

TOWN COUNCIL MEETING NO. 765 AND SPECIAL PLANNING COMMISSION MEETING, MARCH 11, 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
Planning Commissioners Gilbert, McIntosh, VonFeldt and Zaffaroni, and Chair McKitterick
Absent: None
Others: Town Attorney Sloan, Senior Planner Kristiansson, Town Planner Mader, Town Manager Howard, Asst. Town Manager McDougall, Public Works Director Young, Planning Manager Lambert and Town Clerk Hanlon

ORAL COMMUNICATIONS

Nate McKitterick, Wayside Rd., said over Presidents' Day weekend, rain overwhelmed the drain on upper Wayside Rd. in an area that had been repaired before. This caused some landslide, but it did not jeopardize the stability of the road. There would be an attempt by the road users and homeowners to see if the drainage could be improved so that the integrity of the lots and the road itself could be maintained. No action was being requested of the Town at this time.

Councilmember Driscoll said having observed the Council's behavior at a number of meetings over the past year or two, he suggested agendizing a review of the Council's behavior, including Roberts Rules and how to operate constructively. Since the Council was in the process of reviewing the Committee Handbook, it would be a good time to examine how the Council was operating.

CONSENT AGENDA [8:05 p.m.]

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

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

- (1) Minutes of the Town Council Meeting on February 25, 2009.
- (2) Warrant List of March 11, 2009, in the amount of \$597,900.35.
- (4) Resolution No. 2435-2009 Continuing the Supplemental Law Enforcement Services Fund Through Citizens Options for Public Safety Program and Maintaining a Separate Budget Account for 2008-2009 Fiscal Year, per Asst. Town Manager's memo of 3/11/09.

REGULAR AGENDA

- (3) Agreement to Accept the Joan Targ Trail Easement (Removed from Consent Agenda)

Responding to Mayor Wengert, Ms. Sloan said the Targs requested that there be a minimum of one sign at

the entrance to the trail easement indicating the name of the trail (Agreement, p. 2, #5.) Mr. Young confirmed that there was one sign at the Targs' end of the trail. The other end belonged to the Town. There was no request to have signs at both ends of the trail. By motion of Councilmember Toben, seconded by Councilmember Driscoll, Resolution 2436-2009 Approving and Authorizing Execution of an Agreement for Dedication and Acceptance of Pedestrian/Equestrian Trail Easement By and Between the Town and Nancy Kiesling and Russell Targ was adopted by a vote of 4-0, with Councilmember Merk abstaining.

(8) FY 2008/2009 Annual Street Resurfacing [*Items re-ordered on agenda*] [8:08 p.m.]

Mr. Young reviewed his memo on the 2008/2009 resurfacing project. He noted that a portion of Westridge and Cervantes were originally included, but were removed because of the economic stimulus project, which would be discussed under agenda item #9. Responding to Mayor Wengert, he said residents within three hundred feet of the work were given 2 weeks notice; it was also posted on the website and in the papers, and signs were posted on the roads. Responding to Councilmember Driscoll, Ms. Howard confirmed that invoices could be accrued back to this fiscal year through the second week in August as long as the work was completed.

Councilmember Toben moved approval of Resolution No. 2437-2009 Approving Plans and Specifications and Calling for Bids for the 2008/2009 Resurfacing Project (No. 2009-PW01). Councilmember Driscoll seconded, and the motion carried 5-0.

(9) Requirements for Economic Stimulus Funds [8:10 p.m.]

Mr. Young reviewed the staff report of 3/11/09 on requirements for the Town to apply for funds as part of the American Recovery and Reinvestment Act of 2009 (ARRA). This would be a separate resurfacing project, and \$188,000 had been separated out from the Town's annual project for ARRA funding. He reviewed requirements for: 1) right-of-way certification; 2) local support for ARRA; and 3) adoption of disadvantaged business enterprise program. Responding to Councilmember Derwin, he hoped that the Town's annual repaving would be finished by June 30. That did not match the deadline for the application process for the ARRA funds. They would not allow the Town to go out for bid until full authorization was received, which he anticipated receiving in the next couple of months. Responding to Mayor Wengert, he said there were no requirements with respect to the location of the contractors involved in these projects. If the Town did not spend everything that was allowed, it would be allocated to another city. Ms. Howard added that the required resolutions were the same type that the Town had to adopt for the upper Alpine federal project. She noted that if the Town received this money, it was because of Mr. Young's diligence and work.

