

TOWN COUNCIL MEETING NO. 762, JANUARY 28, 2009

ROLL CALL

Mayor Wengert called the meeting to order at 8:00 p.m. and led the Pledge of Allegiance. Ms. Howard called the roll:

Present: Councilmembers Driscoll, Merk and Toben and Mayor Wengert
Absent: Councilmember Derwin
Others: Town Manager Howard, Town Attorney Sloan, Town Planner Mader, Asst. Town Manager McDougall, Planning Manager Lambert, and Town Clerk Hanlon

ORAL COMMUNICATIONS

Bill Lane, Westridge, congratulated everyone involved with the Town Center design and construction for winning the green building award from Sustainable San Mateo County. The Town Center would have an influence far beyond Town boundaries, and it was something to be very proud of.

PRESENTATION [8:03 p.m.]

(1) Recognition of 10-year Anniversary of Planning Technician II, Carol Borck

Mayor Wengert said the Council was delighted to honor Ms. Borck for her 10-years of exemplary service. During her career at Town Hall, she had been and continued to be instrumental in educating residents on the latest green technologies, materials and practices that the Town applied in remodeling projects and new construction. Ms. Lambert said it was a pleasure to congratulate Ms. Borck on her 10-year anniversary. Ms. Borck was extremely motivated, organized, desired to learn more each day, and was dedicated to the Town and its residents as well as her fellow staff members. She described what Ms. Borck brought to the Town and staff, noting that everyone enjoyed working with and being friends with Ms. Borck. Ms. Borck said she loved her work and the people she worked with. Assisting residents with their projects brought great joy and satisfaction. She praised Ms. Lambert as a teacher, mentor and friend and thanked everyone for making it a pleasant place to spend her time.

Mayor Wengert read the certificate of recognition and presented it to Ms. Borck. Councilmembers thanked Ms. Borck for her service, noting that she started talking about green building long before the rest of the Town.

CONSENT AGENDA [8:10 p.m.]

By motion of Councilmember Driscoll, seconded by Councilmember Merk, the items listed below were approved with the following roll call vote:

Ayes: Councilmembers Driscoll, Merk and Toben, and Mayor Wengert
Noes: None

- (3) Warrant List of January 28, 2009, in the amount of \$274,065.85.
- (5) Resolution No. 2427-2009 Authorizing Collection of State Mandated Building Permit Fees and Retention of a Portion of Those Fees for Administrative Costs and Code Enforcement Education in Accordance with Health & Safety Code Section 18931.6, per Town Attorney's memo of 1/19/09

REGULAR AGENDA

- (2) Minutes of the Town Council Meeting on January 14, 2009 (Removed from Consent Agenda)

Councilmembers Driscoll and Toben submitted changes to the minutes of the 1/14/09 meeting. By motion and second, the minutes were approved as amended by a vote of 4-0.

- (4) Cost Sharing Agreement with the San Mateo Transportation Authority for the Distribution of Measure A Funds (Removed from Consent Agenda)

Referring to the agreement and list of candidate projects (p. 31), Councilmember Merk said he was not aware of the bicycle and pedestrian project shown for Portola Road. Ms. Howard said this might have been carried over from a request the Town previously submitted to have them pay for a portion of a path to make it more bike friendly. The funds had never been received. Currently, the Town did not have any projects before the San Mateo Transportation Authority.

Councilmember Driscoll noted that the transportation plan was from 2004. He moved approval of Resolution No. 2428-2009 Approving the Agreement for Distribution of San Mateo County Measure A Funds for Local Transportation Purposes in Accordance with 2004 Measure A, Effective January 1, 2009. Councilmember Toben seconded, and the motion carried 4-0.

- (6) Public Hearing: Appeal of Michael and Lisa Douglas to the Planning Commission's Revocation of Conditional Use Permit (CUP) X7D-55 for 888 Portola Road [8:15 p.m.]

Ms. Sloan said as Town Attorney, she had advised the Town staff on the Douglasses' use permit and would not be advising the Council on this matter. She introduced special counsel Larry Anderson and left Council chambers.

Mayor Wengert reviewed the procedure for the hearing as set forth in Mr. Anderson's memo of 1/21/09. She noted that Councilmembers had read everything that had been presented and asked that there not be a restatement of facts or the long chronology of this matter.

Town Planner Mader reviewed the staff report dated 1/14/09 on the Douglasses' appeal of the Planning Commission's revocation of CUP X7D-55. He read the sections on: a) the background of the CUP (pp. 1-2); b) availability of the sewer (pp. 2-3); c) Planning Commission review of conditions of approval (pp. 3-4); d) Douglas appeal (p. 4); e) reasons for connection to a sewer (p. 5); f) ordinance provisions regarding revocation of permits (pp. 5-6); and g) staffs recommendation and alternate actions that the Council might consider (pp. 6-7). He added that the zoning ordinance indicated that if the Council took an action contrary to the Planning Commission's recommendation, the Council would need to indicate to the Planning Commission what they intended to do so that the Planning Commission could comment. This was incorporated in the regulations in the early days of the Town to make certain that decisions of the Council could be reconsidered by the Planning Commission. The matter would come back to the Council with the Planning Commission's recommendation. Mayor Wengert noted that there could be a minimum of 4 weeks of additional comment and review time if this occurred and that it would come back to the Council for a subsequent Council meeting and discussion.

Responding to Councilmember Driscoll, Town Planner Mader confirmed that the uniform plumbing code required connection to a sewer unless the sewer was more than 200 feet from the line. Typically, you could make a connection into a line at any location unless the Sanitary District had some objection.

Councilmember Merk said in Mr. Anderson's memo dated 1/21/09 (p. 2), the third paragraph from the

bottom indicated that "...the Council could suspend the CUP until such time as the property is connected to the sanitary sewer; this would save both the appellants and the Town the time and money involved in reapplying for the same CUP." In Town Planner Mader's memo of 1/14/09 (p. 6), recommendation number 1 indicated, "revoke the permit effective in 6 weeks to give the applicants time to comply with the three requirements of the Planning Commission." He asked what the difference was between those two recommendations. Responding, Mr. Anderson said the suspension was indefinite. When it took effect, the appellants would have the opportunity to work with West Bay for as much time as it took. There would be no time deadline on the suspension per se. The Town Planner was suggesting a revocation in 6 weeks, which was similar to what the Planning Commission did, unless certain actions were taken. A revocation meant something more than a suspension. A revocation meant you started all over again when you came back. You would have to reapply, go through environmental review, the Planning Commission would have a de novo hearing on the use, etc. It put the appellants and the Town to more expense and time than might be necessary in this situation. Responding to Councilmember Merk, he said the Town Planner's suggestion was somewhat of a suspension because it said you couldn't put a new commercial use in there for that 6-week period while you got the sewer connection. The timeframe could be whatever the Council considered appropriate.

