Regarding the general tax, he said he could support either 5% or 5.5%. He said the general fund should be such that when opportunities arose for open space, general fund monies would be available so the Town could act.

Mayor Merk agreed reducing the tax by .5% would probably not make that much difference. He shared Councilmember Vian's confidence in the voters and felt that with good education, there would be support for both a 5.5% and 2% tax measure; the utility users' tax was the most innocuous of taxes and was much less burdensome than sales or property taxes. While he understood the Finance Committee's caution, he felt the 2% measure should be included on the ballot and that it would not detract from the first measure.

Councilmember Driscoll cited some of the tax rates imposed in neighboring jurisdictions and suggested this might be useful in the education process. The Town was also fortunate to have the luxury of collecting a users' tax to acquire open space as opposed to repairing potholes.

Referring to the draft ballot measures, Councilmember Driscoll said he did not like the term "increased each fiscal year". Ms. Sloan said it was a peculiarity of tax law that if the tax was the same, nothing needed to be said about the tax; measure A could be shortened to address only the appropriations limit. Measure B which imposed the new tax would need to address both the new tax and the appropriations limit. She said she would verify whether the term "increased" could be changed to "adjusted" in each measure. Mayor Merk suggested "adjusted to match" because the appropriations limit was being adjusted to match the additional funds being brought in by the tax. Council discussed whether measure B should use the phrase "additional" tax and agreed it should be left in for clarity.

Councilmember Brown said he could support both measures A and B, as revised, though he had reservations similar to those expressed by the Finance Committee.

Councilmember Driscoll moved approval of the two resolutions, Numbers 1594-1977 and 1595-1997 as amended. Councilmember Vian seconded the motion. Ms. Sloan read the revised measures to (A) retain the 5.5% tax and (B) add an additional 2% tax for open space. Mayor Merk called for a vote and the motion carried 4-0. Mayor Merk thanked Finance Committee members for their input.

SUB-DIVISION
ORDI-NANCE
AMEND.
TRAILS

(6) ~~PUBLIC HEARING: Proposed Amendments to Subdivision Ordinance Relative to Trails and Paths and Determination of Exemption under CEQA Guidelines.~~

~~Town Planner Mader referred to the staff report dated 6/23/97 and said the amendments had been in process for several years. The amendments dealt with locating trails in the subdivision process, seeing that they were adequately staked, that they were shown properly on the final map, and that they were monumented so that they could be found in the future. Additionally, because the Trails Committee had a number of other concerns regarding how subdividers got information and prepared maps, instructions to subdividers had been prepared to address those concerns. Staff's~~

REGULAR AGENDA

~~(2) Minutes of the Town Council Meeting of 10/28/09 (Removed from Consent Agenda)~~

~~Councilmembers Merk and Driscoll submitted changes to the minutes of the 10/28/09 meeting. By motion and second, the minutes were approved as amended by a vote of 5-0.~~

(4) Proposed Policy on Open Space [7:45 p.m.]

Town Planner Mader reviewed his memo of 11/4/09 on the proposed policy defining open space and permitted uses. He discussed the background, provisions of the General Plan, the term "open space preserve," precedents, uses allowed in open space preserves, recommendations, Committee memoranda on the definition of open space and next steps.

Councilmember Merk said the Kersten property was acquired by the Town and named the Dengler Preserve without the words "open space." Responding, Town Planner Mader said "open space preserve" was defined in the General Plan, and he preferred to see that term used. The Dengler Preserve could be renamed the Dengler Open Space Preserve at the Council's discretion.

With respect to the concept of leaving land in its undeveloped state, Councilmember Driscoll said the Town was heavily logged at one point and heavily grazed at another point. In many cases, there were large numbers of invasive plants. He asked whether leaving land in its undeveloped state would preclude restoration to natives or reasonable fuel management. Responding, Town Planner Mader said he did not think the phrase precluded ways to take care of the land in order to continue/maintain an open space feeling. Councilmember Merk added that MROSD did a lot to control non-native species, so there was precedent for that.

Responding to Councilmember Derwin, Town Planner Mader said examples of specifically permitted uses (recommendation #3, memo, p. 5) might be trails and paths, a bench, or a use that didn't require any change to the site. As these came up, the Town could address how much flexibility in permitted uses was wanted. It could be parcel specific and should be a low-intensity use that didn't change the site. He felt it should be done through a public hearing process and involve the neighbors. Responding to Councilmember Derwin, he felt a community garden would change the site. The ground was plowed, a fence and shed were put up, etc. But, a community garden could be in a park. Additionally, it didn't have to be based on a parcel boundary; you could have half a community garden and half an open space preserve. If a parcel was named a park, it treated the open space the same as a baseball field in terms of uses.