Responding to Councilmember Merk, Mr. Young estimated that staff costs to do the work necessary for this project was between \$10,000 and \$15,000. For the verification of the right-of-way, staff would look at the parcel maps and fill out the forms; if questions arose, they would demand a record search. Responding to Councilmember Merk, he said no utilities would need to be relocated. Councilmember Merk said this kind of thing could get very expensive, and he was concerned that the Town would have to do a lot of work to get this money. Mr. Young said most towns were getting a lot more money, and it would probably cost 10-12% of whatever they got just to apply. If a city/town received millions, it would be well worth it. For the Town, it would be a small project of about 1,500' of overlay. There were other restrictions that said you could not do this on every road. If the Town received the money, other streets that were not included in the Town's resurfacing project could be done. Responding to Councilmember Merk, he said disadvantaged business enterprise was a race neutral/waste conscious goal that contractors had to meet. He noted that he would be tweaking some small changes in the scope of the Town's resurfacing project and this project to balance things out and make the Town's application more acceptable. Responding to Mayor Wengert, he said this process had started in December, and he was trying to maximize the \$188,000.

Councilmember Driscoll moved to adopt Resolution 2438-2009 Authorizing the Town Manager or Director of

Public Works to Execute Right-of-way Certifications for State and Federal Aid Transportation Projects. Councilmember Toben seconded, and the motion carried 5-0.

Councilmember Driscoll moved approval of Resolution No. 2439-2009 Authorizing the Filing of an Application for Federal American Recovery and Reinvestment Act of 2009 (ARRA) Funding and Stating the Assurance to Complete the Project. Mayor Wengert seconded, and the motion carried 5-0.

Councilmember Driscoll moved approval of Resolution No. 2440-2009 Authorizing the Town Manager to Approve a Disadvantaged Business Enterprise Program for Highway Projects Assisted with Department of Transportation Federal Aid Funds. Councilmember Derwin seconded, and the motion carried 5-0.

(5) Discussion of Proposed Housing Element for the Town's General Plan [*Item re-ordered on agenda*]
[8:22 p.m.]

Ms. Kristiansson reviewed the staff report of 3/5/09 on the proposed Housing Element. She discussed: 1) State requirements; 2) 2004 update effort; 3) 21-Elements (County) process; 4) main sections of the Element; 5) allocation of housing units at various income levels; 6) County sub-region; 7) Town housing needs, including the last and current cycle; 8) market rate, multifamily and second units provided; 9) affordability levels of second units in San Mateo County; 10) the ten proposed housing programs (staff report, pp. 3-7); and 11) expected housing in Portola Valley by 2014. Responding to Councilmember Derwin, she said the Blue Oaks units were not included because it was unknown whether they would be built by 2014. Responding to Councilmember Derwin, Ms. Sloan said the Blue Oaks BMRs did not need to be built legally, but the Town was holding the land for affordable housing. Ms. Kristiansson said while the Blue Oaks units were not included in the numbers, the units were discussed in the Element. Responding to Councilmember Derwin, she said the number of second units projected by 2014 (43) was based on current rate of second units; it was increased starting in the year 2010 because of the incentives proposed to encourage production of the units. Second units could be rented out by the property owners or used for relatives. Responding to Councilmember Derwin, she said Marin County adopted their housing impact fee in November of 2008; there were probably other jurisdictions that also adopted the fee.

Responding to Councilmember Merk, Ms. Kristiansson said AB 1233 (staff report, p. 2) was not entirely clear. It said that if jurisdictions did not make sites available, they had to zone or rezone adequate sites. In Town, if second units were allowed, there were enough second unit sites. The State also passed a law that said for low-income housing, you had to have a density for the town the size of Portola Valley of 20 units per acre. Second units weren't 20 units per acre, and how that would come together wasn't known. The State had not gone in and zoned in other cities, but that was what the law said. Responding to Councilmember Merk, she said the details for reducing building permit fees for second units had not been worked out yet and would need to be addressed. Councilmember Merk questioned whether an increase of 8 units per year was reasonable in today's economic situation. The building permit list for last month for the Town showed that things were very slow. Regarding emergency shelters (staff report, p. 6), he asked who saw homeless people in Portola Valley and how they were counted. Responding, Ms. Kristiansson said 13 homeless people were counted in Portola Valley. There was a countywide census every two years where teams of volunteers went out. Staff tried to track down where these people were seen in Town, but they did not have the records from 2007. They just repeated the homeless count in 2009 in January, and staff would be following up. She agreed the number was high. But, the State wanted every city to allow homeless shelters somewhere. To argue that there were no homeless people in Town was a difficult argument, and the Town should do something to comply with this law. Town Planner Mader added that the enumerator supervisor indicated that the volunteers went out in January early in the morning when it was cold and looked for people who might not be doing anything. There was no discourse. The Town staff who maintained the fields indicated that on 1-2 occasions, they saw someone at Ford Field. But, 13 was a very suspicious number. The attempt was to liberalize homeless provisions at the churches. Two churches had responded favorably.

Responding to Councilmember Toben's question on inclusionary housing, Ms. Kristiansson confirmed that in cases where there were subdivisions of 9 or fewer lots, there was an in-lieu fee. There was currently money in that housing fund.