Councilmember Toben said he assumed that the appellants were living in the unit on the site. There had been a suggestion in the 1/26/09 letter from Mr. Kass that if the CUP was revoked or suspended, this would result in the Douglasses being forced out of their residence. Responding, Town Planner Mader said he spoke with Ms. Lambert about the history of that as well as with Mr. Anderson. From all the records, it appeared that that use predated the Town and was a historic right and would remain a permitted use.

Responding to Mayor Wengert, Town Planner Mader said West Bay Sanitary District now owned the sewer, and it was a public district. He confirmed for Mayor Wengert that when the CUP was approved in 2001, the applicants could have appealed any of the conditions.

Having served on the Planning Commission in 2001, Councilmember Toben said he recalled that there was a variance associated with the approvals. Town Planner Mader said it was his recollection that there was a setback question from the front setback and possibly the side setback as well. There might have been a variance on parking, but he did not recall the details. He thought there had been two variances. Responding to Councilmember Toben, he said variances applied to a property that was unusual in shape, terrain, etc., in such a way that you couldn't use it in a way that other properties similarly zoned could. In this case, this was a small parcel in a pie shape that had a narrowing toward the back. One could argue that it would be difficult to place the building further back on the property and have a place for parking. It was an unusual piece of property by the nature of the shape of it. Councilmember Toben said it was his understanding that variances were generally disfavored devices in land use planning. Had the Commission wished, it could have required conformity with setbacks, which would have taken value away from this property back in 2001. By granting the variances, the Planning Commission preserved or maybe enhanced the value of the property at the time. Town Planner Mader concurred. Councilmember Driscoll asked to see a plan of the property.

Mayor Wengert opened the public hearing.

Bradley Kass, counsel representing the Douglasses, said there was strong opposition by Christopher Buja and the other members of that West Bay agreement. In light of that and the fact that this was a quasi judicial hearing, he asked Councilmembers to recuse themselves if they personally knew Christopher Buja or if they were on any committee now associated with Christopher Buja because he was a direct beneficiary financially of any decision the Council made. He urged the Council to discuss this. In a traditional proceeding, the judges recused themselves when there was any possible—even the appearance of impropriety that they couldn't be unbiased [*inaudible*]. It was his understanding that there was some connection with Christopher Buja.

Mr. Anderson said unfortunately, there was not a staff of 25 judges that could roll in here and replace Councilmembers. The State had set up fairly stiff disqualification standards, which Portola Valley was exempt from in most cases because it was a small community. He advised that if Councilmembers could not be unbiased in hearing this matter, they should disqualify themselves—whether they knew Mr. Buja, Mr. Douglas, Mr. Kass or anyone else in the audience. With regard to disqualification because of acquaintanceship only, that was not a basis per se for disqualification. That happened in court also. Judges knew Mr. Kass and knew him [Anderson] and didn't necessarily disqualify themselves. If there was a financial connection or if Councilmembers couldn't be fair and unbiased, they should disqualify themselves.

Councilmembers and the Mayor confirmed that there was no basis for disqualification.

Mr. Kass said this whole Planning Commission action was driven by trying to help Mr. Buja financially. This was an odd situation. It wasn't about the Town and the Douglasses. It was really about Mr. Buja and his people around Town and the Douglasses. For the Council to uphold the Planning Commission recommendation, you were taking approximately \$220,000 from the Douglasses and handing it to them. That was not normally what went on in government, but that was the situation that was before you. The burden of proof so far hadn't even been met. From what he heard from George Mader, the Town and the Planning Commission's burden of proof legally was to show you that there had been some violation right now. Condition #11 that everyone was arguing about stated: "When sewers are available in Portola Road in front of the subject property, the commercial building and the residence shall be connected to the sewer within one year of such availability." That was a 2001 condition prior to anything with West Bay and Mr. Buja and building this pipe up and down the street. [inaudible] That phrase right there would only tell anybody reading it that that meant when a public entity provided a pipe down the middle, or wherever they put it in the street, you had to tie in, and you would have to pay to tie into that pipe. It did not mean you had to pay to put the pipe there. They're saying to connect to it. That's what this was coming down to. They're saying to the Douglasses, "You buy the pipe—the very pipe we're telling you to tie into if it becomes available." The Town tried to back up their basis for that by saying, "Well, the pipe is there now and West Bay is involved and therefore it's public and you have to tie in because the condition says what it says." This condition should have said flat out, "You are going to have to pay if and when a sewer pipe comes down that road" so that the Douglasses in 2001 could have made a decision whether they wanted to go with the condition, appeal the condition, get out of town and sell the building and not have anything to do with this. Right now, when you're talking about a very simple project that would probably cost \$30,000-\$40,000, it would now probably cost about \$300,000 for no reason. Those words should have been in this condition. Basically, the way it was turning out from his perspective, they were misled. It would have taken approximately 30-40 seconds to tell the truth and say, "You will have to pay when that pipe comes down the road. We don't know the amount, but it will be substantial." Referring to his letter of 1/26/09, he said this was a private pipe that went down Portola Road. It was not public. It was not the intent or what the words said in that condition. The Town had not met their burden yet of showing that the Douglasses had not tied into the sewer when the sewer pipe became available in front of their property. What had become available was a private pipe that [inaudible] they were not involved in that they did not have to pay for. They did not have to pay this exorbitant amount of money just to help other residents. He distributed copies of the West Bay Reimbursement Agreement. He said that was the whole agreement whereby this pipe down the center came about. That was the agreement with Christopher Buja and Sausal Creek and Mr. Mejia that we're talking about for this whole appeal. This was the agreement with West Bay. If you read what Mr. Buja wrote to the Town Council, he talked about all these agreements with Mr. Douglas and that he was trying to get out of agreements. This was the only agreement that could ever require Mr. Douglas to be a part of that pipe that was now in front of the street. He urged the Council to read it. You would not find Mr. or Mrs. Douglasses' name in this document. They were not a party to this agreement. What was happening now was the Planning Commission was being used essentially as a puppet for these developers to force the Douglasses in and pay close to a quarter of a million dollars—just for the allowance to tie into a pipe which under the condition would cost about \$30,000-\$40,000. That was not what this 2001 condition meant. He

