

TOWN COUNCIL MEETING NO. 764, FEBRUARY 25, 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 Derwin, Driscoll, Merk and Toben, and Mayor Wengert
Absent: None
Others: Town Attorney Sloan, Town Planner Mader, Town Manager Howard, Asst. Town Manager McDougall, Public Works Director Young, Admin. Services Officer Nerdahl, Planning Manager Lambert, SuRE Coordinator deGarmeaux, and Town Clerk Hanlon

ORAL COMMUNICATIONS

Bernie Bayuk, Paloma Rd., said he was disappointed and distressed about what had happened to the science and nature teaching facility. The room in the old Town Center was warm and a place he looked forward to attending meetings. In evaluating what should be permitted in the new science room, he did not think enough priority had been given to the teaching function. The few live specimens that were permanently displayed enhanced the attractiveness of that room and didn't interfere with any activity going on; it gave the room character. He strongly requested that the Council reconsider the banning of these large specimens and that the priorities for the allocation of space be re-examined.

Ed Wells, Naranja Way, said in the election of 2005, the UUT was extended until June 2010. The tax cost homeowners an estimated \$400-\$900 per year in taxable income. It was based on the ever-increasing utility costs. The tax was also unfair to local businesses because their competitors in Ladera and Woodside did not pay such tax. The tax added to the cost of new buildings and their future property taxes. The Town did not need this tax revenue for the general fund because of the substantial increases in property taxes and because the major projects were now completed. The Town did not need this tax revenue for the beloved open space program because it had been shown that major open space projects (e.g., Shady Trail and Sausal Creek) could be financed privately with tax deductible donations. He suggested the Council meet immediately and privately with the Town Attorney and develop a sense of the Council that the November election and authorization of future utility tax revenues could be deferred until there was another real emergency. This would help the staff and the Finance Committee to develop a much tighter budget for next year, which would be the last year the Town had these revenues for routine expenses. Elimination of these taxes would also help many of the Town's older residents, who had limited income and social security, shrinking investments, and home equity loans.

(1) PRESENTATION: Redesigned Website [8:10]

Mayor Wengert said the redesign of the website was the culmination of a very significant effort, particularly on the part of Stacie Nerdahl. She said it was a work in progress and comments from the community were welcome.

Ms. Nerdahl discussed: 1) assistance from consultants, the design team, and Sheldon Breiner; 2) homepage and drop down menus; 3) quick links/tabs; 4) "Upcoming Events" features; 5) Calendar tab and sub categories; 6) Town News section and filters; 7) "I want to" feature; 8) "About Portola Valley" tab; 9) "What's New" tab and subscribe feature; 10) "For Residents" tab; 11) "Building and Planning" tab; 12) "Town Government" tab; and 13) committee pages. Ms. deGarmeaux discussed the sustainability section of the website, including portals for Town sustainability, residents, businesses, schools, resources for everyone, kids' space, local green building projects, links, FAQs, and the calendar for the sustainability section. Noting

that the section would evolve, she said she welcomed ideas and questions, which would be addressed on the site. In the future, there would be an interactive graphic that described green building features of the Town Center. She said the goals that the website was designed to achieve had been met, noting that the site would be live on 2/27/09. Mayor Wengert encouraged everyone to visit the site and comment.

CONSENT AGENDA: (All items removed)

REGULAR AGENDA

(2) Minutes of the Town Council Meeting on February 11, 2009 (Removed from Consent Agenda)

Councilmember Merk made a change to the minutes of the 2/11/09 meeting. By motion and second, the minutes were approved as amended by a vote of 4-0, with Councilmember Toben abstaining.

(3) Warrant List of February 25, 2009 (Removed from Consent Agenda)

By motion of Councilmember Toben, seconded by Councilmember Driscoll, the Warrant List of 2/25/09 in the amount of \$187,042.93 was approved with the following roll call vote:

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

(4) Disposal of Surplus Property (Removed from Consent Agenda)

Referring to the staff report, Councilmember Merk asked what the cost was of changing the toilets in the restroom facility, what the original design specs were, and why the Town had to incur this expense rather than the designers and installers. Responding, Ms. Howard said the specs for the toilets were from the architects. When the bathrooms were constructed, the ADA clearance requirements were off by about 1.5 inches. It was too costly to rebuild the stalls, and staff decided the most economical way to handle it was to remove the toilets and replace them. There had been many discussions with the architects, and it was not fully resolved. Responding to Councilmember Merk, she said there had been some septic problems, but it was not a result of the toilets. Councilmember Merk said the Town should not incur the cost of changing out the toilets. This was a design flaw. Engineers and architects were paid a lot of money to ensure they got these things right. It was their responsibility to make sure they were right, and it should fall upon them to replace the toilets. The Town shouldn't have any part of this. Councilmember Driscoll said this was a resolution authorizing the disposition of surplus property—not paying for the new toilets or paying for any redesign. Mr. Young [*inaudible*] noted that the Town would be getting some additional design services the Town wanted from the architect.

Responding to Councilmember Driscoll, Ms. Howard said the hard drives for the computers were being surplused. These were old servers—not the desktop computers. Ms. McDougal added that the hard drives would be donated to a non-profit in Sunnyvale; they were not high capacity.

Councilmember Toben moved adoption of Resolution No. 2433-2009 Approving and Authorizing the Disposition of Surplus Property. Councilmember Driscoll seconded, and the motion carried 4-0, with Councilmember Merk abstaining.

(5) Adoption of Revised Advisory Committee Handbook (Removed from Consent Agenda)

Referring to the Motions section (p. 9), Councilmember Merk said the Chair could only second a motion—not make a motion. He brought that up before, and it was still in the handbook. Additionally, he was becoming

more and more uncomfortable with the additional powers that were being set for the position of mayor. The mayor in the Town of Portola Valley was a ceremonial position. All councilmembers were equally elected to the Town Council. Power was being given to the mayor to decide whether a committee applicant who lived in Los Trancos Woods could or could not be on a committee; the other four councilmembers might want a person that the mayor wouldn't appoint. That power should be given to the Council as a whole rather than to the mayor. He was also concerned about limiting the number of members to nine. He wanted the item put over for further discussion.

Councilmember Driscoll suggested continuing this item until later in the meeting after the fire issue was addressed. Councilmembers concurred.

Jon Silver, Portola Road, said he had a lot of comments on this item. He also felt it should be re-circulated to all committee members and broadly publicized to the public. Like the website, there should be plenty of input.

(6) Designation of Very High Fire Hazard Severity Zones in Portola Valley

Councilmember Toben said the Town Attorney advised him to recuse himself from this item because he lived in Woodside Highlands and was potentially impacted financially by the outcome. He would comment as a citizen.

Ms. Lambert reviewed the staff report of 2/25/09 on the designation of very high fire hazard severity zones in Town. She noted that there were items that would need to be further discussed such as: 1) the definition of "new building" as it related to the requirements of Chapter 7A of the building code; 2) whether Chapter 7A should apply Townwide as opposed to just the area designated as very high fire hazard severity; 3) who would be responsible to determine what products were ignition resistant; and 4) who would be responsible for enforcing the requirements in Chapter 7A for fuel management and maintenance. Additionally, Cal Fire had been asked if they would consider a lower rating in those areas designated as very high fire hazard if those residents worked with Town staff, Council representatives and the Fire Marshal to come up with a fuel management and mitigation program for the Hayfields/Highlands area. She noted that a time line showing all interactions with Cal Fire had been prepared. Additionally, as the Town worked with the Moritz fire/fuel management map and report, she suggested there be a community meeting for everyone in Town. This was a pro-active approach, and she felt Cal Fire would be pleased to hear that the Town was moving in this direction. After a program was developed, that information would be provided to Cal Fire and local insurance companies, so that everyone was aware of what the Town was trying to do.