Mayor Wengert said some properties were no longer in their natural state and had been impacted by a variety of uses. She suggested that the policy state that it needed to be returned to its natural state—whatever that was. Town Planner Mader said if there were activities on the parcel that did not fit the definition of open space preserve, the Town might decide not to name it an open space preserve. Or, you could say that the land had to be returned to a semblance of a natural condition. He agreed that taking care of impediments to the definition needed to be addressed somewhere in the policy.

Responding to Mayor Wengert, Town Planner Mader said a dog park would mean a parking lot for cars, etc. He did not think it fell into the category of open space preserve but did fall into the definition of community park. If a donor wanted that use for the land, it could be just a parcel of land given to the Town. If you wanted to allow some slight variation when a preserve was established, the Council could decide exactly what the limitations would be. However, if you strayed too far, you weren't really serving the purpose of what was intended as open space.

Councilmember Driscoll asked if open space acquisition funds were limited to purchase open space

preserves. Ms. Sloan pointed out that this was the Council's policy. Referring to Town Planner Mader's memo (p. 1), she noted that "open space," as defined in the Government Code, covered different categories. That provided wide latitude. When you looked at a particular property, the Council could decide what was appropriate for that property. The assignment to staff was to come up with a policy that fit some of the Committees' suggestions. The one that fit with the Committees' suggestions was "open space preserve." Responding to Councilmember Driscoll, Town Planner Mader said he assumed that funds that were donated for open space could be used for any of the four purposes set forth in the Government Code and the General Plan.

Responding to Councilmember Toben, Town Planner Mader said the zoning allowed parks and open spaces in all residential areas. It was not allowed in commercial districts. Ms. Sloan added that most of the open space was publicly owned, and the zoning didn't apply once it was the Town's property. Town Planner Mader added that if there was a change in the uses permitted--even if it was public property--the best course was to go through a public hearing process to make that decision.

Councilmember Toben said if someone decided they wanted to donate their vineyard on a condition that the historic vineyard operation be kept in production, the proposed policy would not allow it to be designated as an open space preserve because of the presence of significant agricultural activity. Town Planner Mader said it could just be accepted as a vineyard with that designated use.

Mayor Wengert asked for public comment.

Responding to Bill Lane, Town Planner Mader said the conservation easement for Mr. Lane in Westridge was privately owned open space and would not be affected by the policy, which was for Town-owned open spaces. Ms. Sloan added that the conservation easement was very specific as to what was allowed. The Lanes and the Town looked at it together and decided what uses were appropriate.

Gary Nielsen, Open Space Acquisition Committee, said Town Planner Mader had done a masterful job in making the connection between donor intent and the lands that were actually purchased with those funds. What was proposed was very consistent with the Open Space Acquisition Committee's definition of open space. With respect to comments about returning the land to the natural state, the Committee discussed the Spring Down property, which was basically a big pond that had been scooped out about 30 years ago to control drainage on the property. How that would be handled was a question. Town Planner Mader noted that when open space preserves were established, any specific things on the properties should be noted; some judgment would have to be made. Mr. Nielsen felt that what was proposed had some wiggle room for particular sites to go a little further outside the realm of a "natural state." He suggested giving his and the other Committees a chance to look over what was proposed.

Danna Breen, ASCC, wanted to make sure that some kind of land management was provided for. The land was becoming so "treed." You couldn't see the meadow or the Jelich Ranch any more. If the Woods property ever became open space, you couldn't see it any more. Vistas were being lost, and there needed to be some type of provision for the management of the land--especially since there was no more grazing or fires. Responding to Councilmember Toben, she felt that funds from the open space acquisition fund reserve for maintenance of these public properties should be looked at. There was a huge row of eucalyptus at Spring Down along the front. If they weren't there, there would be a wonderful vista across the property into the western hills. Similarly, you couldn't see Windy Hill any more as you drove down Alpine Road into the community.

Councilmember Merk said it should be recognized that nature took a lot longer for natural succession than most human memories could experience. A field might have been something quite different 500 or 1,000 years ago. A pond that was dug out 35-40 years ago might now be the home for ducks, different kinds of birds, salamanders, etc. Those biotic resources should be preserved rather than try to preserve this

nebulous thing called the “natural condition.” The natural condition was always changing.

Jeanie Treichel, Fawn Lane, said people kept talking about putting a dog park in open space. That should only be done if it was established when the open space was initially received. When talking about open space and keeping things in the natural state, a dog park was something else. It was like the baseball park. You had to have clean up, etc.

Marge DeStaebler agreed with Town Planner Mader’s definition of open space. “Open space preserve” fit completely with the Conservation Committee’s deliberation and what they had been working on for a year or so. She also agreed that when new land came in as a donation, that was the time to set the potential uses instead of confusing people who had donated to open space as it had been defined and then changing the use after their donations.

Lindsay Bowen, Portola Rd., said he did not think everyone agreed on what open space was. Many members of Parks and Rec had their own definitions. The State had a definition, which he felt should be kept. On a case-by-case basis, the Town could decide what the land should be and talk to the people who wanted to donate the land.