urged that the date be looked at, too. This agreement was August 2006—more than five years after this condition was imposed on their property. When you took all that together, you should not consider that the Planning Commission's recommendations were appropriate. They were solely to benefit the private citizens that were preferred with a monetary gain—to line their pockets with the Douglasses' money. The other aspect of this whole thing that was going on here was that this was a de novo hearing. You should look at this with open eyes and open mind. If you had that condition yourself in 2001, everybody would be extremely upset if all of a sudden you got a bill when you wanted to tie in for an extra quarter of a million dollars for a small parcel like the one they had. That was ridiculous. That West Bay agreement was entered into voluntarily—there was nothing wrong with it if they wanted to enter into it to raise the value of their property and do their thing and create a private tie-up and go into the sewer and this and that. But, they couldn't drag in other citizens, which got to the next point. The Town itself was supposed to tie into this pipe and in fact told everybody they would—and that they would pay for their own share of this private pipe. They on their own decided it was too costly and elected to keep their own system, which he understood was a septic tank. The new plans talked about green and this beautiful building that was going up. They pulled out and the effect that had on Mr. and Mrs. Douglas was to skyrocket their amount of tie in and reimbursement. The Town represented that they were tying in. At the last Planning Commission meeting, one of the Planning Commissioners asked Mr. Mader why the Town didn't tie in if the preference in the Town was to have a sewer system. Mr. Mader had a very limited response as to why. It was more like, "Well, I don't know why—it just didn't happen." I'm sure he could comment now about it if you wanted to ask him. But, that was the most unfair part of this whole thing. The Town itself was contradicting the very thing that the Planning Commission was trying to urge, which was to tie into this sewer because that was the Town's policy and for the good of the Town. It was not for the good of the Town or the Town would be doing it. The Town should not have pulled out of this project and left it on the doorstep of Mike and Lisa Douglas and say, "You take care of the bill. We don't care." You didn't see the Town Council being urged to tie into this sewer pipe, and really the Town shouldn't. If it was true what Mr. Mader said about the benefits of this so called sewer pipe, 90% of the residents of Portola Valley should be red tagged and told, "Tie into a sewer pipe within a year or you're shut down." He personally talked to West Bay and they said almost 90% were on septic tanks. As he mentioned in his letter, West Bay said they didn't care if the Douglasses tied into the pipe. But if they did, they would have to pay this fee. If they never did, they didn't care. That was from the sewer company itself. He urged the Council to look at this with very open minds. Forget the Planning Commission and what their recommendations were because they weren't open minded. It was set in stone from day one what was going on here. It was a money issue. The reality right now was that there was nothing wrong with the Douglasses' property. There were no slopes falling down or some nuisance going on on the property. There was nothing wrong with the Douglasses' current system. It was operating fine. Mr. Mader would say that there was nothing wrong that they found. Yet, here we are—hearing after hearing after hearing to force the Douglasses to pay what would probably cost close to \$300,000 just to tie in. Why? For the spite of it—for the sake of it. The green philosophy of this Town, which was a beautiful thing, should not be, "Well, let's just carve up mother earth and put a bunch of more pipes and destroy the landscape even more than it already had—just for the sake of it." That was what the Planning Commission was saying to do. They were saying do that, and let Mr. Buja and the people around get their money just for the sake of it. There was nothing wrong. Until there was something wrong, that was the only time that there should be any of these hearings—if something should occur that was faulty continuously and there were always problems. The Planning Commission should have looked at the totality of what was going on here. What had been brushed over, while Mr. Mader mentioned it in his comments tonight, was that he [Kass] had applied for Mr. and Mrs. Douglas for an amendment to their permit to take out this #11 back on October 30, 2008. The Planning Commission was so gung-ho about revoking, they hadn't acted on the application. He urged the Council to send this back to the Planning Commission so that they could act on the application first for the amendment. In fact, the amendment application was number three of Mr. Mader's recommendations tonight and that was one of the alternatives. That had already been done on October 30. But, they threw it on the back burner because they were so gung-ho on revocation. They couldn't do that. They were citizens here. They applied for an amendment. They needed to get the report and have a Planning Commission hearing. It was premature to act on any of this until that was resolved. If the

Planning Commission granted the amendment, this appeal became moot and the original #11 was gone. Then, it was just a matter of staying status quo. He could understand if Mr. and Mrs. Douglas put in a McDonald's there or something with a huge increase and there were some issues of recurrent septic tank system. There were just no issues now. You had to keep thinking that the Town itself was on that kind of system and refused to tie into the pipe. He asked Mr. Douglas if the current septic system was working. Mr. Douglas responded [*inaudible*]. Mr. Kass said he also brought a contractor of theirs to describe what the effect on the ground and mother earth would be to go out there and do this so called connecting to the pipe.

Mike Sposito, Douglasses' contractor, said if both buildings were connected to the sewer, the asphalt would have to be cut through and dig 9' down in the backyard. That would wreak havoc on all the work that had been done on the site with the flagstone in the back building. It would affect the redwood groves and trees back there because it would have to go through the root structure. One of the reasons for the variance was because of the grove of redwoods on the one side. Setbacks had to be maneuvered to stay away from the root structure. If the sewer went in, it would affect the grove of redwoods in the back and landscaping. This Town valued the trees as much as the Douglasses did. You could wreak havoc on them.

Mr. Kass said if it ain't broke, there was nothing to fix. There was nothing broken. Lastly, the West Bay contract was without most of the public and without notice to the Douglasses that it was being entered into or even on the agenda with West Bay. You would likely hear from Mr. Buja that it was published [*inaudible*] and was open to the public. That was not notice, and it directly affected people like Mr. and Mrs. Douglas.

Jon Silver, Portola Road, said the arguments raised were novel and imaginative. He said it was an insult to the Planning Commission to imply that they were really out to help some get a private gain. Everyone knew that was ridiculous. No one should make the case that something would be provided free by government to them like manna from heaven. If they were required to do something, there might be a cost. It was not up to the Town to bear those costs or to point out that there might be a significant expense. The sooner the connection was done, the cheaper it would be. Additionally, a short trench was all that would be required. Hand trenching or boring could be done—especially since it was for such a short distance. If there was concern about the health of the trees, an arborist could be present to supervise the work. There was a complaint that the hearings had been voluminous. This appeal was a waste of the clients' money.

Chris Buja [*largely inaudible*] referred to his timeline included in the packet. He said this process started in 1999 when the hearings with West Bay started for this project. By 2000, an environmental impact statement had been prepared and finished. These things went back in time and much of the information had been widely available. The Douglasses were informed of cost and the range of variability of the cost based on the number of participants and other elements. That all happened prior to the note that they signed in May of 2004 reaffirming that the condition in the CUP was understood and would be complied with. As pointed out, investments had been made and the group made decisions with financial impacts based on an agreement with the Town and the Douglasses that had been reaffirmed. The Douglasses had been in noncompliance for some time. He urged the Council not to let this go on for another decade. Councilmember Toben said there was reference in one of the sets of minutes to a net cost of this work. Commissioner McIntosh stated that over time, the participants in this work could expect to pay on average a \$77,000 net cost. He asked if that was correct. The appellants had presented very different numbers. Additionally, the Councilmembers needed to remind themselves that there was a mechanism for reimbursement over time. Responding, Mr. Buja [*largely inaudible*] said the net cost question came back to how many residents were connected. There were eighty-some residents throughout the hills. The \$77,000 would be the investment of some portion of those—such as the Highlands or some portion of others who were facing the question of septic tanks that had reached the end of their life. A good deal of the fees for this were in this category from West Bay who handled these projects. As new people came in, the initial participants were reimbursed. He recalled that the \$77,000 was based on another 20 homes connecting to this. Councilmember Toben noted that this fact was not connected to the legal issue before the Council. But, the appellants repeatedly cited what they perceived to be an undue financial burden.