Ms. Sloan said the code required that the local agency designate by ordinance the very high fire hazard zones within 120 days of getting the final map from Cal Fire. The Town received that map on 12/16/08. The law did not state that the local agency could disagree with the map by reducing the size of the zone. It gave the local agency flexibility in two areas. First, if supported by substantial evidence, you could increase the area of the zone if you felt there should be a wider area that was "very high." Secondly, if within that very high zone you believed there were some areas where Chapter 7A of the Building Code should not apply for reasons supported by substantial evidence, you could say that within that zone, there were some areas where 7A did not apply. It did not say that you could shrink the zone or disagree with the State. Cal Fire interpreted the law the same way. Cal Fire indicated that several local agencies had asked if the Cal Fire Director's recommendation could be modified by the local agency. The legislature did not approve language giving the local agency the authority to decrease the Director's recommendation. Responding to Mayor Wengert, she said Cal Fire issued a draft map earlier in the process and allowed local agencies to comment. The Town had commented on the draft map and Woodside Fire commented, which was followed by a long period of negotiation. What was before the Council was the final map.

Ms. Lambert reviewed the Cal Fire map for San Mateo County, noting that Woodside had a considerable

amount of area in the “very high” zone. Responding to Councilmember Derwin, she said in the prior maps, Woodside had “very high” designations. The Fire Marshal added additional areas. Fire Chief Muela said he was present to represent Woodside Fire.

Mayor Wengert asked for public comment.

Richard Crevelt, Russell Ave., said he represented his neighbors. He said the Town staff had done a lot for residents in speaking up. Most of the comments would be directed towards the Fire Chief because the community was very disappointed that it had not listened to the Town Council. The only option was to provide an explanation to the Fire District as to why his area should not be classified as “very high.” First, a designation on a map would not do any good. The community would do the most amount of good. Everyone knew there were a lot of trees and that provided a fire danger in all of Portola Valley. The Town had taken the initiative with Ray Moritz to develop a fire risk hazard map and develop fire plans and risk prevention. Those should be supported. Additionally, many residents were involved in CERPP and the plans worked in Town. It was an added benefit and should be recognized as one reason why his area should not be seen as “very high.” He also supported and recommended that the Town incorporate and adopt Chapter 7A across the board. Before this very high designation had been identified, it was already written into law that with that designation, you had to abide by Chapter 7A. Chapter 7A was a good plan, and everyone should abide by it. Additionally, in March of 2003, the Highlands Improvement Club participated in a grant request with the Fire Protection District to provide firebreaks, check water meters, do clearing, and have defensible space. His neighbors had been doing their part to make sure that that happened. This was an ongoing thing in the Highlands; other areas in Portola Valley might have participated as well. He also believed his area should not be classified as “very high” because there was defensible space between the area and Woodside. The Targ gardens and Targ hill was a natural firebreak that was over 300’ across and up the hill almost 500 feet. Neighbors were involved and would be more inclined to be involved in a community plan, which included fire hydrant checks, keeping the roadways clear, and removing SOD trees. He felt there were very viable reasons why the Highlands should be incorporated with the rest of Portola Valley with not a very high rating. He recommended that the Town refuse to adopt the State map.

Responding to Chris Buja, Wayside, Ms. Lambert said about 160 homes were in the designated very high fire hazard area. Mr. Buja [*inaudible*] said that was roughly 10% of the Town. Rather than make this a triage, he wanted to emphasize preparation and look at actions that could be taken to ensure there were firebreaks and the things that prepared a community. He said the insurance company he used for 24 years called to cancel as of March 6. He was fortunate to have found a local insurance company in Town with lower rates. Rather than make it a high fire designation, he wanted to make it a more fire safe area. There were things the community was ready to step behind, and he wanted to encourage those further.

Steve Toben, Santa Maria, said despite requests to Cal Fire, the Town had not yet been given a rational explanation for this particular delineation of the proposed very high fire hazard area. You could not help but observe that much of the area to the southeast and southwest had many of the same topographical and biological characteristics as the area that Cal Fire had chosen to designate as very high fire area. He was particularly troubled by the fact that the Town’s own fire consultant concluded that this area should not be designated as a very high fire hazard zone and should be a “high” fire hazard zone, which carried a very different significance. Before the Council took action, an explanation should be requested for how Cal Fire arrived at this determination. He was also bothered by the fact that the best the Town had been able to do in its interactions with Cal Fire was to hear that there was some eucalyptus and some chaparral. If they were talking about the eucalyptus along Portola Road, those stands of eucalyptus were gone; the Family Farm people had done heroic work to take those down. Other than that, he could find isolated trees here and there in the Highlands, but no significant stands of eucalyptus that would constitute an ignition vector. Similarly, there was chaparral, but there was chaparral on the Morshead property immediately to the south. He was troubled by the fact that there was no thoughtful explanation that adequately distinguished the case

that Woodside Fire had made from the case that the Town's own fire expert made. He thought the Council was well within its bounds to continue this item until, at a minimum, the Town received a better explanation for why this area had been designated very high and not areas to the south with very similar characteristics. He was also troubled by the fact that the dilemma was due to the actions of the Woodside Fire Protection District that took it upon itself to dispute the original map that Cal Fire proposed, which contained no areas for very high fire designation. Woodside Fire, in opposition to the Town's position, asserted that "Well, we think that in fact this particular area of Portola Valley should most certainly be included in the very high fire area." The District succeeded in having Cal Fire designate his neighborhood as being in the most severe fire category. That would have major financial impacts on 450 residents of Portola Valley. These additional financial impacts included increased construction costs under Chapter 7A, a very likely and chilling effect in the real estate market from buyers who were scared off by the notion that they were looking at a home that had been designated in this area, and possibly the loss of property insurance or an increase in premiums. This was akin to the notion of "You break it, you buy it, Fire District." The Fire District had broken the area, and therefore bought it. Since the Fire District took it upon itself to assert this particular position, the Fire District had taken upon itself equally to dedicate new and specific resources to enable the newly vulnerable community to take care of itself better. He was not talking about good words or good intentions but a very real, concrete mechanism that would exist from here on out that included regular meetings with Fire District staff, manpower from the Fire District, and monetary resources to upgrade the fire readiness. If his area was going to be stuck with this designation, the Fire District owed it to the residents to be on hand. He also could not absolve the Town from this. These residents were citizens of this community. The Fire District had determined that the citizens were vulnerable. The first responsibility of any government—federal, State or local—was the safety and welfare of its citizens. Additionally, the Town was a property owner in Woodside Highlands. The Town would also have to come forward in recognizing this new vulnerability and be prepared to dedicate serious new resources to assisting these residents in making themselves less vulnerable to this. Of \$100 in property tax, \$7 went to the Town or Portola Valley, and \$17 went to the Fire District. The Fire District was comparatively much better off than the Town when it came to the ability to marshal resources for the purpose of helping its residents who were endangered by this kind of situation, which they had essentially foisted upon these residents. It was time for the Council, in conjunction with the Highlands association and these residents, to call the Fire District to account and invite the Town into a very serious process that looked this danger in the eye and said, "We've got to do something about it." Finally, he was pleased to hear that staff was committed to assisting these residents in reaching a point where the situation could be improved on the ground and thereby hopefully convince Cal Fire to revisit this very damaging decision that they made so that a point could be anticipated when this designation would be changed and returned to something that was more reasonable.