Gary Nielsen agreed that the open space acquisition fund should be used for maintenance of open spaces. Ms. Breen added that if it wasn’t maintained, you lost the ability to utilize it. The broom and thistle had to be kept out in order to use and enjoy the land. The Town was low on maintenance funds, and she felt open space funds should be utilized to maintain the open space.

Councilmember Driscoll said the Town had talked about finding a home for the Chilean Woodchopper’s Cottage, which was currently on private property. The property owner wanted to donate it to the Town if there was a place to put it. There had been some discussion about moving it down the street to the Goodstein property with roughly the same vista on land that was similar to the way it was when it was built. That would be putting a structure on land that people didn’t want a structure on. He felt the Town should maintain some flexibility to allow something like that if everyone agreed it was a good idea. He did not want the policy to preclude something like that. Finding a home for that historic building might be a public good in itself. Overall, he felt what was proposed was moving in the right direction. He also supported sending it back to the Committees after it had been fine-tuned to reflect tonight’s discussion.

Councilmember Merk said trends came and went, but something that was in its natural condition meant that it was essentially undeveloped. If it was left too open, some trend later on would come along. At one time everyone wanted a tennis court and pool on a 1-acre parcel. The Town had to put controls on them. Now, there weren’t any tennis courts coming to the ASCC. The problem with letting a future Council make the decision for a particular property was that you would be stuck with whatever the current trend was rather than the basic principle of preserving the property in perpetuity. Referring to recommendation #3, he was concerned about the term “allowing some slight flexibility.” Under the suggested definition #4, he questioned what “minor” meant in “descriptions may include minor variations.” He was concerned that with the political winds of the time, “slight” or “minor” might be considered very large ten years before or after. Those terms should be clarified to indicate that it was not a more intensive use. In terms of restoration, he felt a semblance of the natural condition was appropriate. The idea was to preserve the biotic resources of the land. That might mean making changes to the land. Incredible changes had already been made to the Goodstein property just by dumping thousands of cubic yards of dirt on it. It was all smoothed out, planted with wildflowers and looked beautiful. With respect to donors, they could donate property with whatever strings they wanted. If they wanted to donate it but have the Town buy it at reduced price, it could be problematic. He did not know if it should be bought with open space funds or some other funds. In terms of the specifics of the recommendations, he liked the idea of trails but thought paved trails were a contradiction for an open space preserve; the surface needed to be fully porous and nothing more than crushed rock, decomposed granite or something like that. On the other hand, no structures except trails, signs and

benches, meant you couldn't build a bridge over a waterway or a wooden walkway next to the pond. There needed to be some flexibility in terms of providing access to the resources. He agree that sending it back to the Committees was a good idea even if what came back was not a lot different than what had already been forwarded.

Councilmember Toben said when public resources were made available, there was an opportunity to select the uses that would nurture the development of social capital in the community. For example, a decision to prohibit any kind of significant use on Spring Down might foreclose the opportunity for neighbors to discover each other's common interest in working on a garden plot. The Town Center was an example of something that engendered social capital formation in the community as opposed to the centrifugal force that so often drove neighbors apart. He had a little hesitation about a fairly prohibitive definition of what might be possible on a given parcel. If a group of residents came in and said they wanted to convert 5% of the Goodstein parcel into a community garden with some fencing, this definition wouldn't permit that even though there was no evidence that the Goodsteins would object to that. It was not a use that was inconsistent with the enjoyment of the outdoors. His bias was always towards appropriate uses that would promote the formation of social capital in the community, which was sorely lacking in almost any community. Any chance to foster the opportunity for people to be outside together in a wholesome activity and meeting one another was good and should be advanced. Having said that, he could support some version of what was proposed.

Mayor Wengert said she had huge confidence in what the Town had done and huge confidence in what would be done going forward. On a case-specific basis, the Town had not made any big mistakes. But, she recognized the fact that people wanted greater clarity on this issue. She had a very strong sense of unease about limiting something so severely and strictly that it would prohibit things that had not been thought of yet or things that might be a strong desire in the community. If 500 people went on the forum indicating that they wanted a dog park on 250 sf on the back part of Spring Down, the Council would be obligated to consider that very seriously as something that was desired by the community. Additionally, she hesitated to send it back to the Committees only because she thought what came back would be very similar to what had been heard before. It might make sense to limit it to the Open Space Acquisition Committee and perhaps 1-2 others. She felt open space preserve was a rational path to pursue, but she was concerned about the limitation it would impose on the Town by adopting it.

Town Planner Mader said people were voting for open space funds. The question was what was open space. If you used open space preserve, that was defined. If you said open space in general, that was what they were voting for. The question was: what was the message people were getting that these funds would be used for. He felt it needed to be clear.