Lawrence Marks, Wayside Rd., wanted the Council to uphold the Planning Commission's revocation. This impacted the decision-making process for other people thinking about connecting in.

Don Perryman, Wayside Rd., said his main concern was the consistency with which the Town required people to satisfy their contractual obligations and satisfy the rules under which everyone lived. As some of these old septic systems failed and came to the end of their life and new construction went in, it would be harder to enforce some of these things when people found out that all they needed to do was throw enough stuff against the wall and drag it out long enough to get it to go away. There were certain laws about setbacks, etc., and it needed to be consistent to avoid becoming a matter of conjecture and argumentation. The rules could be changed along the way if conditions changed; the rule in this case was a contractual agreement.

Bonnie Crater, Wayside Rd., referred to her and Mr. Buja's letter of 1/27/09, which she reviewed. She said: a) an investment had been made in a valuable asset to the Town—the sewer; b) the investment had been made based on the Town's decisions as well as indications from the owners of 888 Portola Road; c) there was reliance on multiple statements that the Douglasses would make an investment in the sewer; d) agreements had been made, including the CUP, by the Douglasses to connect; e) there was a history of flouting Town rules; f) there were delays; g) there was a lack of attempt to comply with the condition; h) misrepresentations had been made to the Planning Commission and staff; i) chances were given to the Douglasses to comply; j) commercial developers should be held to the same if not higher standards as residents; k) there had been a purchase of additional property by the Douglasses on Portola Road in 2008; l) information had been provided to the Douglasses and other participants about sewers and costs; m) the Douglasses worked with Woodside and the Fair Oaks Sewer Maintenance District; n) the Douglasses septic system was inadequate; o) she had objections to the three alternatives suggested; and p) she requested the Council to uphold the Planning Commission's revocation of the CUP effective immediately.

On suspension versus revocation, Councilmember Toben questioned what the downside would be to use the softer path of suspension. If it accomplished everything that revocation would accomplish down the road, it might save the Douglasses from starting the process all over again and save the Town and staff resources in processing all of that. Responding, Mr. Anderson said when something was revoked and the applicants came back to apply in two years, all the rules had changed. Instead of going through a Planning Commission categorical exemption, you ended up with some sort of serious Negative Declaration or something like that. A suspension was usually more favorable. A property owner knew that they still had a property right that was still out there, and they just needed to comply with some condition or some factor in order to revive that. They had something that was both usable, salable and could be done on a ministerial level rather than coming back for another discretionary review before the Planning Commission or the Council.

Mayor Wengert asked if any of the three conditions spelled out in the Planning Commission's revocation had been met. Ms. Lambert said the LAFCo annexation was started by the Douglasses prior to the revocation. They failed to provide a map and an engineer's description. Once LAFCo received that, they would record the document, and it would go to West Bay for final action. Responding to Mayor Wengert, she said the encroachment permit was separate, and it was not done.

With regard to modifying or eliminating condition #11, Mr. Anderson said that was before the Council tonight if it chose to address it. The revocation process gave the Council the authority to modify anything to do with this application that was connected to a sewer issue.

Mr. Kass said the Council had heard from Bonnie Crater and Christopher Buja and saw their letters. They were never upfront with anyone and just say, "We're here because we want the money." That was the only reason they were at every single meeting saying, "You should uphold that every member of the Town should follow the rules and regulations." They just won't say it, but that's why they're here. The Council's

decision directly put a check in their pocket—not in the Town’s pocket but in their pocket. This was a private issue. They kept saying all these representations were made. He questioned where the contact with the Douglasses was made. Why hadn’t they filed a lawsuit for fraud against the Douglasses? Because none of that occurred. They were pulling all this stuff out of the air to try to force the Douglasses to pay them for the decision they made to enter into this private contract with West Bay. They didn’t mention also—and they were fully aware of it—that the Town of Portola Valley also supposedly agreed to tie in reducing the cost to this—this new beautiful green Town Center. He invited Mr. Mader to tell why the Town pulled out without any consideration for the rest of the residents if it was such a great thing to do to tie into the sewer—and without consideration for Mr. and Mrs. Douglas. Why should they pay for the Town’s portion of this so-called reimbursement fee. If they were going to take action against Mr. and Mrs. Douglas, they should take action against the Town and say they had to tie in. Just because it was the Town didn’t give it this almighty right to do whatever it felt like when residents were relying on it. They told the Douglasses that they were tying into this private pipe, which dramatically reduced the cost under the agreement, which was proportional. Councilmember Toben mentioned the word reimbursement. The problem was that no one wanted to tie into this pipe—it was too expensive. It was brought up at the public hearing at West Bay. The main director said if he were the Douglasses, he wouldn’t agree to that without anyone on-line saying they were going to tie in. Nobody said they were going to tie in. You couldn’t look at it that maybe 40 years from now, it could get reduced. Nobody wanted to tie in, and there was nothing wrong right now with the Douglasses property at all. He urged anyone to show where the County said there was something wrong with their septic tank. It was working beautifully. It didn’t mean that you lost jurisdiction in the future if something was wrong. But, for right now, the Town should stay out of this business of finances between residents and do what was right for the Town. Leave it alone like the other 90% of the people who were on septic systems. This memo of 2004 had been mentioned ad nauseam. Everyone kept saying that the Douglasses signing somehow made them have to pay this money. All it said was the same words as the conditional use permit. There was not one word in there that said price—that you’re going to pay for that pipe and you’re going to pay a lot of money for that pipe. All it said was you’re aware that the condition is in your use permit. They knew that. Of course it was there. It was right there in plain English. If there wasn’t something [*inaudible*], then why wasn’t it in there. “The approximate cost of your tying in to the private pipe would be \$100,000, \$200,000, \$300,000...” whatever. There was no monetary number. There was not even a reference that it was going to cost money. It was unfair to keep driving this memo down the throats of Mr. and Mrs. Douglas. They innocently signed this at the request of the Town, and now it was being utilized as some weapon against them that they agreed to pay this money, and now they don’t want to pay this money. The Douglasses were ready, willing and able to tie into that pipe. They didn’t want to pay this extortion money. That was the difference. They were ready to pay \$40,000 or \$50,000, get their contractors, tie into the pipe—which was exactly what the condition said that was all they had to do. He urged the Councilmembers to look at the words of that condition #11. But, they were being asked to pay this extortion of a quarter of a million dollars for the privilege of tying into a pipe. The Council had a lot of options before it. Jurisdiction over the matter would not be lost if problems arose. The Council should totally grant this appeal, revoke the Planning Commission’s recommendations, or, in the alternative, do what the Planning Commission should have done, which was look at the application for the amendment, and decide condition #11 was not needed any more. In 2001, it was put there, and it was not needed because this was 8 years later, and they were having no problems. Lastly, the current sewer system the Douglasses had—the septic—was actually required because the Town made them tear down their entire building and build a brand new building at 888 Portola Road. The County came in and said you had to upgrade the septic tank. They did that and put all the money into it. Everybody was just saying, “So what that they built the new building and the new septic tank and did exactly what you were supposed to do.” It had been signed off by the County, and it should just be left alone. That was all the Douglasses wanted—to be left alone and enjoy the property and enjoy the beauty of this Town and not have to go through this right now.