Responding to Mayor Wengert, Ms. Kristiansson said the Town's Housing Element was nearly 20 years out of date. Whether it was certified or not, it was a good idea to update it. Getting it certified meant the Town was in compliance, which made the Town eligible for certain kinds of funding, etc. Responding to Mayor Wengert, she said there had not been an attempt to quantify what the impacts would be on the budget of reducing or waiving fees. Ms. Sloan noted that the money from the housing in-lieu fund could be used to pay the fees. Responding to Mayor Wengert's question on inclusionary housing, Ms. Kristiansson said the timing was tied to the development of the market rate lots—not a specific timeframe. The developer could build/sell no more than 50% of the market rate lots before certificates of occupancy had been issued for the BMR units.

Responding to Councilmember Merk, Ms. Sloan said if money from the in-lieu fees fund was used to pay for affordable housing, it would be reasonable to require the homeowner to make the second unit available for certain income levels. There was a specific deed restriction on one of the Priory units. Ms. Kristiansson said if the unit was rented, the Town could require that it be rented at a certain income level. However, the Town could not require that someone actually rent the unit.

Responding to Councilmember Driscoll, Ms. Sloan said if a city didn't have an adequate Housing Element, and they approved a project, people who were opposed to the project could challenge the project and say that it was not consistent with the General Plan. The reason it would not be consistent with the General Plan was that it was inadequate because the Housing Element was inadequate. It was a way for opponents of projects to stop projects. Other than that, the Housing and Community Development Office didn't have any penalties per se if the city didn't get its Housing Element certified. But, every year, there were more and more State legislators who introduced laws to try to push communities to come up with more density and more housing that was affordable by either withholding money from grants or requiring rezoning. It was being looked at every year more and more because there were more people who needed a place to live. Town Planner Mader added that the Attorney General's office issued annually a list of elements that might be out of date. That was public information, and it was known that Portola Valley was out of date on a number of its elements. The Town was working on that, but you didn't want to be a sitting duck.

Councilmember Driscoll said if a landowner who owned a large amount of land decided they wanted to subdivide and do a set-aside as well, and the Town decided it wanted to deny the project for environmental/visual quality reasons, the landowner could say the Housing Element was non-compliant and that the denial was preventing housing from being built. The Town should not be vulnerable if or when something big happened. Ms. Sloan said it was a threat if someone wanted to create an affordable housing project. It was less of a threat with a market rate development, but it was a legitimate concern.

Chair McKitterick said this was a negotiation where the Town presented the Element to the State, and they either accepted it or suggested changes. There were no hard and fast rules with most of these things. He discussed negotiable aspects of the Element. Responding to Chair McKitterick, Ms. Kristiansson said there were two groups lobbying the State: the developers, who wanted to build more housing, and the affordable housing developers who wanted subsidies for housing targeted toward low-income households. Every year something was proposed, and it was very difficult to predict.

Responding to Commissioner Gilbert, Ms. Kristiansson said the major issues that arose during the State's review of the 2004 version related to second units and the way they could be divided in terms of affordability. The Town had already done one survey, and it didn't seem worthwhile to do another survey. Staff was hoping the San Mateo County study, which had a broader base, would help. The 11 units at the

Priory would also be very helpful. Responding to Commissioner Gilbert, she said in 2001, it was calculated that there were over 1,000 lots that could have a second unit. Commissioner Gilbert said one of the tables indicated that the projection was more than the Town's assigned need. Given some of the concerns about the current economic conditions, she questioned whether the numbers could be lowered on second units. Ms. Kristiansson agreed there was some leeway. The estimate of 8 units per year was an educated guess. Responding to Commissioner Gilbert, she said the State changed the way they determined needs, and there was no way to predict what it would be in the future. The way the numbers were allocated currently was not based on projections. It was based on a formula that was based on the projections that ABAG used for population and economics. They would be changing the way they did their projections as well. There were a lot of variables. She expected that the numbers would go down for Portola Valley, but things changed. Town Planner Mader said different growth patterns in the Bay Area were looked at and projections were based on those. One scenario was that there would be more development around transportation corridors and employment areas. That would be favorable to the Town in reducing the need here. Nothing was settled yet, but it was good that they were looking at alternative forms of development. Responding to Commissioner Gilbert's question on attached second units, Ms. Kristiansson said as people became older in larger houses, they might be able to easily convert part of the house to a second unit without adding any additional square footage. With respect to the language about converting "...as long as certain requirements were met," she said that pertained to building code requirements in existence at the time and the square footage requirements.