Councilmember Derwin recalled a conversation she had with a resident this week about neighbors up-lighting their trees. He had been working with the Town on this, but the neighbors continued. Another neighbor was now up-lighting their trees. The new people that were coming to Town were not the same as people who had lived in the Town for a long time. The Council had to be sensitive to the political winds and sensitive to the fact that in 10 or 20 years from now, there might be a completely different culture in Town. The Town didn't look as it did from doing nothing. The reason that the Town was inundated with bicyclists every weekend was because of what people had done all these years to hold the line. What Town Planner Mader had produced was holding the line. Even though she would like to see a community garden on Spring Down, she understood why the Town had to be more restrictive in the policy and definitions. She supported what was proposed. If the Committees wanted to work on it, they should be given a strict timeline.

Councilmember Driscoll said he thought it would be a mistake to send it back to just the Open Space Acquisition Committee. A lot of the issues raised tonight about "natural," "restoring," "fuel management" and "native versus natural" were issues that were of interest to the Conservation Committee as well. After discussion, Councilmembers agreed to send the proposed policy with a copy of the minutes of tonight's

discussion back to the Committees who submitted comments on the definition of open space.

Responding to Ms. Breen, Mr. Nielsen noted that at the last Open Space Acquisition Committee meeting, the Committee discussed a particular parcel that might be appropriate for a dog run and vegetable garden. The proposal did not preclude the Town from buying open space to do other things on. It might not be paid for entirely or at all by open space funds.

~~(5) Review of Amended Field User Fee Policy [9:00 p.m.]~~

~~Ms. McDougall reviewed the staff memo of 11/11/09 on increases to athletic field user fees. She noted that a separate sheet showing maintenance expenses and revenue generation had been distributed to Councilmembers. She said Parks and Rec had worked very hard for a long time on this issue, and she specifically wanted to thank Jon Myers.~~

~~Responding to Councilmember Derwin, Mr. Myers said the primary reason the 2010 number of players in the Alpine FC decreased was because there was a major shift between Alpine FC and AYSO. Woodside opened their field across from 280, and it was agreed that Alpine FC would have most of their games there; AYSO would have most of their games and practices in Portola Valley. The Alpine FC players came from a broader area while a lot of AYSO players were from Portola Valley. That reduced the number of Alpine FC players in Town. The Portola Valley Soccer Club men's league decreased because the way they counted their players changed. They used to count the opposing players. They would now be counting their own players, which was the same way everyone else did.~~

~~Responding to Councilmember Driscoll, Mr. Myers said originally the plan was to define it as competitive versus recreational. In talking to the co-ed soccer and softball users, both teams that were on the field paid Portola Valley to use that field. They were both within the league and everyone in the league paid. For the competitive clubs, people were playing on the field who were not actually paying for the field only the home team paid. That was the justification for them to pay more. It was decided that the clubs would pay 50% more than leagues to compensate for the fact that there were other people using the fields who weren't paying. Clubs played other clubs; in general, leagues played within the league. Councilmember Driscoll said years from now there might be new leagues and new clubs. The clubs might choose to use the name "league." He suggested indicating that the higher fee rate was for groups that had the majority of out-of-town players; the lower fee rate was for groups whose majority were in-town players. There should be a quantitative description of why there were two fees so that it did not appear arbitrary. Councilmember Toben said it was not a small task to create a club or a group of clubs. He felt the Town would be able to detect that eventuality in plenty of time to respond. Lindsay Bowen added that it was a Town policy that any club/organization that wanted to use the field had to come to Parks and Rec and say who they were. They couldn't just show up, pay a fee and say they were a new league in Town.~~

~~Lindsay Bowen said Ford Field had been the ancestral home of Little League baseball in this area for years. If you charged \$40 per player, you couldn't bring a T ball team in to play Sunday afternoon for one game a season to let them know what it was like to play on a big field. In some ways, it might drive down the number of players and the availability for younger kids who wanted to move up. To put people in different fields, you had to tell people when it was and where it was which could be confusing. He felt charging per player restricted what you could do. Maybe next year, there might be a different way to do this.~~

~~Bill Pickering, PV softball, said he didn't want the numbers that had been put together regarding cost to become fact until they could be analyzed. Secondly, if the Town adopted the 2011 rates, the cost to his league approached what other people were paying for the entire year's maintenance of their field. It looked like PV softball was paying twice as much to maintain the softball field at Town Center as other people were paying to maintain their softball fields. He supported the proposal but was concerned about what it would cost.~~

PORTOLA VALLEY

OPEN SPACE FUND GUIDELINES

The Portola Valley Open Space Fund exists to acquire, preserve and enhance open space for the benefit of Portola Valley residents. The Fund is comprised of monies from a utility user tax (UUT) and individual contributions. The permanent acquisition of open space provides scenic vistas, places to experience natural surroundings and generally enriches our community. Additionally, the creation of open space helps to retain the rural qualities of the town, as called for in the General Plan, by preserving and protecting natural settings, including native plants, wildlife and landforms, and provides a counter-balance to development permitted in other parts of the town.