Responding to Bernie Bayuk, Fire Chief Muela said a designation of very high fire hazard on a map did not mean that Cal Fire designated more airborne water resources for that area. To Mr. Toben's comments, he said the Fire District utilized the same codes that the Ray Moritz plan used for determining the hazard of the areas. Obviously, the Fire District thought the hazard was greater. The District used the same formula that looked at slope, topography and wind. Access and water were not layered in. This was a Cal Fire map, not a Woodside Fire Protection District map. The Fire District had worked with CERPP, the chipper program, and the Town on ignition-resistant construction. Wood shake roofs were still being used and undergrowth that had been growing for a hundred years wasn't managed. The State said, "No more." They asked for input from the Fire District, who traveled the State every year to fight fires. There was global heating, and the fires were more intense and lasted longer. The District tried to educate by being involved with CERPP; the chipper program was designed to get at some of the undergrowth; and the District worked with the Town to incorporate safety siding, roofing, venting, decking, trees, etc. The District had been at this for over 10 years. In terms of the financial commitment from the District, the District had been there. This was the State of California saying enough is enough. *[Inaudible]* The District wanted Chapter 7A in all areas. The map was a component, but the Fire District had no authority over the map; it was not what the Fire District anticipated. The Fire District would still work with the Highlands and the community, and would still commit its resources to provide that service.

Responding to a resident, Fire Chief Muela said the District recommended Woodside Highlands and other areas be designated very high zones because of slope, types of fuels, and ember propagation. The District felt that the camera must have been off when it came over Portola Valley. Burlingame, Belmont, San Carlos, Palo Alto all had tons of red, but there was no red in Portola Valley. *[Inaudible]* The District submitted comments based on the formula they allowed. A resident said it seemed like the Town and the Town's expert recommended something different than what the Fire District wanted. The normal course of action would be to work to come to agreement. Responding, Ms. Howard said the Town tried to work with both Cal Fire and the Fire District. The Town was asked to comment, and that had been done.

Responding to a resident on Russell, Ms. Lambert said the result of being designated a Chapter 7A area had to do with brush clearance and building materials. The resident said it made sense to do these things throughout Portola Valley, and he felt it should be incorporated in the ordinance. If the purpose in designating things "very high" was to get behavior change, it should be addressed that way instead of targeting 10% of the population.

Craig Taylor, Santa Maria Ave., said he was troubled by the lack of appeal process here. People were talking about getting together and fixing the problem, but there was no problem to fix because nobody had identified what it would take to fix it. He questioned why he should do anything because there was no dialog and no one to talk to. Cal Fire had just said, "Here's the map, and you have no appeal process." He seconded Mr. Toben's position and felt the Council needed to refuse to pass this ordinance based on the fact that there was no appeal. Everyone should be pushing for safety, but there was no way to find out what the problem was that was supposed to be fixed.

Michael Katz, Santa Maria, said he understood there had been a chance to comment on the draft map. But, that map was fine and didn't show any red. He believed that this would cause major issues to the owners in the designated areas in terms of fire insurance, brush clearance, etc. He had 10 feet of land on each side of his house. A clearance zone of 100 feet would put him into his neighbor's neighbor's lot. That was unrealistic in terms of the way the land was set up. This map could not be approved when the comments about eucalyptus and chaparral were not understood. You couldn't tell from the map whether the eucalyptus that Family Farm got rid of was part of the area designated red. You couldn't figure out where the roads were from the low resolution. In Woodside Highlands, residents had been very active in terms of CERPP and fire and earthquake safety. Residents would welcome the opportunity to mitigate the circumstances further. That was the path that should be taken. Adopting Chapter 7A for the whole Town might also be the right thing to do. But, singling out an area and causing all sorts of problems for the people who were living there--who were eager to solve the problem--was going in the wrong direction. He strongly encouraged the Council to reject this map, request an explanation from Cal Fire, and request that Woodside Fire work with the Town and Woodside Highlands Improvement Club to: a) find ways of further mitigating the possibility of damages; and b) work forward on a positive note rather than accepting a map that was somewhat arbitrary and something that no one could explain.

Harry Doshier, Santa Maria, said he was not familiar with Chapter 7A. But, State code Section 51182 required a 100' defensible perimeter. It required that fuel be mitigated within 100' of your structure such that an average fire would be unlikely to ignite grass. Violation of that section was a criminal misdemeanor. The Town Attorney said upon substantial showing of evidence, an area could be excluded from Chapter 7A or 51182. The Moritz report found that this area was not very high, and Cal Fire had not been able to enunciate any rationale why this should be very high other than the fact that it was next to Woodside and embers might blow here. Secondly, he would like to know what that community would have to show to convince the Council to exclude the residents from that section. Additionally, it was his understanding that this map did not comport with the requirements of the State law in that it had not been provided pursuant to the code under which it was meant to be delivered. If that was the case, than this could not be the final map, and the Town did not have to accept it. Responding to Mr. Doshier, Ms. Sloan said the map was final. Noting that Mr. Doshier had sent an e-mail earlier today, she said Section 51178 originally had sections (b)

and (c) in it that set forth particular dates when Cal Fire had to give their maps to the Town in 1995 and 1996. Section 51179 said within 120 days of receiving the map pursuant to sections (b) and (c); (b) and (c) had these old dates. Mr. Doshier felt that since Cal Fire didn't meet those dates, then the Town didn't have to comply with the 120-day deadline. Section 51178 was amended as of January 1, 2009. Those dates were taken out because the legislature realized that it was obsolete. Instead, there was a new section that said Cal Fire shall identify the areas and didn't have any specific dates. However, Section 51179 didn't correct the references to (b) and (c). Now there was no (b) and (c). This happened from time to time when the State amended their laws. She did not think that the fact that (b) and (c) disappeared in any way meant that the Town didn't have to respond within 120 days. Responding to Mr. Doshier, she said Section 51182 said that you had to clear within 30 feet of an occupied structure or to the property line, whichever was nearer. If there was just 10 feet to the property line, you just had to clear to ten feet; if it went up to 30 feet, you had to clear up to 30 feet. You had to clear within 100 feet of your occupied dwelling or to the property line if required by local ordinance. The general rule was 30 feet or the property line.

Virginia Bacon, Golden Oak Dr., said the Woodside Fire Dept. talked to the staff of the Town, but there was no interaction with the residents. She encouraged the Woodside Fire Dept. to plan some meetings with the neighbors in these different areas to talk about mitigation of fire danger. That would go a long way because people would like to help; no one wanted a fire in the community. Additionally, some people had suggested that Chapter 7A be applied throughout the Town. She was opposed to that because it was premature. The guidelines for Chapter 7A hadn't been developed yet, and residents didn't know what they meant and what these materials were. The Town should go slowly with this and wait and see what happened. As it was appropriate, the Town could adopt some of the provisions of Chapter 7A throughout the Town.

Bridger Mitchell, Hayfields Rd., was troubled by the lack of transparency of the criteria used to reach this requirement by the State authority. He urged the Council to further solicit the Town's fire consultant's comments on the outcome of this process. There appeared to be strong divergences of his recommendations and scientific judgment and the Woodside Fire District's recommendation and the quasi-final map that Cal Fire had adopted. There seemed to be quite different criteria. The Fire Chief indicated slope, types of fuel and ember propagation. He understood that the Moritz report included all those criteria in its evaluation and did not reach a recommendation of very high hazard for any of the Portola Valley area. He also questioned why the Town Center was not in the same category as the adjacent church. They were exposed to essentially the same degree of hazard.

John Boyce commented. *[Inaudible]*

Jon Silver *[inaudible]* said he was not personally affected by this and hadn't studied the details. He said it was too bad Steve Toben was not allowed to participate as a Councilmember. He hoped his colleagues would follow up on his ideas.

Ralph Townsend, Tynan Way, said he was impressed with the community involvement in this issue. He encouraged the Council to do everything possible to defer any action on this. It was clear that there was a great deal of mystery about this. His bottom line was to take advantage of a heavily involved community to mitigate situations that the Fire Chief was unhappy with and make things better. There was a big fire a few years ago on Russell Ave., and the discovery was made that a fire hydrant wasn't working properly. Following that, it was made clear that a fire truck would not be allowed to cross the park property between Hayfields and Russell because it might get stuck in the mud. The Town had it graveled so that now any vehicle—including a fire truck—could cross that. Steps like that would serve to make things better. He hoped that the Council would work for a solution, which included resolution by democracy and not bureaucracy.