Mayor Wengert closed the public hearing.

Mayor Wengert said the issue the Council was being asked to address tonight was the issue of whether condition #11 of the CUP had been violated. If there was a consensus that there had been a violation, then the Council would need to decide what action to take to correct the violation.

Councilmember Toben said under the plain language of condition #11, there had been non-compliance and he would vote to deny the appeal of the Douglasses. The history was very clear with regard to the Douglasses acceptance of the condition and their repeated representations that they would comply within the time; that had not materialized. The record was quite complete. Based on the facts, documents and what he heard tonight, he felt condition #11 had been violated.

Councilmember Merk said he wanted to respond to a couple of characterizations that had been made. First, during the course of construction of the Town Center, he argued against connecting to the sewer. The Portola Valley School had a gigantic septic system here that was far greater in capacity than anything the Town had needed. He argued vehemently against connecting to the sewers. The Town Center was on an 11-acre parcel. The parcel under discussion was a one-quarter acre parcel with a history that he personally observed had a lot of problems when there was a restaurant there. With respect to the characterization that this was a private pipe, this was a public sewer. It was typical for the sanitary district to require fees that many people characterized as exorbitant. There were capitalization costs for their entire system in addition to the cost of installing a new sewer line that the people who first received that service paid a very high price for. Over time, as others joined in, they started getting some of that back. It was perfectly easy to say right now that nobody wanted to tie in. In fact, people tied in when they had to tie in. Sooner or later, just about everybody—particularly those who bought small lots uphill from the end of this sewer line—were the ones that were most likely to have a need. In terms of the actions of the Douglasses, he felt there was acceptance of the original requirements and conditions as indicated by their actions to undertake the project and secure a zoning permit and variances. The Douglasses took this on knowing what the requirements were. They expressed willingness to apply for outside approvals needed to comply with the condition on numerous occasions although failing apparently to take any such actions. The temporary use of an on-site wastewater facility was foreseen and acknowledged as indicated by condition #12 of the CUP in Resolution 2001-400. The applicant had requested and been granted extensions. Ordinance 17.48.020, Sewage Disposal, required this condition be met. Ordinance 18.34.170, Revocation of Permit for Variance, required the Council to take action given this inordinately long period of time that had passed since the requirement to fulfill the condition first came into effect. Also, the parcel failed to meet current County standards for the required size to have a septic system today. The argument that because there was no price tag attached to the statement was unconvincing. It was very hard to attach a price when a project like this was going forward and no one knew how many people were going to eventually hook up. In fact, the price might be one thing today with a person having to put a lot of money down and in a few years, a lot of people might be forced to join, and then there would be reimbursements. He was not moved by the argument that there was no price. He felt the condition must remain.

Councilmember Driscoll said this was a property of 11,000 sf. The Town's property was almost 600,000 sf. The Town had over half a million sf that was required to be open, unpaved fields. The Town site had a leachfield significantly larger than was needed with 1,000 percent expansion capacity. It was a completely different situation. To the question of why put in a sewer in the first place, he said that hillside had had drainage problems and failing leachfields. It was perfectly reasonable to expect that as we moved into the 21st century, that problem would have to be addressed. You put in a sewer in places where there were drainage problems, or steep slopes, or where the lots were so small they had no other alternative. He felt this was a perfectly fair requirement on this property. It was one of the smallest properties in Town. There were very good reasons why its leachfield was much more likely to fail. The Town's situation was completely different. The Douglasses were being asked to join a club of people who were all in about the same boat—now or at some point in the future. He felt it was reasonable to require the Douglasses to join that club. He added that he was somewhat open on the concept of revoking or suspending until he understood the technicalities and knew which was a better way to do it.

Mayor Wengert agreed it was not a comparable analysis to compare the Town Center to a quarter-acre parcel. The conditions and history were so very different. In this case, there was a clear record of an original promise; a series of subsequent promises; and clear code requirements in the form of the State Uniform Building Code, the General Plan, and the Subdivision Ordinance that would require hookup. There was a long history of on-the-record promises to move forward with the hookup. She was also not persuaded that the Douglasses weren't able to discern what the meaning was of the ordinances and condition #11, and there was a lot of communication to support that. She did not believe that it was appropriate to attack the Planning Commission when they had been asked to deal with this for 11 meetings over 8 years in a very thorough and thoughtful way. They did a tremendous job and had been very analytical in how they approached it and very fair. The financial aspects of this didn't enter into her thinking, and Councilmembers had articulated that. This was a CUP that was granted relative to this specific parcel. The specifics of the dollars related to the agreements between West Bay and the group of participants in that agreement was something that was outside the purview of the Town. She required condition #11 to be followed.

Councilmember Merk said he recommended alternate #1 as proposed in the Town Planner's memo to show that the Town was really trying in good faith to give the applicant every opportunity to put this whole thing to bed and allow them an additional 6 weeks to carry out the same requirements that were put on them by the Planning Commission. He was concerned about a suspension because he didn't want the Council to do anything that was open ended. The history showed that without a definite clear deadline, this would drag on and on and on. The only stick that the Town had was that if the applicants did not take the carrot in six weeks, they would have to come back and reapply at today's rules and today's costs. He moved to revoke the permit effective in 6 weeks and to give the applicants time to comply with the three requirements of the Planning Commission. Councilmember Driscoll seconded the motion.

Councilmember Toben said the Council had the responsibility to consider alternatives to revocation. This motion represented an alternative to revocation. It was a six week grace period subject to the fulfillment of certain conditions which if not met would result in automatic revocation at the end of that six week period. In terms of the option to modify the CUP, he felt the justification for condition #11 was every bit as compelling as it was seven years ago. There was ample basis in the General Plan, the plumbing code, and all manner of directives to support that action. He would not consider that as an alternative. The other suggestion was bifurcation of the matter and splitting off the commercial building from the residential. That looked interesting until he learned that that really wouldn't accomplish anything. Revoking the CUP overall still enabled the parties to live in the residence. He wanted to avoid eviction, which he did not think was the proper outcome. That was a moot point since they would be able to stay on the premises—even if they didn't meet the conditions in 6 weeks. His inclination had been to lean toward a suspension. But, he was impressed with the argument that the revocation dropped the hammer and made it quite clear that there would be more severe conditions down the road. A suspension was a softer path, but perhaps a more drastic remedy was needed given all that had happened.

Mayor Wengert said it had been such a significant period of time, and it had been such a difficult process for everyone involved. At this point, the Council felt this was an appropriate step with some measure of implementation and yet allow for some reasonable time period. Should the Douglasses choose to finish the process, they should be able to accomplish it in that time period.