The Open Space Acquisition Advisory Committee recognizes that clearly defining permissible uses for the Fund are important and that acquiring properties is often just the first step in a process. In addition to acquiring new properties, it is vital to transition new purchases to a condition suitable for ongoing preservation and enjoyment. Therefore, it is consistent with the goals of the Fund to dedicate monies to this transition process. The transition process is meant to prepare the property for preservation and enjoyment; it should not cover ongoing maintenance expenses. Once a property is brought up to an agreed upon baseline, the costs for ongoing, long-term maintenance would become the general obligation of the Town and no longer supported by the Open Space Fund.

In addition to purchasing properties outright the committee strongly encourages conservation easements as a cost effective way to preserve the rural character and natural beauty of the Town. Conservation easements require legal documentation and ongoing annual monitoring. Annual monitoring is a responsibility of the committee and will be performed along with Town staff. Legal costs to acquire an easement will generally be paid for by the property owner given the beneficial tax treatment but in cases where sharing the costs is deemed necessary a predetermined dollar limit will be set by the Council.

Finally, for certain lands owned by the Town biological monitoring maybe required by law. The first choice for covering monitoring expenses would be the general fund but lacking better alternatives limited use of the fund would be acceptable.

The overall goal is to reserve the fund for the acquisition of land and funding projects that enhance the natural beauty of the Town.

In light of the foregoing, the Open Space Fund expenditures may include:

- Purchase price of fee simple properties or easements and all costs associated with the purchase.
- Initial costs of preparing a purchased property to fulfill its open space purpose, such as removal of invasive plants, landscape restoration, removal of inappropriate man-made structures and construction of limited improvements such as trails, benches and signage.

- Shared legal costs to acquire conservation easements.
- Biological monitoring as required by law.
- Preservation and enhancement of existing open space. Preservation and enhancement activities are typically “one-offs”, not general maintenance. Addressing the initial onset of sudden oak death or creating a wildlife corridor would be preservation and enhancement. Routine mowing, weed abatement and annual spraying for sudden oak death would be examples of maintenance.

The Open Space fund would not cover the following expenditures:

- The cost of maintaining properties after the property has completed the transition process and general use established. For example, mowing, resurfacing trails, or repainting signage should come from the town's General Fund or other sources and not the Open Space Fund. On rare occasions endowments could be created for maintenance (see description below).
- The cost of enhancing already-owned open space property when the enhancement simply restores attributes that the property possessed at some time during the Town's ownership. For example, removal of invasive plants from a property that was clear of invasive plants at the time of acquisition or reconstructing a bench that has fallen into disrepair.

From time to time, separate from the Open Space Fund, individual donors may wish to setup endowments for ongoing maintenance and monitoring of Open Space property. Example: The owner of a suitable property sells or donates it to the Town for open space. In addition at the time of acquisition the owner is willing to provide funds for monitoring and maintenance. Such an endowment would be used to provide monitoring and maintenance until exhausted or defined as a fixed contribution towards monitoring and maintenance drawn down at a predetermined rate over a set number of years.

Open space enhances the beauty of our Town and enriches our lives. The strong commitment from our community to acquire open space and preserve the nature beauty of the area is one of the attributes that makes Portola Valley special. Having well-defined guidelines provides donors with a clear idea for how the funds are spent. A strong, well-managed fund allows us maintain this tradition and continue to acquire, preserve and enhance open space within the Town.

*Portola Valley Open Space Committee
January 26, 2017*

~~Councilmember Richards moved to approve the Consent Agenda. Seconded by Councilmember Hughes, the motion carried 5-0, by roll call vote.~~

~~Mayor Wengert noted that a change submitted by Helen Quinn will be made.~~

REGULAR AGENDA

STAFF REPORTS & RECOMMENDATIONS

(7) Discussion and Council Action – Open Space Maintenance Funding

Town Manager Dennis presented the history and background of the issue, including requests from the Conservation Committee for funding and the Finance Committee wanting to explore alternative funding sources other than the General Fund. He described the tax background, discussion items, and fiscal impact, as detailed in the staff report. Town Manager Dennis said he presented the staff report to the Open Space Acquisition Committee earlier this week asking for their feedback. He shared the Committee Chair's summary of their deliberations. He said, in general, his presentation was met with frustration and disappointment from the Committee members. He said the Committee's concern was that they had put a lot of work into the product and felt this could discourage future contributions if monies were not seen as being primarily used for acquisitional purposes. The Open Space Acquisition Committee opposed the proposal without further discussion. Councilmember Hughes, who also attended the meeting, said Staff was requesting to take the 2% of the UUT before it goes into the General Fund rather than dipping into the fund. The Committee's felt the effect is identical and there is no practical difference in taking the money out just before it lands in the fund or right after. The Committee felt the work they did in 2017 should clearly apply to that 2% as soon as it's collected. Town Manager Dennis said the Committee was also concerned that as acquisition of real estate becomes more expensive, the fund's ability to make those purchases becomes more limited and any change in the fund status would impact their ability to further acquire any important property. Councilmember Hughes said the Committee also pointed out that bringing the properties up to a certain level as a one-time or multiple-year project would be appropriate under the guidelines but ongoing annual maintenance into the indefinite future was not appropriate.