Commissioner McIntosh said the projections specified before should be look at and the draft should comply with those. He discussed other items/programs that should be included in the Element sent to the State. He was not sure about not involving the ASCC with respect to approving the design of second units. Ms. Kristiansson noted that that just applied to attached second units within an existing house. With a detached second unit, there were issues pertaining to grading, where it was on the site, etc., which were things the ASCC needed to be involved with. Commissioner McIntosh agreed that the provision should be limited to attached second units in an existing structure. Responding to Town Planner Mader, he felt second units should stay at 750 sf unless it became necessary to raise the limit. Responding to Commissioner McIntosh, Ms. Kristiansson said three of the programs described were needed to meet the required numbers; many of the other programs were required for other State laws, such as the emergency shelter program, state-required density bonus and removal of constraints. Commissioner McIntosh said it was important that the Element be certified. He felt it was completely logical that the 8 units in Blue Oaks be included because the Town owned the land, it was zoned for 8 units, and it was logical to assume it would be done in some form. Ms. Kristiansson said staff felt it would not likely be done by 2014. Commissioner McIntosh said he felt it would be done. He concurred that there should be a nexus between reducing fees and having a unit available for rent. There was no reason to reduce fees for someone building a very expensive house and second unit who might or might not rent it. Responding to Commissioner McIntosh, Town Planner Mader said all of the cities and towns in the County and the County banded together in the 21 Element group. Within that, there was a subset of those that had common interests: Woodside, Atherton, Hillsborough and Portola Valley. A lot of the discussion centered on second units, which was the major source for these communities. The County commissioned a study on affordability of second units. Those numbers were favorable to the Town. The State had not completely blessed that. If that was accepted, the Town could then indicate there would be "x" number of second units with the income distribution. Furthermore, the State was not asking who occupied them—only that they were available at those rental rates. Hopefully, the State would approve this approach, which a number of communities were trying to use. He noted that the State had been favorable towards this countywide effort. In that context, there were a few units traded between cities, which was allowed. Commissioner McIntosh said if the Town had "x" number of lots, and they were all built on, he didn't know what else could be done; the Town was getting close. Ms. Kristiansson said from the State's point of view, there was plenty of land, and you could always subdivide large lots.

In terms of the housing impact fee, Ms. Kristiansson confirmed for Commissioner Zaffaroni that that was something at this point that the Town would agree to study. Commissioner Zaffaroni said that would be very

helpful in terms of creating a fund for more regional planning. Smart growth communities were dense, located near transit corridors, had vibrant commercial areas, and were everything Portola Valley wasn't. In terms of second units, she was not completely clear about changes for attached second units. The draft indicated that attached second units would not be subject to discretionary review. Ms. Kristiansson confirmed that that would pertain to attached second units unless they were above the ground floor. Town Planner Mader said the State wanted to streamline procedures and remove roadblocks. Staff was trying to find some things that the State might approve of but the Town still had sufficient control over. Responding to Commissioner Zaffaroni, he said an attached second unit would not affect the 85% rule for the main structure. In terms of inclusionary housing, Commissioner Zaffaroni said she was on the Planning Commission when this was discussed. She had not agreed with a lot of the majority recommendations. They were well intentioned, but the goal had to be getting it built. The easier you made it the better. She assumed that a lot of what had been presented was up for discussion.

Responding to Commissioner VonFeldt, Town Planner Mader said the definition of "attached second units" would need to be looked at in the context of what was being discussed.

Mayor Wengert asked for public comment.

Ed Wells, Naranja, said he was an owner of a second unit, which went back to 1984. It was intended to be a rental unit from the beginning. It was 600 sf, and rented for \$1,040/mo. Twenty-seven or more people answered when it was advertised. Two things were important. One, the second unit was to be incidental to the major use of the property, with the same driveway, etc. Secondly, the State would give as much credit whether the unit was 750 sf or 1,000 sf. Size or who occupied it didn't matter. The Town would get credit when it was built. On the other hand, if a unit that was larger than 750 sf and the use was incidental to the main use of the property, you ran into tenants' laws. He did not see any particular need to encourage the building of second units by expanding the size to 1,000 sf. You could not deny a family of four to rent there. You couldn't say you only rented to couples without children. If you were trying to just create the unit, that was fine. On the other hand, this Town should view what had happened with second units. There was an adversarial bent to the way the second units were written up years ago; it was an elitist thing rather than an opportunity for the Town to encourage development of second units and the renting of second units. It had been a big benefit to his family to have a unit to rent; the income wasn't bad, and you had nice tax treatment. The Town could encourage people to build second units if it offered them a lot of professional advice and help with selecting their tenants—like background checks, etc. There was a lot you could do to encourage second units, which would benefit the Town.