Town Planner Mader clarified that the Moritz map, which would be presented later to the community, was a mapping of the vegetation and flammability of the vegetation in the Town. It was based on many of the

same factors the State used. Its categories, however, went from high to low, and it was a rating system. The terminology the State used (e.g., “very high fire hazard”) was not present in the Moritz map. That didn’t mean there weren’t some very dangerous areas in the Town. There were a number of areas that were at the high rating, such as certain canyons. The terminology was different, but that didn’t mean that he didn’t share some of the concerns. The Moritz map was for the benefit of everyone in the community.

Richard Crevelt, said there would probably be a bigger turnout of community if the State map could be amended to incorporate more areas. The Moritz map might be more “fuel for the fire” for a much bigger area in Portola Valley. Responding, Town Planner Mader said he thought it would affect more people and rightly so based on the analysis that had been done.

Responding to Councilmember Driscoll, Ms. Sloan said she did not know what the penalty would be if the Town did not adopt the map within 120 days. There was nothing in the law itself that said what the penalty of not adopting the map was. The question had been asked of Cal Fire, but there had been no response. The purpose of these fire maps was to have the Town apply Chapter 7A in the zones. The purpose was not to tamper with anyone’s insurance or anything else but to say that in these zones, new construction and landscaping should be a different quality.

Councilmember Driscoll said no action was required until April 15, and there was no reason to proceed tonight. There were a lot of outstanding questions about this map and lack of appeal process that needed to be answered. In August during the presentation from Ray Moritz, he had commented that the focus should be on what actions the Town should be taking to minimize fire damage and fire risk. He didn’t want to have a bureaucratic argument with a State agency that didn’t care about the Town and/or insurance regulators that would probably use their own maps. He wanted to focus on whether Chapter 7A was the right answer or not, and what kinds of steps the Town should pro-actively be taking to address the fire risk in cooperation with the Woodside Fire Protection District and their larger resources. He didn’t want to proceed with this map until some of these questions had been answered.

Councilmember Derwin said she sympathized with the residents’ concerns. She presided over the hearing on this subject last year and was very frustrated over the process with the Fire District. While there was communication between the Fire District and the Town, Cal Fire was like the Wizard of Oz who was behind the wall. She was extremely uncomfortable with the map and very unhappy with the process. She agreed that the Town deserved a rationale for the designated area, but she did not know how that could be obtained from an entity that didn’t speak to the Town. She thought the effort should continue. As for Chapter 7A, she did not know a great deal about it. But, if some residents had to live under Chapter 7A, perhaps everyone should look into living under Chapter 7A. There were some very good aspects. She also liked Ms. Lambert’s suggestion of bringing that community together and working to mitigate the fire danger and perhaps going back and getting a different designation. These residents could be models for other communities and neighborhoods like Westridge, which had a very high fire danger. She felt the Moritz map would help residents because it would allow people to look at their property and see what kind of fuels were there and what sort of mitigation should be used. She wanted to defer adopting the map, pursue Chapter 7A and go forward with Ms. Lambert’s suggestion. She also agreed with Steve Toben that the Fire District and the Town should marshal as many resources as possible to help the residents of Hayfields, Santa Maria and Wayside to deal with this issue.

Councilmember Merk said the Town should wait at least until April 15 and probably longer to adopt this, if it was adopted at all. He was very uncomfortable with the idea of adopting what was proposed. In terms of Chapter 7A, it was in everyone’s interest to construct any new building under Chapter 7A because it protected your home from fire. If 7A was adopted, it should be for the entire Town—not just any part of the Town. He had some real questions for Cal Fire, and he was very concerned that the Town didn’t seem to be getting any answers from them. With all these different maps, they came up with something that was completely different from Moritz’s map, completely different from the Woodside Fire District’s map, and only

included this one part of Town. Up the hill on El Mirador was not that different than it was in Woodside Highlands. He wanted to know what Cal Fire would do if a community stepped in and changed the conditions. It was incumbent upon the Town to dig in its heels on this and say, "No, this isn't right. We need to re-look at this." There needed to be an appeal process or something. It might be that each and everyone would have to write the Assemblyman and Senator to get something like this to happen. He also wanted to find out how far the Town could go in terms of exemptions if the map couldn't be changed. In looking at 7A, he thought it was very important to come up with a definition of what a new building was. There were definitions that sort of fit this, such as 50% of the value of a structure. When the code had to be enforced needed to be looked at and adopted into a Chapter 7A provision.

Mayor Wengert agreed there was no compelling reason to accept this map tonight. Many more questions had been raised in terms of Cal Fire. With respect to the Moritz map, she said it was an effort on the part of the Town to come up with a most comprehensive and detailed analysis of the fire risk for every parcel in Town. It would be tremendously usable and valuable to the community. It had been commissioned to serve as: a) the linchpin and centerpiece for helping residents develop specific strategies for their properties; and b) a framework for developing an entire program that was reliant on cooperation with the Fire District, the Town and the residents. This State mapping exercise almost took the Town away from what it had been working to do for a long time; a number of resources had to be allocated in an attempt to resolve some of these issues. A very big partner for the Town was the Fire District. She wanted to work with them in a very cooperative fashion going forward because the Town would need their help—whether you lived in the Highlands or anywhere else in Town. Everyone faced the same issues, and it would be attendant upon everyone to work together to come up with a plan that worked for the entire Town, including defining new buildings and looking carefully at Chapter 7A. It might be to the greatest benefit to the community to adopt it for the entire community. Everyone was trying to improve fire safety wherever they lived. She encouraged the residents to stay as active as possible when this moved into the broader community. The Moritz map was completed now and the Town could adopt it and use it in the way always envisioned. She supported defining "new buildings," looking carefully at 7A, and at the same time, continuing to try to work with Cal Fire to get some more rationale and explore alternatives or consequences if the Town decided to turn down the map. She was not prepared to vote to accept the map tonight.

Councilmember Driscoll said a number of questions had been clearly identified that staff should try to get answers on. Given the controversy of the subject, he suggested inviting a representative from Cal Fire to attend the Council meeting when it was next discussed. He also wanted the staff to begin to outline some kind of program to pro-actively go out and address the actual fire hazard in conjunction with Woodside Fire Protection District. He wanted to spend less time sparring with bureaucrats and more time focusing on the issue. He would also like to move forward with a discussion of Chapter 7A. Ms. Sloan reiterated that Cal Fire's goal was to have Chapter 7A apply rather than any label apply. She felt it would go a long way with Cal Fire if the Town moved forward with Chapter 7A.

Responding to Mayor Wengert, Town Planner Mader said Mr. Moritz's map was completed as was the report. Next steps included actions the Town might need to take, informing the community of the map, and informing the community of the mitigation measures that were recommended. Mr. Moritz had very accurately identified the fire hazards from vegetation. It was useful information, and residents could use it in a positive sense to increase safety.

Jon Silver suggested that the Council avail itself of the assistance of the State senator and State assembly member. Joe Simitian represented the unincorporated areas. and it might be worthwhile talking to him. As a last resort, the Town could go to the legislators for a bill to correct the flaw in the law.

Councilmember Toben rejoined the dais.