Staff asked the Town Council to provide direction to the potential use of the Utility Users Tax Open Space Funds to fund maintenance of open space facilities. Town Manager Dennis said it is important to continue to engage the Open Space Acquisition Committee on this issue, particularly given how much time and effort they put into their 2017 guidelines and their strong opinions on the matter.

Mayor Wengert invited questions from the Council.

Councilmember Richards asked if there had been any discussion about linking the work required to bring properties up to standards and defining where the properties are how they are to be used. Town Manager Dennis said a lot of that conversation has happened on some level. He said a lot, but not all, of the work done by the Conservation Committee, which is being funded through the General Fund, as authorized by the Council in this budget, would have a relation to this. He said Nona Chiariello is Chair of the Open Space Acquisition Committee and is on the Conservation Committee.

Councilmember Derwin asked how much is collected yearly from the 2%. Town Manager Dennis said this budget year they anticipate it to be approximately \$280,000. Councilmember Derwin asked if there was a known estimated cost for regular maintenance of properties to deal with invasives and perhaps extra plantings. Town Manager Dennis said he and Public Works Director Young attempted to estimate but could not reach a reliable estimate without doing further analysis.

In response to Councilmember Richards's question, Town Manager Dennis said the estimate for regular maintenance would be less than \$280,000.

Mayor Wengert said the current balance in the Open Space Fund is just under \$5 million. She asked if there had been any expenditures from it other than post-Spring Down. Town Manager Dennis said in the last 20 years the largest expenditure was related to Shady Trail and then, in the last couple of years, a few incidentals related to Spring Down.

Mayor Wengert invited public comment.

Helen Quinn said she spoke before the Open Space Acquisition Committee and doesn't want her comments to be construed as correcting their input. She supported their position as they previously laid it out. She said there occasionally may be exceptional reasons, such as Spring Down, to use funds from the Open Space Acquisition Fund for maintenance but not on an ongoing basis. She said the Town needs to maintain their open space just as they maintain the roads and buildings. She said because it has not been done, there is now a deficit situation where the Conservation Committee is trying to catch up on properties that have been somewhat neglected. She said that investment needs to be made and then the ongoing maintenance should be manageable and planned for within the Town budget.

Judith Murphy, 8 Portola Green Circle. Ms. Murphy said she is neutral about where the funds come from but feels incredibly strongly that when the Town acquires property, it should maintain that property well. She said the Conservation Committee is in the process of creating five-year plans for each of the most important properties so the Town Council will have a sense of what's coming down the pike. She said much of it is front-loaded because a lot is trying to get it up to a baseline. She said it will then just require routine maintenance that, aside from the unforeseeable, shouldn't be a great expense. She said last year they asked for approximately \$112,000. She said to do a good job, she would estimate the ballpark cost to be approximately \$50,000 to \$60,000 a year or less on an ongoing basis to maintain the Town's open spaces.

Councilmember Hughes said at the Committee meeting it was discussed that it may cost \$100,000 yearly for two to three years to get the maintenance caught up before dropping down in cost for regular maintenance. Ms. Murphy said that would be on the high end of estimates. She said, as Town Manager Dennis pointed out, they won't really know until they go out and carefully examine the trees.

Betsy Morgenthaler, 500 Portola Road. Ms. Morgenthaler said she toured the Presidio today and a representative of the National Park Service said, with enormous pride, "We are actually increasing our parkland here. Who else does that?" She said that although she didn't say it aloud, inside she said, "Portola Valley does." She said she has a sense of pride in this community. She expressed hope that the Town would continue to support the Open Space Acquisition Committee and not support repurposing the 2% Utility User Tax to cover maintenance of Open Space. She said for her this is an issue of both precedent and promises made. She said the Open Space Acquisition Committee has an ongoing mission and to move that 2% tax from acquisition funds, more or less exclusively, into ongoing maintenance would be without precedent. She said she was in favor of the Open Space Acquisition Fund being used for acquisition and related costs. She highlighted the open space contributions that come in every year under "Other Revenues" in this year's budget. She said there were no outgoing expenses in any year from the Open Space Acquisition Committee. She said the Committee has brought in less than \$10,000 for three years until last year. She said it was projected the Committee would bring in \$1,000 last year and it brought in \$588,000. She said these unanticipated gifts are part of what the Open Space Acquisition Committee can look forward to from people's bequests, etc. She said Ms. Chairiello's expressed concern at the recent meeting is that if the Town starts repurposing toward maintenance now, that could very well have a dampening effect on people's enthusiasm to give. Ms. Morgenthaler also pointed out that Portola Valley citizens have consistently and overwhelmingly voted to tax themselves an added 2% for the purpose of Open Space Acquisition or Open Space Projects. She said "projects" is more vague and has opened up the conversation tonight. She said on September 28, 2005, the Town Council created a policy statement that set forth certain restrictions – "Revenues received under the 2% Utility User Tax will be exclusively appropriated and expended for the Open Space Acquisition Fund."