Responding to Councilmember Merk, Ms. Lambert said once LAFCo received the map and legal description, LAFCo could record it and finalize the annexation. It then went to West Bay who met once a month. Once the annexation was approved, the Douglasses could pay all the appropriate fees and get the connection with West Bay. They could come in at the same time and apply for the building permit and encroachment permit. She thought six weeks was sufficient.

Responding to Councilmember Toben, Ms. Lambert said the only condition with regards to money had to do

with the sewer permit fee to West Bay, which would include the reimbursement agreement. West Bay could not issue the sewer permit unless the reimbursement fees and sewer connection fees were paid. Mr. Anderson confirmed that that was what was implied in the agreement. West Bay had the right to change that fee and even not collect it. That was a West Bay decision. The one thing that was not contained in the Planning Commission's three conditions was actual connection to the sewer. It was assumed that if the Douglasses went through the West Bay process, they would probably connect to the sewer. Ms. Lambert added that once the building permit was issued, it was valid for 180 days. Mr. Anderson noted that this would need to come back as a resolution at the next Council meeting, which would give the Douglasses a total of 8 weeks. Responding to Mayor Wengert, he said it would not have to go back to the Planning Commission.

Responding to Councilmember Merk, Town Planner Mader said if the Douglasses had not connected within 180 days, they would be in violation of their permit. It would come back for revocation. Councilmember Merk confirmed with Town Planner Mader that it was not simply to join the district but to connect.

Councilmember Merk amended the current motion to uphold the decision of the Planning Commission, allow a 6-week grace period, and that the grace period would begin after the adoption of the resolution. Councilmember Driscoll amended his second accordingly. Mayor Wengert called for a vote, and the motion carried 4-0.

(8) Proposed Change in Personnel Policy - Employee-Accrued Vacation Buy Out (Agenda items re-ordered) [10:00 p.m.]

Ms. McDougall reviewed the staff report of 1/28/09 and recommendation to adopt the proposed policy allowing employees to sell back accrued but unused vacation hours when certain criteria were met. Responding to Councilmember Driscoll, Ms. Howard said the intent was two-fold: 1) to minimize the Town's financial liability for accrued vacation hours; and 2) to make sure that people took vacation but had some in case something happened. Responding to Councilmember Merk, she said she had had more requests for buy out last year than in the last 10 years. Staff was looking at their vacation as a source of revenue because of the economy. She would be happy to remove the cap completely, or make the cap higher so you could sell up to one year's accrual. For someone getting two weeks of vacation, they would probably not do that. Some staff had trouble using all their vacation. Responding to Councilmember Merk, she confirmed that the cap was one-half of the total number of hours an employee was eligible to accrue within a 1-year period. Councilmember Merk said that was fine as long as an employee was required to take a minimum of five consecutive days of vacation during the 12-month period immediately preceding the request to sell back vacation hours.

Councilmember Driscoll said the Town Manger needed to have the tools necessary to reduce the liability that was on the books right now. It sounded like the half cap didn't do that and just stabilized the situation. He preferred a whole year cap as opposed to a half year cap so that people would be required to take five days and start to slowly eat into that liability. Councilmember Merk said if a person took their full amount and was still required to take the five days, those five days would be taken from something previously accrued. That would eat into that liability.

Responding to Councilmember Toben, Ms. Howard confirmed that there was no cap on sick leave. When someone retired, what was accrued could be folded into PERS, and it was counted as time.

Councilmember Driscoll moved to adopt the proposed policy, as amended. Councilmember Merk seconded, and the motion carried 4-0.

(7) Public Hearing: Proposed Sustainability Element of the General Plan (item reordered on agenda) [10:13 p.m.]

Town Planner Mader reviewed the staff report dated 1/15/08 on the proposed Sustainability Element. Responding to Councilmember Merk, he confirmed that in his memo of 11/15/08, paragraph 2 on page 2 should read "...elsewhere in the element General Plan."

Councilmember Driscoll said there was no "practicality element" in the General Plan. He questioned what qualified as an element and what qualified as a feature of the General Plan. He didn't want to implement trendy elements that weren't necessarily adding any value to the General Plan, which was pretty succinct. Responding, Town Planner Mader said an element in the General Plan was often the basis for regulations, which had to be consistent with the General Plan. He agreed that the General Plan should not include things that weren't fundamental policies. In part, this element had been engendered by the Town's interest in sustainability and the desire to bring some focus to it. There were things in the element that weren't addressed elsewhere in the Plan. The Appendix was useful because the Commission thought of a lot of things that were illustrative of the policies; that was not a part of the element and was included as an appendix. The General Plan was related to the future, physical development of the community. To the extent that an element affected the physical development of the community, it was appropriate.

Mayor Wengert said the part of the proposed element that was the most meaningful was in the Sustainability Goals and Objectives section. That laid the framework for considering future changes, revisions, etc. Councilmember Driscoll said if this element provided the foundation on which to develop a green building standard, that was sufficient for him. The Town fathers who wrote the initial General Plan were more focused on preserving the environmental quality of the Town, views, reducing development, etc. The concept of minimizing the footprint on the earth and being sustainable was a slightly different nuance. It was not captured in the original Plan, and he was okay with it. He just wanted to make sure the Town wasn't doing something on whatever happened to be the word of the day.

Mayor Wengert said there were a number of issues that might arise over the next decade (e.g., water) that might require the community to have some far-reaching thinking. In studying trails, for example, there were a number of sustainability concepts that would apply today. She thought there would be immediate use of the goals and objectives.

Town Planner Mader said it would be important to keep it in mind when problems arose and decisions were being made. You could refer to the Plan for some guidance. It was too easy to get wrapped up in a narrow view of a problem. This might help broaden that.

Councilmember Driscoll said the General Plan had an overarching principle that businesses in Town had to predominantly serve the residents of the Town. That was to avoid becoming a destination/commercial center. In order to meet the most sustainable/minimum carbon footprint, it might make sense to not have that requirement. He questioned whether sustainability was entirely consistent with some of the other overarching principles in the General Plan. Responding, Town Planner Mader said there could be conflicts as things were thought through. Councilmember Driscoll noted that there were already conflicts in the Plan; the Conservation Element and Fire Safety Element were clearly in conflict. He did not think the Plan could be made 100% consistent. The potential for inconsistency with the Sustainability Element was probably lower than for some of the other elements.

Mayor Wengert opened the public hearing.

Nate McKittrick said he had raised Councilmember Driscoll's issue with the Planning Commission when the Commission discussed whether the Town needed a sustainability element. The consensus of the Commission was that it would make decisions with respect to new regulations or other issues easier by being able to reference a specific element. He felt there was sufficient background in the rest of the General Plan, but the rest of the Commission disagreed. The proposed element accomplished what the Commission wanted.

There were no other comments, and the hearing was closed.