(8) Notice of Completion for Town Center Phase II and Sausal Creek Daylighting Projects [10:15 p.m.]
[Items reordered on agenda]

Mr. Young reviewed the staff report of 2/25/09 and recommendation to authorize the Town Manager to direct the filing of notices of completion as it was determined contract work had been fully completed and accepted for the Town Center and creek daylighting projects. Referring to Exhibit A and the list of contractors, he said he would like to remove item #22 because work on the tennis courts had been delayed due to weather. Other than that, all the contractors were substantially complete. Responding to Councilmember Merk, he said "substantial completion" was when most of the work was done, and there was only punch list work left. When it was "substantially complete," the punch list was released. Responding to Councilmember Driscoll, he agreed that item #22 could be included with the understanding that action would be taken on it later. He withdrew his suggestion to delete Item #22. Responding to Councilmember Merk, he said the resolution only applied to formally bid projects. The old lights and a number of things would be taken care of in time.

Councilmember Driscoll moved approval of Resolution No. 2434-2009 Authorizing the Town Manger to Direct the Filing of Notices of Completion as It is Determined Contract Work Has Been Fully Completed. Mayor Wengert seconded, and the motion carried 5-0.

(7) Discussion of Draft Noise Ordinance [10:20 p.m.] *[Items reordered on agenda]*

Town Planner Mader reviewed the staff report of 2/19/09 on the draft noise ordinance. Referring to the ordinance, he discussed: a) noise standards; b) permitted sources of noise; and c) noise concerns not addressed in the ordinance as set forth in his second memo of 2/19/09. On leaf blowers, he said leaf blowers were now being made that did not exceed 65 dB, which was considered the maximum acceptable level in residential areas. They were not quite as powerful as the commercial ones and were a little heavier due to noise insulation. It might be possible to establish a maximum noise level for leaf blowers. He reviewed suggestions to address the barking dog problem as set forth in the second 2/19/09 memo. Responding to Mayor Wengert, he confirmed that those items in the second 2/19/09 memo were not included in the ordinance. The memo provided some options that staff might investigate further.

Councilmember Driscoll said it was hard to come up with an ordinance that dealt with everything from leaf blowers to insidious noises that only some people could hear. He asked how the ordinance would help those people who were complaining about the noise coming from the private hockey rink. Ms. Sloan said the definition of noise covered annoying noise, and the noise standards section made it unlawful to create any noise that exceeded the levels in the table. Councilmember Driscoll said the ordinance needed to provide a clear process for identifying the problem and addressing it. Responding to Ms. Sloan, Town Planner Mader said it would not be a big expense for the Town to have a decibel meter that people could use. With respect to barking dogs, it would be easy to provide a recording device. There were a number of ways to implement the rules. The Town would not go out with a decibel meter and check noise levels. If a neighbor felt the noise level was being exceeded, he would need to measure the noise level and bring a complaint to the Town. In CUPs, the Town might require periodic reporting on noise. The second 2/19/09 memo also addressed single incidents, which the ordinance was not designed to address. A culture of courtesy with respect to noises was important to the Town.

Responding to Mayor Wengert, Town Planner Mader said noise contours were required by the State in the Noise Element, and those had been included. Ms. Sloan noted that while the Town Planner was working on the Noise Element, there were several complaints about construction noise. The Town decided to look at a noise ordinance as well. Town Planner Mader pointed out that for construction, the hours were limited but not the amount of noise. Someone could use a jackhammer or a nail gun, but it had to be within certain hours.

Referring to Table 9.10-1, note d), Councilmember Merk said people shouldn't be required to measure noise at the property line. If a property line was at the bottom of a canyon, the noise coming from the opposite side and on top of the canyon probably couldn't be heard at the bottom. Town Planner Mader said the noise consultant agreed, and the prior wording addressed the concern. But, staff felt that wording was confusing and difficult to administer. Councilmember Merk suggested measuring from "any point on the receptor's property." Ms. Sloan suggested "...on the property line or any place else where the receptor hears it."

Councilmember Merk asked if the numbers shown in the table had been established for cities where background noise levels were 10 times higher than in Portola Valley. Responding Town Planner Mader said the table in the Noise Element had a threshold for residential areas during the daytime of 55 dBA, which was standard. He told the noise consultant that the Town needed a lower threshold, and the number was reduced to 50 dBA.

Responding to Councilmember Derwin, Town Planner Mader confirmed that residents could do construction activities on Sunday after 9 a.m. He noted that he had recommended that power equipment used on a Sunday be used only indoors, but residents did not agree. Councilmember Toben said this spoke to the issue of relationships between neighbors. The thoughtful homeowner would realize that using a jackhammer would disturb neighbors. Neighbors needed to work together to minimize disturbance. That seemed to be a better pathway than trying to regulate in rigid terms when people could make that kind of noise. Town Planner Mader added that one of the irritants on weekends was leaf blowers. He wanted to look more into the possibility of establishing a maximum dB that would control leaf blowers.

Referring to the second 2/19/09 memo, Councilmember Derwin asked if existing pool pumps would be grandfathered in or have to have some sort of soundproofing. Town Planner Mader said some noise baffling or berming shouldn't be too difficult to do. While there might be a grace period, he felt that might be appropriate. It would need to be discussed with the Town Attorney. There might be cases where the pool pump was poorly located. If it was addressed at the design stage, there were more options.

Town Planner Mader said the Town's noise consultant had done a baseline noise study at The Sequoias. He was now ready to go out beyond The Sequoias to residential properties nearby to find out what the baseline noise levels were and try to identify noises that were of concern. The Sequoias would then have their consultant work on trying to reduce noise levels with equipment changes, etc. He hoped this would lead to solving some of the ongoing problems. Also, The Sequoias hired two consultants to analyze the proposed transformers that would be put in at the back of the property to ensure it was acceptable to the residents.

Mayor Wengert asked for public comment.

Bernie Bayuk said there would not be one quiet day a week. That was uncivilized. Councilmember Toben said there had been a lot of dialog in the workshops about weekend projects. A number of people who worked full time, wanted to do minor home improvement projects on weekends, or were weekend hobbyists, felt they should be allowed to work on their property on Sunday. By and large, the weight of the opinion was that it would be inappropriate for the Town to legislate work days and non-work days for the sake of trying to create quiet. People were entitled to peaceable enjoyment of their property, and their neighbor should recognize that. The neighbor who wanted to do a home improvement project ought to be able to come to you in the spirit of good faith and ask when it would be convenient to work on his project. There seemed to be competing demands on people's time and different priorities for when they wanted to enjoy their house for different purposes. Mr. Bayuk said to accommodate some small minority, the vast number of residents would be inconvenienced. If a neighbor came to him, he would say, "Not on Sunday." That was a day of reflection. It was not appropriate to assume that a good neighbor would agree. He objected to this kind of logic. Councilmember Toben said the workshops were not a closed process; they were advertised as open

community gatherings where anyone could come. They were publicized heavily with the intent of soliciting public input. There were e-mails sent to Town Hall, and there was a good amount of input. There was a lot of concern about trying to restrict people in the enjoyment of their home improvement, yard maintenance, hobby activities, etc.

Virginia Bacon said she was concerned about the timeframes for domestic gardeners. During the fire season, when it was time to cut the grass, people should be allowed to weed whack their tall grasses and reduce the fire hazard late in the day. You could cause a fire if you did it in the middle of the day. There needed to be some accommodation for weed whacking and to allow people to do it until dusk to eliminate a fire hazard.