Jon Silver, Portola Road, said he would be reluctant to see the Town increase the size of second units. One thousand square feet was getting to be a small house and would be occupied by a family. That need not be a problem, but 750 sf was pretty big for a second unit that should be incidental to the main house. As the units became larger, they would tend to be less affordable. One of the characteristics of a rural community was that there was a range of incomes. He felt 750 sf was adequate. A lot of thought had been given to going from 600 sf to 750 sf some years ago. Additionally, if ASCC review was waived for attached second units, staff should have to make certain findings. If they were in any way uncertain or there were questions, staff should refer it to the ASCC. In terms of inclusionary housing, he thought the Town should stick with 15%. There was nothing sacred about the 15% when it was set back in 1991, and the number had been a compromise. If it didn't violate State law, it would accomplish more of the goal of providing environmentally responsible and aesthetically pleasing affordable housing.

Allan Newlands, Buckeye, and member of the San Mateo County Commission on Disabilities submitted a checklist that had been developed to help in the process of removing constraints to housing for people with disabilities.

For inclusionary housing, Commissioner Zaffaroni said she was concerned about some of the rigidity in

terms of how much square footage should there be, where they had to be located, etc. A lot of the time, these lots had constraints—particularly with respect to integration into the subdivision. That was why the Blue Oaks lots were where they were. It was an important lesson—especially as the Town moved towards other goals and priorities such as being near a transit corridor. If she was in BMR housing on the edge of Blue Oaks and could walk to a bus stop in 5 minutes, that was much more important than being in the center of Blue Oaks where she would have to walk 20 minutes to get to the bus stop. There were also issues like the ability to cluster in an area that had good sitting with respect to alternative energy. There were a lot of other issues that were far more important than being integrated into the community. She wanted more liberalization of some of these requirements. With respect to size, she felt the demographics of the community were such that more and more people were in the older age brackets. The Town might need more housing that was smaller. Elderly people didn't want excess space; it was a hassle to maintain and clean. Obviously, this was the type of thing that people needed to look at closely and review in terms of their own feelings. She felt the feasibility of getting something built should be the priority. To the extent that you could allow flexibility, it was much more likely that you would end up having something built. That was her main concern about some of the inclusionary housing restrictions. They were all thoughtful and well intentioned, but there were competing concerns that one should think about. In terms of second units, at the Planning Commission level, she had commented that 1,000 sf might add to the cost such that it moved out of the affordability aspect. She agreed with people who wanted to keep it at 750 sf. With respect to attached second units, she said there had been some questions about what would make it an attached second unit. But, the Planning Commission thought it would be practical and that the Town should facilitate those kinds of conversions. In terms of the housing impact fee, it needed to be studied. There was some legal uncertainty, but she felt it would be a wise idea to take action now. The desirable communities in terms of smart growth didn't mirror what the Town had. If there was a way of generating funds to support those efforts elsewhere, it was obviously more politically feasible to get that kind of dense development done elsewhere. It was also the right thing to do in terms of the direction things were moving. In terms of energy conservation, people could do things better within the region. That needed to be looked at in the coming years. She was glad the State was taking action to encourage that. She agreed this would be a good thing to study. It was not an unreasonable thing for Marin County to come up with. They had a 2,000 sf limit. It might be nice to do something graduated.

With respect to a 50% reduction in permit fees for second units, Commissioner VonFeldt said it made sense to have an incentive to reduce the fees. But, if a deed restriction couldn't be used to require the unit be rented at a certain price, the Town might end up subsidizing someone's pool house. For all the reasons other people mentioned, she supported staying with the 750 sf size for second units. She also felt it was fine to talk about streamlining the process, but when in doubt, staff should always defer to the ASCC—even for an attached second unit. In term of a housing impact fee, she had some concerns. It sent a mixed message. To get to the numbers the Town needed, people had to be encouraged to build on new lots and build second units. On one hand, you encouraged people to build and then penalized them with a fee. She supported the idea of having high density in areas where it made sense near corridors. She questioned whether that should be put solely on the burden of new construction. There might be something that the Town needed to share.

Councilmember Derwin said she was originally inclined to support 1,000 sf for second units. But, after listening to comments, she thought 750-800 sf would be a better number. In terms of having staff approve attached second units, she would like to know how staff felt and whether it would be a lot of extra work. Responding, Ms. Lambert said staff already approved everything under 200 sf. If there was an issue, staff would definitely refer it to the ASCC. She did not think it would be a burden. Councilmember Derwin said she would like to see a cost analysis to see impacts on the budget of reducing building permit fees for second units by 50%; the same applied to a waiver of fees for development. With respect to the housing impact fee, she agreed that this was the right thing to do. At the same time, she was a little concerned about imposing another fee on residents who were building new homes given the likely scenario that they would also be required to pay the fees to get their homes BIG or LEED certified. If it was going to be