Referring to the draft, Councilmember Toben suggested changing the second paragraph, page 1 to "environment" rather than "human environment." On page 4 of the draft, Overarching Goals, he said he was no longer clear on what the AB 32 standard was. He thought AB 32 specified that carbon levels be reduced 80% below 1990 levels by the year 2050. After discussion, Town Planner Mader said he would verify the correct language.

Councilmember Driscoll moved approval of the Negative Declaration and adoption of Resolution No. 2429-2009 Adopting a Sustainability Element, as amended, as an Amendment to the General Plan and Findings Under CEQA. Councilmember Merk seconded, and the motion carried 4-0. Councilmembers extended thanks to the Planning Commission and staff for a wonderful addition to the General Plan.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(9) Appointment of Members to 2009 Commissions and Committees [10:35 p.m.]

Ms. Howard noted that changes to the Cultural Arts Committee membership were shown on a memo dated 1/28/09. Responding to Councilmember Merk, Ms. Howard confirmed that an "A" following a member's name was an advisory member who was not counted as a member. Councilmember Merk asked that that be clarified. Also, where it said vacancy, vacancy should be plural for several of the committees. Councilmember Driscoll said it would be helpful at some point in the future if the number of years a person had served on the committee was included next to the name. It had become an issue on a couple of the committees. Mayor Wengert noted that the Committee Review Panel was wrapping up its work and a presentation would be made at the next meeting. There would be a series of recommendations on how to deal with some of the issues committees were facing.

Councilmember Merk said he could not in good conscience reappoint someone on this list after seeing Jon Silver's letter of 1/28/09 that reported on what happened at a committee meeting about a year ago. There was also something on the PV forum about 10 days ago about the situation. He could not reappoint that particular committee member. Councilmember Toben suggested Council concur with the appointments with the exception of the committee that Councilmember Merk was concerned about.

Councilmembers and Mr. Silver discussed: 1) representation on the Committee Review Panel by Town Committees, including Parks and Rec; 2) the incident that happened last March; 3) Councilmembers' knowledge of what had occurred; 4) liaisons' observance of the Parks and Rec Committee in action; 5) personality clashes; 6) consequences of non-reappointment at the 11th hour; 7) singling out a committee member; 8) functioning of the Parks and Rec Committee; 9) proper way and forum to deal with flare-ups on committees; 10) responsibility of liaisons, committee Chairs, and Council; and 11) recommendations from the Committee Review Panel.

Councilmember Driscoll said he was uncomfortable with moving forward with approving the list of Committee members when the Committee Review Panel output was only a month away. There was a problem festering, and he wanted to understand what the Council's authorities were and how committees would operate in the future. He suggested holding the appointments for another month. Mayor Wengert said it might take the panel 2 more months after the Council's review to implement changes and get it in place. Councilmember Driscoll said in the past, reappointment was perfunctory. Policies had been upgraded, and he felt the process of making the appointments should wait until after the policy was upgraded.

Councilmember Toben did not see the value in that approach. There was a roster of 150+ people who were raring to go, and he felt the appointments should be confirmed tonight. There would be a discussion about

new approaches to deal with committee performance, etc., that would touch all kinds of things. He felt it sent the wrong signal to put this off. Responding to Councilmember Driscoll, Mr. Howard confirmed that the appointments were for 1 year and were made in January of last year.

Mayor Wengert said she did not think it was appropriate to stop all committees while this individual issue was being put to the Council in a relatively short time period with no notice and no ability to react to it. This was not the forum or time. If there was to be a subsequent, follow up on this specific committee, that had to be addressed in a much different format that would involve the liaison. It was a private matter and something the Council did not want to bring to the public attention. That did not serve anyone well and was all negative. She asked that from this point forward, the Council cease and desist from having this conversation in a public forum. The issue at hand was the reappointment of these Committees so that they could move forward. A number of recommendations would be brought forward and everyone would have an opportunity to comment, including the public. Hopefully, the Council could come up with the best new process possible to deal with these problems going forward. She did not have direct knowledge of what had happened in the past. She was not suggesting that it wasn't serious, but this was not the time and place to deal with it.

Councilmember Driscoll moved concurrence with all members on the roster, with changes to the Cultural Arts Committee indicated, with the exception of Parks and Rec and Community Events, who had not responded to requests for information on reappointments. He did not want to single out any committee, and there appeared to be questions about those two. Councilmember Toben seconded the motion, and it passed 4-0.

Councilmember Toben moved that the Council concur in the Mayor's appointment of the proposed roster for the Parks and Rec Committee. Mayor Wengert seconded the motion. Councilmember Toben said his overall impression of the Parks and Rec Committee and current composition was that there were some challenging personalities—including the person who Jon Silver purported to represent. There were many different ways of looking at this. Ultimately, it was whether the Parks and Rec Committee was poised to do good work on the subjects that fell within its jurisdiction. There had been one very unfortunate incident, and there was no single party at fault there. There were several contributors to this event. He was troubled by the notion that the Council would hang a committee member out to dry on the basis of a last minute appeal, which dropped out of nowhere within the last few days, when there had been no proper opportunity for the committee member to make his statement or the other parties involved to make statements. It was troubling that this was getting dragged back into the public light nine months after it took place. It was grossly unfair to suggest that this committee member's appointment should be withheld on that kind of record. He strongly favored the Mayor's appointment of the entire proposed roster for the Parks and Rec Committee.

Mayor Wengert said she was equally troubled. She did not have enough information to persuade her that the Council should do something other than what had been done.

Councilmember Merk said he was amazed that Councilmember Toben had so much information about a meeting, which he did not attend. He was also flabbergasted at the disingenuousness of his characterization of what he understood happened at that meeting. Given that, he could not support this motion because the Town had had 9 or 10 months to take action and deal with this issue and had neglected to do that. The Committee Review Panel was not addressing this issue to the best of his knowledge. Therefore, he could not support this motion.

Councilmember Driscoll said he did not attend the meeting at which the events happened. He had heard all sides, and he did not know what happened. He would abstain because he did not have enough information to cast an opinion.

Mr. Silver said he felt badly that tonight's discussion had taken the turn it had. He suggested delaying action

for a month and doing some investigation and problem solving and come back and deal with it in a constructive way. The Mayor said she didn't want to hear any more discussion on personality issues at this time, but that had just taken place. There were some things said that were very unfair.

Responding to Nate McKittrick, Councilmember Toben said at the November meeting, the Chair asked members to contact her if they wished to be reappointed. He understood that those whose names appeared on the roster signaled to the Chair that they wanted to be reappointed. Mr. Silver said Clair Jernick chaired the meeting, and he did not know if that had happened. Maybe some people did contact the Chair, but she wasn't there to make that request. The Committee didn't meet in December or January. Maybe some members communicated with the Chair, but he knew of one who did not and his name was on the list. It would have to be investigated to know who wanted to be re-appointed.

Councilmember Driscoll said he hoped the effect of his abstention on this subject would send a message to that Committee that the Council was paying attention. He appreciated that the Council would be giving a second opinion of the functioning of the Committee. Mayor Wengert added that she felt with the panel's recommendations, there would be ways to deal with problems like this and in the future.