Later, in the 2009 campaign, the argument supporting Measure R, stated, "In 1997, 2001, and 2005, Town residents voted overwhelming in favor of a 2% tax on utilities with revenues dedicated to the protection of the Town's scenic landscape. To successfully protect the remaining critical vistas and corridors, our Town must continue to have adequate resources to purchase parcels and obtain conservation easements as they become available." Ms. Morgenthaler said that Nancy Lund, who is out of town, sent an email message to share with the Council – "My name should be added to the list of citizens who think the voters should weigh in on the changes to what happens to their tax money." Ms. Morgenthaler affirmed that the Town is trying to find sufficient funding to adequately fund what has been sadly and chronically underfunded, which has also been the Conservation Committee's request. She thanked the Town for making that their focus and the Council for their attention tonight.

Danna Breen, 4680 Alpine. Ms. Breen said she supported the Acquisition Committee to be able to make their own decision about how they use the UUT. She said yesterday three unsolicited pledges came in to support the Frog Pond.

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

Councilmember Richards said it makes sense to use the Open Space Acquisition Funds only occasionally, such as with Spring Down, for initial funding needs. He said it should be clearly decided at what standard the properties need to be brought to initially. He said the Town should find other sources or use the General Fund for ongoing maintenance.

Councilmember Hughes said he understands the impetus for looking creatively at sources of funding guaranteeing the properties can be brought to standard and then maintained in an ongoing way. He said they should have another discussion later about long-term cost growth versus revenue growth over time. He agreed the Town has been underfunding and to some degree neglecting the properties. He said adding a new expense to the budget when every other expense item is growing much faster than revenue items would indicate other options need to be thought about. He said given the Open Space Acquisition Committee's work in 2017, this is not the right place to go for that extra money. He said there may be some things the Town can do in the initial bringing up to scratch process that the Open Space may support as consistent with the guidelines adopted in 2017. He said acquiring more open space over time will increase the requirement for ongoing maintenance. He said the initial establishment of the 2% UUT to acquire the properties did not consider the impact of the ongoing maintenance to the Town's General Fund and budget, and that issue needs to be resolved, but he did not think dipping into the UUT fund was the right way to do it.

Councilmember Richards said, in response to the critical comments about underfunding of open space maintenance, that it has only recently become apparent, thanks to the Conservation Committee's excellent work, that more needs to be done with regard to maintenance of the open space. Prior to that, it was not known that those open spaces needed help. He said, in fairness, it should be acknowledged that the Council has stepped up and funded everything that has been asked for over the last few years.

Councilmember Hughes agreed that the underfunding was not a conscious choice and was accidental. He said the Open Space Acquisition Fund was a very, very good idea but, now that it has been in place for a long time, the Town is starting to see the consequences that weren't and couldn't have been anticipated at that time. He said it is not through any fault but is an issue that now needs to be remedied. He said he did not intend to suggest that the Council had denied requests for funding.

Councilmember Derwin agreed with Councilmember Hughes. She said she brought up the maintenance cost issue when Shady Trail was acquired but recused herself because she lives in the neighborhood. She said finding the money to do what needs to be done to maintain these properties will be tricky. She was supportive of using some of the Open Space Acquisition Fund to bring the properties up to some level of decency.

Vice Mayor Aalfs agreed with the Committee's 2017 guideline that once the property is brought up to the agreed-upon baseline, the costs for ongoing maintenance should become a general obligation of the Town. He said he would be supportive of occasional limited draws on the Open Space Acquisition Fund to get things up to speed. He said he is concerned that at some point they will have to choose between maintaining open space or roads, but for now he agrees with the consensus of the Council.

Mayor Wengert agreed with the Council. She said she was buoyed by Ms. Murphy's estimate of \$50,000-\$60,000 range for maintenance after the properties are brought up to standards. She said the Council's job is to protect the Town's finances. She echoed Councilmember Richards' comment that the Council has allocated money consistently for these properties. She said it is getting more and more expensive, with more invasives, etc., that were not anticipated, and the concern is how much more can be done within financial reason. She said she would not preclude revisiting this, but at this time she does not support dipping into the fund or taking parts of the 2% going forward. She said she hopes it doesn't happen, but the demands that the Town may be placed under vis-à-vis fire safety may create a new urgency for funding.