studied, it should be studied in concert with green building fees. She supported incentivizing residents to reconfigure their homes to add a second unit. For people with large homes, it made sense to change their homes to suit changing needs of aging residents to perhaps allow grown children to live there if they wanted to. She saw this as another piece of the sustainable building program where residents were being helped to use resources more effectively and efficiently. In this case, people could use their existing spaces more effectively and efficiently with a tremendous social benefit. She was somewhat skeptical about the 43 second units, but the economy might improve. With respect to the Blue Oaks units, she said the Housing Element, Section 2411d (p. 5) indicated that according to PAHC, the cost to build housing on these lots would be prohibitive. She thought that should be re-visited in this new economic building climate. It might be less expensive than it once was. If you did a Google search on “green building affordable homes,” jurisdictions all over the country were building below market rate housing using sustainable building practices. She saw the Blue Oaks lots as an opportunity to fulfill an obligation that the Town had to furnish much needed housing stock, provide jobs for people who needed jobs, and do an aesthetically pleasing green building project that the whole community could be proud of.

Councilmember Driscoll discussed negotiations with the State. Additionally, he thought the Blue Oaks units should be included. Either through pro-active action as Councilmember Derwin described or some sort of a land swap somewhere else, he thought they would be built. That would give some leeway. He agreed that 750 sf was pretty big for a second unit, and he was not completely comfortable going to 1,000 sf. While he was comfortable with a discretionary review by staff, he suggested some guidelines be provided and that it be sent to the ASCC if there were any questions.

Referring to the Element, Section 2417 and 2417a (p. 10), on State-required density bonuses, Councilmember Merk asked what the “other” concessions or incentives were. Responding, Ms. Sloan said SB 1818 required a density bonus and at least one incentive. Examples of incentives included setback, height, and lot coverage. If you were constructing affordable units, you got a density bonus and you might be allowed to intrude into the setback or go a little higher or have more lot coverage. There was a formula in the law as to how much the density bonus was and how many incentives you got—depending on the amount of affordable housing you provided. The maximum number of incentives was three. Referring to Section 2428b (p. 14), Councilmember Merk asked how service workers were factored into the data. Responding, Ms. Kristiansson said a survey of employees was done some time ago. People who reported themselves as self-employed on the census were added in, and it was rounded up a certain amount. She said there was no real way to get the data on service workers. ABAG used a transportation subset of the census data where people reported their place of work; staff felt that number was high. The job data was in the Element because it was a State requirement to talk about how many employees there were in Town. It was one of the major inputs into the regional housing allocation numbers. Ms. Sloan added that there was a lot of pressure from ABAG and other groups about cities that had a job-housing imbalance. The City of Santa Clara and the City of Palo Alto had the greatest job-housing imbalance. Town Planner Mader added that with the new options for regional growth, jobs would be along transportation corridors. That could bring down the Town’s numbers. Referring to Section 2430d (p. 20), Councilmember Merk said he felt a “household” was more than one person or someone with children. He did not think guesthouses were particularly suited to families. Ms. Kristiansson said the State referred to households of 1 person, 2 people, 3 people all the way up. It was just a term representing who lived there. Referring to Section 2443a (p. 33), Councilmember Merk questioned what Corte Madera School “site” meant. Ms. Kristiansson said it meant the school facility that existed there now. Referring to Section 2461 (p. 48), Councilmember Merk said he occasionally saw a SamTrans bus from time to time, but it carried schoolchildren. He was not aware of any regularly scheduled bus service that was intended to pick up people waiting at a bus stop. A resident [unidentified] said #165 ran so many days a week at 7 a.m. and came back at night. Councilmember Driscoll said there was a chartered bus that brought kids in. Referring to the Inventory of Land Suitable for Residential Development chart (p. 57), Councilmember Merk said Site #58 indicated it was a narrow lot with creek setback. He lived across the street from this lot. It was 75’ wide with a 50’ front setback because it was in the Portola Road scenic corridor with a 35’ setback from the creek. That left minus 5 feet of yard in