Ed Wells, Navanja, said his concern was about barking dogs. He attended Councilmember Toben's meeting on that, and he thought it was very productive. After reviewing the material available in the technical report, draft ordinance and Noise Element, he said he supported the Noise Element and the noise ordinance draft. Describing his experience having lived here for 40 years, he felt he was an expert on barking dogs and interviews with barking dog owners. The materials presented were pretty adequate and contained many descriptions of barking dog noise like annoying, very annoying, intrusive, persistent, fluctuating, highly variable amplitude and duration, sleep depriving, and as coming from a specific location. Recordings of barking dogs did not need to be brought in. The concept of the quiet neighbor program was a winner with local contact rather than police enforcement. It was a very good beginning to look at. He could not remember reading anything on the subject that addressed barking dogs in Town. All of his neighbors with barking dogs knew that the noise was a problem for him. His interviews over the years had had varying results. He proposed to bring the barking dog noise into a category of its own for the committee to work on and help the Town administer the complaint problem. It was not in the usual sense an animal noise. The owner viewed the dog as a member of the family. Unlike any other noise category, the neighbor's problems were minor compared with what to do about the dog. The dog owner was sort of helpless. The concept expressed in the ordinance let the Town begin to outline reasonable guidelines to define and identify serial barkers. The Town could provide assistance to dog owners with training information and equipment, which could be checked out on a temporary basis. If you wanted to try any of those devices that needed to be within 50' of the dog to get it to learn not to bark, you had to have the approval of the dog owner to put it on their property. The Town could do that through the committee. Most importantly, he felt quiet contact with the owner would get some response and provide a sense of urgency for the owner to do something with and for the dog and for the neighbors. He felt it should be treated as a separate item and not treated miscellaneously throughout the document.

Councilmember Toben said the protocol for assisting with barking dogs could be made much more robust than what was presented in the staff report. He agreed with the concept that the Town ought to be able to have a really energetic response mechanism that got relief to residents very quickly; the Town might provide specific language they could use in approaching an offending dog owner. Many of the people who attended the workshops were there because their lives had been made miserable by dogs in this community. He thought the issue should be dealt with in a more concrete and detailed way.

Joan Leighton, Willowbrook Dr., said she attended the first workshop. She recalled that there really was no conclusion and that there were strong statements made in equal number on the part of those who wished to jackhammer on Sunday afternoon and those who were pleading for quiet at least one day of the week. When she received a copy of the notes from that meeting, she had the same reaction. She questioned whether she misheard or should have gone to the second workshop where she would have heard something totally different. She didn't know how it got from what she remembered to what was proposed on page 3 of the staff report.

Clair Jernick, Grove, said she went to the first workshop. She also did not remember it the way it was written up. She did not think you could extrapolate from two small meetings what the rest of the population

wanted. That was bad statistics. She would love to have Sundays quiet. It also depended on where you lived. She was surrounded by leaf blowers. They used the machines all day and every day of the week. If the Town designated one day, that would alleviate that problem.

Responding to Ms. Jernick, Town Planner Mader said The Sequoias was cooperating to reduce the noise levels there. It was his understanding that they intended to address the problem. The solution was not known at this time, and that would be coming back to the Planning Commission. Anyone who had been affected by The Sequoias needed to be kept informed, and Ms. Lambert would notice people. There was no discussion of grandfathering their level of noise that he was aware of. Ms. Lambert added that The Sequoias had a use permit that the Town reviewed. Even if the ordinance was adopted, they would not be allowed to continue with a noise issue.

Ted Walker, Grove Dr., said he went to both of the workshops. He felt the first was a little bit more balanced on both sides. The second meeting was heavily weighted with the people who were concerned about losing their right to use power tools on weekends or have a gardener come in for a Saturday project. He worked a lot of hours and didn't want to skimp on that in order to come home on a Saturday because that was the only time he could work. He had neighbors who had functions on a Saturday, and he would like to be able to choose to not use his power tools when they were having a function and do it on Sunday instead. If he didn't have a choice, he would have to do it on Saturday. He liked the rules, which were basically the way they were now. He did not think there were a lot of people who used jackhammers on Sundays. He supported banning leaf blowers or leaf blowers that had a certain decibel rating. He agreed that measurement should be made from anywhere on the property. But, he didn't want to live in a community where he didn't have the right to be a good neighbor. He wanted to be able to cut a branch off a tree that blew off in a storm on Sunday.

Jon Silver said if the majority of people wanted a quiet Saturday or Sunday, he would not have a problem with that. But, having attended the second workshop, he sensed a strong contingent of people who didn't want to be regulated into a mandatory weekend with quiet. Having heard the strong feelings tonight, he thought it might be good to tune up the rest of the ordinance but have a survey or advisory vote and ask the community's opinion. If it came back that 70% wanted a quiet day, maybe the other 30% would be willing to live with that. If it was 30% to 60%, maybe it shouldn't be pursued. Additionally, he would love to ban gas-powered leaf blowers, but he would like to hear what 65 dB sounded like compared to what he was used to hearing. At a minimum, the Town should strongly consider having a maximum dB allowed for leaf blowers with some kind of grace period for those that were louder. On home generators, he said it was not enough to require that they be equipped with mufflers appropriate to the type of generator. Even a chain saw had a muffler appropriate to chain saws. There were good quality home generators that had mufflers that made them barely audible. The Town needed to do some research to find out how many decibels those were and put it in the ordinance that generators could not be more than "x" decibels. With respect to traffic noise, if traffic noise was defined as noise from a pack of motorcycles going through on a Saturday, that should not be the threshold. Responding, Town Planner Mader said these were average traffic noise levels as measured on the noise contours. Additionally, repaving a street and making it quieter would reduce the traffic noise. Or, if everyone drove electric, you wouldn't hear anything. What was in the ordinance was the standard provision that noise consultants used. At the moment, it was probably okay but it might need to be changed in the future.

Laura Chase, Stonegate, said the traffic volume changed dramatically during the day such as pick-up and drop-off times at schools or when construction trucks came into Town in the morning. She would hate to see a standard set based on high traffic noise that other noise could come up to. Additionally, she was concerned about where to measure the impact of noise on a person's property. Part of the ordinance should be reworded to address the fact that on particular properties, the noise level where you used the property the most or where you had your decks was higher and directly opposite the noise generating property. That was where it should be measured from. If you went down to the property line, you couldn't

hear the noise that could be heard from a higher deck. She agreed that the prior wording wasn't exactly right, but better wording should be found for properties that were affected by slopes and valleys.

Councilmember Toben said he was pleased generally with the direction the ordinance had moved in since the beginning. He respected the fact that some people had different views about this. It could be looked at in a couple of ways. First, the notion of keeping a single day quiet was an honorable ideal. But, to do that, the Town would have to adopt a regulation that needed to be enforceable. It would curtail activity that could be viewed as healthy activity on the part of homeowners who wanted to improve their property, cleanup their yard or conduct hobbies with their kids. Having heard the input, he came down on the side of trying to cultivate the notion that we need to foster neighborly relations rather than trying to regulate hours. He hadn't figured out the magic formula for doing that, but he didn't think enough effort had been made to foster that kind of communication. He was persuaded that permitting appropriate activity related to property on weekends was not a bad thing. The dog issue needed more attention. He was not unsympathetic to Ms. Bacon's comment about the possibility of longer hours during the summer—particularly if you were cleaning up your fire hazard. Rather than dusk, it might be changed to 7 p.m. He was inclined to think about a prohibition on leaf blowers on Sunday as a compromise position. Leaf blowers were a particular irritant in the workshops. He was excited to hear that there was some technology advance on that and that a 65-decibel standard might solve the problem if people were using leaf blowers on the weekend. He also agreed with comments about where the noise was measured from and felt it should be addressed.