Mayor Wengert called for a vote on the motion to re-appoint Parks and Rec Committee members shown on the roster. The motion carried 2-1 (Merk), with Councilmember Driscoll abstaining.

Councilmember Driscoll suggested that in the panel discussions, there be some ground rules for civility. A number of committees occasionally said things that were not acceptable. Members should be reminded every year that they were advisory bodies and that all the opinions were welcome.

(10) 2009 Commission and Committee Council Liaison Appointments

Responding to Councilmember Merk, Councilmember Driscoll said the PV Community Fund had two liaisons since inception. He noted that there would be only one or two more meetings. Councilmembers discussed availability and alternates. Councilmember Driscoll offered to be the liaison for Emergency Preparedness with Councilmember Toben being the alternate. Councilmember Toben concurred.

Mayor Wengert appointed liaisons as shown on the roster, as amended. Councilmember Toben moved concurrence, Councilmember Driscoll seconded, and the motion carried 4-0.

(11) Status of Town Center Project [11:10 p.m.]

Ms. Howard said the replacement toilets had arrived for the maintenance building; discussions were ongoing about who would pick up the cost. Councilmember Driscoll added that it was likely that there would be some salvage value for the toilets they were taking out. The Town was negotiating with the designer for free consulting time to offset the costs. Ms. Howard said the bathroom partitions and windows had been installed in the restroom building; the landscaping and hardscape still had to be completed and that was weather driven. The wet spot issue on the soccer field had been resolved, and the contractor had agreed to pay for all the work. The electrical conduit for the tennis courts was installed. The only thing left for the creek before the upside connection was the handrails, which were being worked on. Councilmember Driscoll added that modified bollards were being looked at and would be turned on tomorrow. The other lights in the porticos were also being tested. He described solutions being looked at to prevent splash from the chain that came off the top of the community hall roof. The trailer would be removed in a couple of days, and there would be some final grading. Councilmember Toben suggested painting a safety stripe along the curb at the turnaround outside the library to prevent tripping. Councilmember Driscoll added that Mr. Young would also be putting a white strip across the top of the wood car stops and reflectors on the bollards. Additionally, a meeting had been held with the landscape architect about the deer damage; liquid retardant would be sprayed on the plants before deciding if they should be replaced. The fence was still up around

the creek to minimize damage by the deer and get the plants established. Mr. Young would be pulling all the remnant chainlink fence around the site off. The trail around the back would be resolved hopefully in the spring and summer.

(12) Reports from Commission and Committee Liaisons [11:16 p.m.]

(a) San Mateo County Office of Emergency Services Council Meeting

Councilmember Merk said the "Silver Dragon Exercise" for CERTS would be held on March 11, 2009. There were 15 cities involved including the Town's CERPP.

(b) Open Space Acquisition Committee

Councilmember Toben said the Committee discussed the content of the message to residents that would ensure a good outcome for the election on UUT--both the open space piece and the general fund piece. There was a fairly healthy balance in the fund with no clear targets in view. Some of the activities that had taken place over the last few years since the last renewal would be highlighted to show what had been done and what could be done. The Committee also discussed "open space" in the context of the Spring Down parcels. There had been suggestions for a native plant garden, organic techniques garden, and a dog area where dogs could run off-leash; there was little enthusiasm for a formal dog park. The vast majority of the parcel would be returned to its natural state, but there might be an opportunity to offer a demonstration garden on drip irrigation, which was consistent with sustainability values, and an area for dogs off leash.

Councilmember Merk said he was concerned about the definition of open space and making it clear to residents what they were being taxed for. Everyone wanted a piece of the empty space at Spring Down. When he voted for "open space," he was voting for empty, unused, unimproved land that was open.

Jon Silver suggested checking with MROSD and POST as to the uses they allowed. Other than that, besides natural or open area, it also could mean those agricultural uses that had been traditional to the valley floor (e.g., pasture land, orchards, etc.) He did not have a problem with a demonstration garden because it might fit within that agricultural tradition and rustic feel.

(c) Cable and Undergrounding Committee

Councilmember Driscoll said the Committee also discussed the UUT and redirecting some of the general UUT to an undergrounding fund.

(e) ASCC

Mayor Wengert described projects reviewed at the last ASCC meeting. She said the ASCC/Planning Commission subgroup also talked about the GreenPoint Rating System, mandatory versus voluntary, thresholds for different size homes, etc.

(f) Conservation Committee

Mayor Wengert said the Committee discussed the nature archives and whether there should be a permanent native plants display. They also discussed the Spring Down parcel, which might have some area for a permanent native plants display. Marge DeStaebler would be speaking with Nancy Lund about a rotating exhibit. Councilmember Driscoll noted that there was a native garden on the Town Center plan. Mayor Wengert suggested the Council liaison mention that to the Committee. The Committee also discussed whether volunteers could handle the weeding for Sausal Creek; they would be coming to the Council with a proposal and estimate. The broom pull was scheduled for March 7.

(g) Committee Review Panel

Mayor Wengert said recommendations would be agendized for the next Council meeting.

(h) Town Website

Mayor Wengert said the rollout had been pushed back a few weeks because the amount of content was larger than anyone expected. It would be presented at the February 25 meeting.

WRITTEN COMMUNICATIONS [11:30 p.m.]

(13) Town Council 1/16/08 Weekly Digest

(a) Fire Management on the Stanford Wedge

Referring to the flier, Councilmember Toben said he attended the meeting on 1/21/09. The outcome was that there was a plan to produce an action plan by May 1, 2009, which would involve some earnest commitment with respect to fuel management--particularly around the perimeter--and some agreements with respect to access by Stanford from neighbors' properties. It would also involve some commitments on the part of residents to clean up their own parcels. About 12 residents from that area attended along with Woodside Fire and Stanford representatives.

(b) Tour of GreenWaste Facility

Councilmember Driscoll said he and Councilmember Merk attended the tour of the multiple recycling facility referred to in McDougall's e-mail of 1/15/09. He discussed: a) separation of plastics and paper and shipment of bales to China where toys, clothes and paper were made and shipped back; b) things that residents could do to make recycling easier and more efficient; c) percentages of material that went to the landfill; d) recycle values; and e) design of the recycling facility.

(c) Encroachment Permit Application for Hazard Removal

Referring to Mike Bautista's letter of 12/26/08, Ms. Sloan said Mr. Young had spent hours explaining things to Mr. Bautista and she had spoken with Mr. Bautista and written letters.

(14) Town Council 1/23/08 Weekly Digest

(a) Sustainable San Mateo County Green Building Award

Referring to the letter from Sustainable San Mateo County dated 1/19/09, Ms. Howard confirmed for Councilmember Merk that TBI was listed as the builder for the Town Center project.

ADJOURNMENT

The meeting adjourned at 11:40 p.m.

Mayor

Town Clerk