which to build a house. He was surprised to see this lot listed as a potential site. On Site #60, he did not know of any creek that ran off the top of the hill behind the Priory, and he was surprised to see a creek setback listed. With respect to site #58, Town Planner Mader said a detailed analysis had not been done, but it was highly questionable that it was a site. Referring to Section 2471a (p. 59), Councilmember Merk said "53" was shown on one of the three Woods property lots; the other two were not listed. Referring to Sites #87-90 (p. 61), he said he didn't remember any steep slopes on the Blue Oaks BMR lots. Town Planner Mader said it went up from the road reasonably well, and there were a lot of oaks on them. He felt it was a reasonably steep slope. Referring to Section 2411d (p. 5), Councilmember Merk said Habitat for Humanity was quite interested in the Blue Oaks BMR lots. The Council turned them down because it didn't want work done on Saturday. That might be revisited to get this project done. Referring to pages 33, 74 and 78, he said the word "church" should be replaced with "religious institution." "Church" was specific to one religious following. At least one if not two of those institutions were in financial trouble and could be changing in the future to a temple or a shrine. Referring to Section 2431e (p. 23), he said The Sequoias was operated by the Northern California Presbyterian Homes. Referring to Section 2431f (p. 23), he said "the community" should be replaced by "the facility." Referring to Section 2431k (p. 24), he said the last sentence should read "...partner and/or registered domestic partner" in place of "husband." Ms. Kristiansson noted that the wording in the draft was exactly what the census data said. Referring to #8 on page 78, Councilmember Merk suggested adding the websites where information was posted. Referring to pages 63, 71 and 74 that addressed the 250 sf credit, he said he did not support giving any credit to big houses. The Town was trying to address the carbon footprint, and he did not want to give people incentives to build bigger houses. When you put an ad up for a rental, you couldn't say it was for one person; you would be sued. The bigger the guesthouse, the bigger the impact would be on the Town. By keeping them relatively small, it was less comfortable for a large number of people to move into a guesthouse. With respect to ASCC review of attached second units, if it was internal to the structure, ASCC review wasn't necessary. If it was external to the structure and under 200 sf, ASCC review wasn't necessary. If it was internal to the structure but was on the second story, ASCC review should be required. If it was external to the structure and over 200 sf, ASCC review should be required. If there was any question, the ASCC should be brought in. Additionally, if something didn't go to the ASCC, neighbors weren't noticed; notice was important here. He also supported keeping the inclusionary housing percentage at 15% rather than dropping to 10%. He wanted to see more reasoning for dropping it. He liked the idea that the larger the house, the larger the impact fee. But, he also liked the idea that if the house contained a guesthouse, the fee shouldn't apply to the guesthouse. You didn't want to disincentivize the building of a guesthouse. Marin County started with 2,000 sf and went up from there. He thought the Town should start with something higher like 3,000 or 3,500 sf. The idea of having the fee increase as the size of the house increased was good.

Councilmember Toben discussed negotiations with the reviewer in Sacramento who would decide whether this draft was approved. This was not the last time the Town would be doing a Housing Element. You had to presume that the Town would be asked to expand the housing stock over the next 5, 10 or 20 years. He felt keeping 750 sf for the second unit was prudent but was prepared to go up to 800 sf. He would defer to the planners' judgment and reconnaissance of what other communities had experienced during the review process. He also questioned why a reduction from 15% to 10% on the inclusionary housing was proposed. Residents who were in the development business would have a lot to say about that. It changed the calculus quite considerably. He suspected the intent was to come up with a different economic outcome: you were giving away less in the way of lots but were asking more in terms of building expense. That was a logical analysis, and he didn't want to be insensitive to the fact that there might be significant economic consequences if the requirement was for 15% of lots and completed structures. He liked the idea of stressing all the good things the Town was doing to promote streamlining of process. He agreed with Councilmember Merk's assessment of how the ASCC's review should be set up. With respect to the housing impact fee, it had been presented as a placeholder, and he was impressed by the comments that this might bear inclusion—particularly if it was viewed with a prospect towards the future and the notion that the housing game would look very different in 2014 and 2019. If this mechanism to at least examine it was

in place, that might be the way of the future. In all other respects, he thought this was a very solid piece of work, and he appreciated the professionalism and the wise counsel from colleagues, residents and the Planning Commission.

Mayor Wengert said she concurred with Councilmember Toben. She shared Commissioner Zaffaroni's concern on the inclusionary program. She agreed with the idea of liberalizing the regulations to some degree in order to incentivize. If this was viewed as a situation where there might be additional concessions and/or changes that would be requested, and given that not a lot of development was likely to occur, she would rather be reasonable in being potentially able to do something and have the flexibility to create a transaction that would make sense for everyone. If it was onerous at the outset, that possibility would be precluded. She encouraged the Council to look at it at a level that would provide for interest in the event of attracting someone in for the few remaining projects. There had been some problems with Blue Oaks in that area. She also agreed that that was something the Town needed to focus on—whether it was with that project and/or an alternative solution where there was some kind of a sale/trade/swap for other developable BMR units. She would put a high priority on that in terms of what the Town should be looking at in the near term. Relative to multi-family and second units, she said second units had been well covered. She was persuaded by the argument that an increase in the size of second units might create more problems than it would solve. She also agreed with comments about the ASCC's review and their role. With respect to the housing impact fee, she thought it would be something the Town would be addressing in the future, but she questioned whether it should be tackled now. More specific information would be coming in. She was concerned about keeping this process open-ended and would prefer to have some closure brought to this Element as it was submitted. She agreed there should be a series of fees considered that would potentially have to do with green, sustainability, and other issues related to how reasonable the fees were relative to the primary homes and second units. It was a complex situation and she didn't want to jump into it at this point as part of this effort.