Councilmember Merk said he was not convinced by the paragraph at the bottom of page 2 of the staff memo about people being confused by different times and was very disappointed to see people being able to work later on weekends. He had all these tools and used them on his house, which required constant work. But, he didn't use any power tools on Sunday, didn't start work before 10 a.m. on Saturday, and stopped at 5 p.m. for the convenience of his neighbors. He was not unduly burdened by that. Allowing something to happen on both days was important, but he didn't think it needed to be the same hours. He did not want to be awakened at 8 or 8:30 on Saturday or Sunday morning by his neighbor starting a chain saw or hammering on their roof. Everyone deserved the opportunity to have some peace and quiet once in awhile—at least on holidays. He had a problem with Saturday and Sunday being from 9:00 a.m. to 5:30 p.m. He could live with 9:00 a.m. but felt that it should stop earlier. People should be able to sit down on a Saturday or Sunday afternoon out of doors and not have the next-door neighbor's gardener blowing leaves, making a cloud of dust, and destroying the wonderful ambience that everyone enjoyed who lived here. The weekend hours needed to be shorter, and he was not at all convinced that the Town should allow residential personal construction and garden work on legal holidays. The Town had already legislated when people could work on the weekends and holidays, and it was not as if some new restriction was being imposed. He was impressed with Mr. Wells's suggestions about barking dogs and felt it should be looked into further. In the City of Citrus Heights, after the third verified complaint, the owner of the dog was required to have the dog de-barked. He wasn't suggesting that, but that was the way one community dealt with barking dogs. On leaf blowers, some electric blowers were as obnoxious as some gas blowers. But, the difference between an electric chain saw and a gas chain saw was huge. It was worth looking into the different decibel levels of different kinds of tools and address those in general categories. In terms of leaf blowers generally, if the mow and blow gardeners weren't controlled, then leaf blowers wouldn't be controlled. Most of the gardeners that worked in Town didn't have business licenses in Town or contractor licenses. They wouldn't pay any attention to the Town's rules about the noise their blowers made. In most instances, the owners of the property weren't there when the gardeners were there. In terms of traffic noise, he shared the concern about traffic noise that was higher and other noises being allowed to come up to that level. He wanted to look at that in a more detailed way to see if there wasn't a better way to address that.

Councilmember Driscoll said there was a difference between noise created by someone on a Sunday refinishing a piece of cabinetry and a leaf blower that was used every week. A skill saw made more noise than a leaf blower, but it was not used every week. He thought the Town should be pretty strict on repetitive noise in the ordinance. He was more comfortable with a little more reliance on common courtesy on the

issue of episodic or one-time use of a power tool. The variety of the comments that had been made were good, and barking dogs were bad. The problem with barking dogs was that both sides could make an emotional appeal and sound very reasonable.

Councilmember Derwin said she was sympathetic with concerns about noise on Sundays but understood Councilmember Toben's argument. Perhaps exempting holidays would be a compromise, or prohibiting leaf blowers on Sunday. She would like to see something done to keep a weekend day, such as Sunday, or a holiday quiet. There were a lot of people in Town who would appreciate that. With respect to the property measurement issue, that needed to be worked on. As drafted, it wouldn't work on her property. She also liked Councilmember Merk's idea about the decibel levels of the different types of tools.

Mayor Wengert said she was persuaded that it would best serve the community to have fewer restrictions that completely limited activities. In the end, it should all be about good neighbors. She was much more inclined not to have any regulations, but that was no longer possible. She suggested doing the minimal amount with the objective of serving the greatest good. She liked the suggestion about limiting power tools on holidays. It was harder to justify taking a Sunday and saying it would not be a day when you could work even if it might suit your schedule. She was persuaded that holidays were a time when the majority of people were celebrating in some form and families were together. With respect to leaf blowers, she agreed it was a problem, and she was willing to consider some further restrictions on that. She was a little loathe to look at specific tools because it could get overly complicated and overly regulatory. On the barking dogs issue, she felt strongly that it should be something that could be worked out. But, she recognized that there were some extreme situations and that there should be some mechanism in place for dealing with those.

Town Planner Mader said the discussion had been very helpful. Clearly, liberalizing where measurements were made on properties was a good point. Additionally, the provision in 9.10.050 D (p. 6) would be difficult to administer. It gave a sense of direction, but it would be difficult. The retro-activism regarding pool pumps and air conditioning units also needed to be addressed. Ms. Bacon's comment about working later was a very good point. Everyone seemed to agree on barking dogs. With respect to leaf blowers, the sense of limiting the decibels seemed acceptable. Staff could look more into the mufflers on home generators, but it was a difficult subject to get a good handle on; there was a wide variety. With respect to the traffic noise question, the provision in the draft was what the noise consultant recommended. He was not convinced it was the best thing. Along noisy road corridors, you might want to consider having a normal noise standard imposed and not allow increased noise up to the level of the traffic. Traffic noise was an average noise, which went up and down. That might be worth looking at again. To the question of liberalization on days, that was a Council decision. If the Council considered ruling out Saturday or Sunday or both, that was a politically hot potato given the difference of opinions. Taking a drastic action to curtail those would be very difficult to live with. Limiting it to holidays might be appropriate. With respect to hours, he attempted to have consistency of hours just for ease of application and understanding. If the Council wanted to start at 10:00 a.m. on Saturdays and Sundays or 10 on Sunday, that was an easy adjustment, but some people might not like that. Staff could come back with some options. Councilmember Driscoll said Town Planner Mader captured the various issues and items. He suggested referring it to the Planning Commission with Council's comments. This document seemed to get better each time it was discussed, and the Council could benefit from a fresh set of eyes. Responding to Councilmember Driscoll, Ms. Sloan said this technically did not have to go to the Planning Commission because it was not a zoning ordinance.

Councilmember Toben said he did not support referring it back to the Planning Commission. There had been a lot of community input, and he did not want the Planning Commission to have to start from square one. Town Planner Mader said planning staff could come back to the Council with some options on the items that had been identified. Councilmember Driscoll said he would like to see the specific words as opposed to general concepts.

Councilmember Toben said he and Councilmember Merk supported banning all leaf blowers on Sundays, and he would like to see that as one option. Councilmembers Driscoll and Derwin concurred. Mayor Wengert said she would consider it.

After discussion, Ms. Howard said staff would bring back the draft ordinance. In those areas where there was no consensus, some options would be presented.

(5) Adoption of Revised Advisory Committee Handbook [11:45 p.m.] [Removed from Consent Agenda. Continued discussion from earlier in the meeting. Agenda items re-ordered]

Councilmember Driscoll suggested that the revised handbook be sent to all the committees. If it was just approved tonight, he did not think that 80% of the committee members would read it. If they were asked to discuss it and provide comments, they might all read it. Mayor Wengert said the panel spent an enormous amount of time with all the Chairs of all the committees. There had been broad representation in that group. She did not see the need to send it to the committees. The document took a lot of time and a lot of thought and a lot of effort. Ms. Howard said one of the purposes of the annual meeting would be to introduce the document to all the Chairs and interested committee members. It would be walked through page by page if necessary. There were some issues that needed to be addressed, and she thought this was a tool that would get things started down that road. Like everything else, if it needed to come back because there was a problem, that would be done. A lot of work had gone into it, and she was concerned that it could be six months before it could be brought back.

Mayor Wengert said Councilmember Merk had made the point about vesting too much power in the mayor. The intention was not to vest power anywhere. The intention was to come up with a process where you could deal with sensitive issues that generally revolved around people issues. The first step in the process to address a problem area was the committee Chair who could then go to the committee liaison. Those two working together could hopefully come up with a solution for whatever the problem was at the individual level. If and only if there was disagreement on an issue with a heightened sensitivity, then the mayor became involved, and he/she would bring in whatever resources were needed to help solve the problem.

Councilmember Merk said he did not think it should be the mayor. It should be the Council. If the liaison and the committee Chair couldn't figure it out, then it should come to the Council. It could be in a closed session if necessary. Farming the document out to the committees was the only way to get it read by every committee member. It could be done in one month. The committees could call special meetings with this on the agenda. The committees could be told to have this back in one month.

Ms. Sloan noted that the Council could not have a closed session under "Personnel" for any volunteer committee appointees or members of the ASCC or Planning Commission. A "Personnel" closed session was used for employees.