Councilmember Hughes said the fire safety issue was specifically addressed by Open Space and they appreciated that may lead to an increase in costs, but they felt that was outside the guidelines they established. If there was a new property acquisition that needed fire safety work to bring to a baseline level, it would fall within the guidelines. If it's an existing property for which the Town now requires underbrush removal, that is qualitatively different and the Committee would be resistant to using UUT funds for that.

Councilmember Hughes said he agrees that \$50,000 a year may be manageable under the budget, but pointed out that labor costs will be growing faster than revenues so may only be manageable for a couple of years.

Mayor Wengert said some of those discussions will be coming up on the budget and may be informed by how the Town may change their budgeting process, creating some separate fund for those kinds of items going forward.

Mayor Wengert said the Council was in agreement that nothing should change now, but they will look at it and plan for an amount on an annual basis, which may increase quickly based on the fire safety issue.

Councilmember Derwin asked if any of the Open Space Acquisition Fund money would be used to complete any of the items on the Conservation list. Mayor Wengert said this may come back to Judith Murphy as to if any of the items should have been in the post-acquisition category.

Town Manager Dennis said the Council's request for this item to be looked at came from this year's budget item. He asked if Council's direction was related to Conservation and Open Space discussing the current budget or future budgets. Mayor Wengert said it would be for future budgets.

Ms. Murphy said Spring Down as a rather unique case because Spring Down had been acquired and then things were on hold for seven or eight years with the pond. Once the pond was completed, it was picked up again so Open Space could say they would have done those things then but didn't because of the pond. She said the most important properties on the list are much older – Rossotti's, Ford Field, etc. – and she didn't think there was anything there. Ms. Murphy said that people who have recently come into this in the last year may have the inaccurate sense that Conservation has to fight for every penny they ask for. She pointed out that prior to a couple of years ago they weren't asking for money and so it wasn't like their requests were being declined. She said these expenses were only brought up after the work they did on their comprehensive plan. She said although they didn't get everything they asked for in the last budget cycle, there had been a great deal of generosity with Spring Down and they understood these

things must be tackled piece by piece. She said she it is not at all accurate that the Committee has been begging and the Council has not been responding.

Ms. Quinn said maintenance of land is an ounce of prevention for many pounds of cure. She said there are many properties where volunteer trees and invasive grasses have not been managed by previous Conservation Committees because they weren't being paid enough attention and now there is a backlog. She said if the backlog is taken care of and ongoing maintenance is performed with an eye to prevention of excessive trees and invasives, the budgets will be much more reasonable.

(8) **STUDY SESSION – Budget**

~~Town Manager Dennis acknowledged Cindy Rodas, the Town's Interim Finance Director, and Jim Saco, Former County Budget Director, who has assisted the Town in budget and fiscal related matters over the last couple of months. Town Manager Dennis led the first of an anticipated three budget sessions with the Town Council. Tonight's discussion related to Policy/Structural issues, including potential future revenue sources, forecasting future, reserves policy and capital improvement plan support as detailed in the Power Point presentation and the staff report.~~

~~Mayor Wengert invited questions from the Council.~~

~~Councilmember Hughes asked if years 2 through 5 should be less flexible. He asked if, from a legal or logistical point of view, today's Council could bind future Councils to particular expenditure plans. He said by nature they will always be flexible because next year's Council may decide something different from this year's Council. Town Attorney Silver said the Councils' decisions are always subject to the ability of the current Council to appropriate dollars and it would be very difficult to bind a future Council, so that flexibility must be retained. Town Manager Dennis said this relates more to the two-year budgets.~~

~~Mayor Wengert said the General Fund balance dropped this year. She said whether it is considered through the operating expense side or the CIP program, because of the way the numbers operate, it's been quite fungible. She said she is not comfortable with having capital expenditures driving down the reserves. She suggested different designations for some portions of the expenditures. She said, for example, roads is the fast growing and least predictable because of frequent changes at the State level. She said it would be helpful to better understand the road expenditures and allocate them separately so it doesn't get intertwined with other CIP expenditures and stays as part of the operating budget, because it is clearly an annual operating expense.~~

~~Town Manager Dennis said the third budget session will include a thorough conversation on roads. He said roads is a driver on some of the issues in that a contribution is made from the General Fund for road expenditures. He said in staff's third presentation, they will discuss how modifications of the pavement condition index create similar expenditures over different periods of time. He said there will also likely be a conversation around revenue.~~

~~Councilmember Hughes said roads is the second fast growing, compared to the employee retirement costs, which has been growing much faster, largely because CalPERS has severely underestimated liability and is now slowly starting to recognize the real liability. He said the Town has liabilities that are not recognized on government balance sheets in the same way they are in corporate balance sheets. He said they need to get a ballpark figure for the future liabilities that aren't really recognized.~~

~~Town Manager Dennis said staff anticipates bringing to the Council, through the Finance Committee, a conversation around OPEB and pension. He said they have been exploring trust funds and prefunded accounts.~~