Mayor Wengert said the issue was whether to move forward on the document that had been given a tremendous amount of time, effort and thought. There would be certain individuals on the committees who would read it, and others wouldn't. The review with the committee Chair could be expanded to all committee members who were interested in attending—it was not intended to be exclusionary. The key as well was to set the objectives for the committees. There were problems now, and it needed to function better. The panel took a very nonpartisan, multi-input approach with staff, Council and all others to come up with what was thought to be the best process. She encouraged the Council to adopt it as edited.

Councilmembers discussed: 1) sending the handbook back to the committees for review and input; 2) opening up everything in the document for committee review; 3) limiting committees to nine; 4) size requirements of different committees; 5) tradition of giving everyone an opportunity to comment; 6) encouraging new volunteers and fostering volunteerism; 7) long-term committee Chairs; 8) efficiency versus

democracy; 9) deadline for review by committees; 10) interference with budget process; 11) positive response to the document; 12) amount of changes that might be proposed; and 13) adopting the document provisionally for 90 days with Council review the first meeting in June.

Mayor Wengert said she had not heard anyone asking for more input besides Jon Silver. Councilmember Merk said he brought up three areas that he felt should be amended: a) Robert's Rules; b) the 9-member limit; and c) the mayor's duties.

Jon Silver said the panel's meetings weren't noticed like an ad hoc committee. He first became aware of this at the last Council meeting when it was on the agenda. He came up with a few constructive suggestions after the Council had discussed it. Under Town Governance (p. ii), he wanted to add the following to the first paragraph: "Under State law, Portola Valley is required to conduct its governance in an open and ethical manner. In addition to the requirements of the law, it has always been Town policy to so conduct its governance; the Town of Portola Valley strives to meet or exceed the legal mandates in this regard." That let people know that even if the Brown Act and conflict of interest rules disappeared tomorrow, the Town would still have its government. He wanted to have the time Thursday or Friday to type up the rest of his suggestions and e-mail them to the Town Manager so that they could be included in a redline/strike out version of the handbook. He had some ideas that would further what the panel did. If there were things that needed to be implemented this fiscal year, those could be relayed to the committees through the liaisons on an informal basis. Additionally, he questioned whether the Council really wanted the mayor to waive the residence requirement to serve on a Town committee rather than the Council.

Responding to Councilmember Derwin, Councilmember Merk said the role of the mayor came up in a number of places in the document: a) membership qualifications (p. 1); b) Role of the Chair (p. 4); c) Removal (p. 2), etc. Responding to Councilmember Derwin, Mayor Wengert confirmed that that language was in the old version and had not been changed by the panel. Ms. Sloan noted that when committee members were appointed, the rest of the Council concurred. When she read these sections, she assumed that the mayor's action needed concurrence. She suggested just adding a footnote indicating that the action needed concurrence of the Council. Responding to Councilmember Derwin, Mayor Wengert said if the Council did not concur, it would not happen. She added that there was no intention to have the mayor make unilateral decisions. Responding to Ms. Sloan, she agreed that a revocation of a removal should also require Council's concurrence.

Jon Silver reiterated that he had some wording changes. If the document was going to be provisionally adopted, he wanted to go through the pages and make his suggestions. Mayor Wengert asked him to submit his suggestions in writing.

After discussion, Councilmember Merk moved to continue the item to the next meeting. Councilmember Derwin seconded, and the motion carried 4-1 (Wengert). Ms. Sloan suggested that changes be submitted to the Asst. Town Manager. Ms. McDougall suggested reconvening the panel and reviewing the changes in a public forum. That group put in a lot of time, and there had been a lot of debate. Councilmember Merk suggested noticing the panel of the time that this would be taken up by the Council. Otherwise, it would take even longer. Mayor Wengert concurred.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(9) Status of Town Center Project [12:20 a.m.]

Ms. Howard said the guardrails were up, and the fence would be up for another month. Lighting issues were still being worked on. Councilmember Driscoll said the old chain link fence around the site would be removed next week. There might be an issue with the uphill neighbor.

(10) Reports from Commission and Committee Liaisons [12:21 a.m.]

(a) C/CAG

Councilmember Derwin said there was a lengthy discussion and vote to fill two openings on the Congestion Management and Environmental Quality (CMEQ) Committee. The group also reviewed a list of projects for local streets and roads in preparation for the stimulus package transportation dollars. The Mayor of Pacifica was concerned that if all the cities scheduled their street repaving at the same time, the prices would go up. Congresswoman Speier might sponsor some legislation to prevent contractors from raising their rates. There was also a lot of talk about C/CAG funds and the County pool because of the Lehman Brothers bankruptcy. The Chair and two new Vice-chairs were nominated and would be voted on in March.

(b) Conservation Committee

Councilmember Derwin said the Committee discussed: a) the definition of open space; b) Sausal Creek and taking care of the plants; c) SOD and downed trees on trails after the storm; d) the broom pull on March 7 from 9:00 a.m. to noon; e) Earthday events on April 18; and f) the large home on Redberry.

Councilmember Driscoll suggested that when the Committee's recommendation came to the Council on the open space definition, the Council take a field trip to Spring Down. There were a number of issues the Council and staff would have to address.

(c) Westridge Committee

Councilmember Derwin said the Westridge Committee held their meeting in the Schoolhouse and had a presentation from the Woodside Fire District about wildfires.

(d) Geologic Safety Committee

Councilmember Driscoll said the Committee reviewed the updated landslide stability and geologic maps for the Town. Cotton Shires pulled all the amendments together and made a new map. The geologists were generally okay with the map.

(e) Teen Committee

Councilmember Merk said the Committee talked about the upcoming dance on March 6, the previous successful dance, a future dance, and a one-day ski trip on March 21.

(f) Cable and Undergrounding Committee

Councilmember Merk said the Committee Chair sent in reappointment requests for the members without talking to them. The Committee discussed the value of the Town's membership in SAMCAT since State law pre-empted anything the Town could do with cable. He was impressed by the maps that were brought in of overhead wires, etc., with respect to potential undergrounding projects.

(g) Cultural Arts

Councilmember Merk said the Committee wanted to get more art visible within the community—particularly in the new Town Center. They were looking for a place to display kids' art.

(h) Planning Commission

Councilmember Merk said the Commission discussed: a) the Council referral of the zoning ordinance for service station signs; b) an update on the GreenPoint Rating System and the upcoming workshops; c) the proposed water conservation program; and d) dates for preliminary review of two site development permits.

(i) ASCC

Councilmember Toben said the ASCC discussed fish ladder improvements on Los Trancos Creek involving Stanford/other parties and two major projects. The architect for the 12 Redberry project was frustrated by the ASCC's reluctance to endorse a large amount of grading and earth removal for a 2,700 sf basement. Mr. Vlastic made an eloquent statement on the Town's ethos with regard to excavation of major projects, the desire to see reduced carbon footprints, etc.

(k) Parks and Rec Committee

Mayor Wengert said the Committee elected a new Chair and Vice Chair, discussed subcommittees and received a report on a number of issues related to the tennis courts.

WRITTEN COMMUNICATIONS [12:40 a.m.]

(11) Town Council 2/13/09 Weekly Digest: None

(12) Town Council 2/20/09 Weekly Digest

(a) Naming of Community Hall and Activity Rooms

Referring to the memo from the Asst. Town Manager and recommendation for names, Councilmember Derwin said she supported the proposed names.

(b) Workshop on Sustainable Building and Green Speaker Series

Councilmember Derwin said the workshop on Saturday 2/28/09 would be 10:00 a.m. to 12 p.m. The speaker on 3/3/09 would be Mathis Wackernagel, and it would start at 7 p.m.

(c) Evaluation of Piano

After discussion, Council agreed to respectfully and gratefully decline the offer. Ms. Howard said she would telephone the donor.

ADJOURNMENT

The meeting adjourned at 12:45 a.m.

Mayor

Town Clerk