Councilmember Toben said the Housing Element update was only done every five years. It was unlikely that the Town would come back to the Housing Element and reconsider a housing impact fee in the interim. Secondly, the Town was not obligating itself to adopt a fee. It was simply a mechanism that enabled the Town to show the State that something was being done and planning for the future. Responding to Councilmember Toben, Town Planner Mader said this could be put in as a program to be investigated. The Council could at any time pursue a nexus study. An ordinance could be adopted as a separate matter. Additionally, he noted that the nexus in Marin County was a little more obvious because they were building a lot of new houses. The assumption was that with new houses, you needed more people to come in and provide service in the community; those people needed housing. The Town was different. The question was whether the burden should fall on people improving their houses or replacing a house. Other people in Town needed services too.

Responding to Mayor Wengert, Town Planner Mader said the idea of requiring the BMR units to be built was a good step forward. That was no assurance that that would occur. He thought it would be good to keep something in the Element to show that the Town was trying to solve the problem. Mayor Wengert said there was clearly a consensus that that issue should be tackled in one way or another and not to let it lie dormant. Ms. Kristiansson said this program could be changed to state that inclusionary housing would still be required, that the Town wanted to require it to be built, and that the Town would figure out how to do that. There could be a note indicating that by 2012, the inclusionary housing program would be figured out. Similarly, the Element could indicate that the Town would be finished studying the housing impact fee by the end of 2010. The State would not particularly be concerned about the timing because units were not being produced.

Responding to Bill Vermeer, Alpine Rd., Ms. Sloan said when the Blue Oaks project was approved, the BMR lots were integrated. The land on the east side of Los Trancos Road had been dedicated as open space.

Commissioner Zaffaroni asked for clarification of the continuing process.

Ms. Kristiansson described the process to be: 1) revise the housing element based on comments received at the March 11 meeting; 2) submit the draft housing element to the California Department of Housing and Community Development for informal review; 3) amend the draft element based on comments from the State, which could involve coming back to the Planning Commission and/or Town Council for policy direction if necessary and negotiate with the State on how to resolve any issues; and 4) one the State has signed off, come back to the Commission and Council for formal adoption as an amendment to the General Plan.

[Remainder of the discussion of this item taped over.]

(6) Draft Noise Ordinance [10:50 p.m.]

Town Planner Mader reviewed the staff report of 3/5/09 and responses to concerns/questions raised during the discussion of the noise ordinance at the 2/25/09 meeting.

Councilmember Toben said the staff report indicated that barking dog noise was not addressed in the ordinance. But, he felt Section 9.10.050A (p. 5) applied to dogs. He suggested it be made clearer. A few people complained in the workshops that the ordinance was silent on dogs. He was also very eager for the Town to set some guidelines to address barking dogs.

Responding to Councilmember Merk, Town Planner Mader confirmed that the Palo Alto noise ordinance completely banned gasoline-powered leaf blowers. He noted that properties in Palo Alto tended to be small with available electric outlets unlike the Town in zones that were 1-acre or larger.

Referring to Section 9.10.040A, Construction Activities (p. 4), Councilmember Driscoll said it was not clear what could happen on holidays. He thought a sentence should be added indicated that there could not be construction activities on holidays or on Mondays if it was a legal holiday following a holiday that fell on a Sunday. Ms. Sloan said the definition of holiday would be clarified. Town Planner Mader noted that he simplified the wording under construction activity and domestic garden tools as set forth in his memo of 3/9/09. He agreed that what was allowed on holidays should be clarified in both sections. Councilmember Merk said "...provided that such operation is limited to construction undertaken by the resident on a personal basis (including with the help of immediate family members)"...was important and should not be dropped. Town Planner Mader noted that it had been replaced with, "Any resident may personally (including with the help of immediate family members)...."

Responding to Councilmember Derwin, Councilmember Merk said the Echo power blower with noise levels at 65 dBA cost \$232. Responding to Councilmember Derwin, Ms. Sloan said this ordinance did not have to go to the Planning Commission. It required a first and second reading and became effective in 30 days. Once it was adopted, you could change it by going through the same procedure.

Mayor Wengert asked for public comments.

Ed Wells said he did not have a barking dog, but there were lots of them in the neighborhood. Referring to his letter of 3/11/09, he suggested Councilmembers tune into Animal Planet (ANPL) at 6 p.m. on Saturday nights when bad dog behavior was addressed. He said the technical report, Noise Element and draft noise ordinance all addressed barking dog noise, and he felt it should all be in one place in the Noise Element and noise ordinance. It should indicate that the Town was going to set guidelines about barking dogs. At the same time, it should avail the families of barking dogs of the program the Town would be developing, which would help them find out what they could do to resolve this household problem. When they were confronted

on the phone or at the door, they didn't have a clue about what to do about solving that problem. They weren't helpless; they just didn't have an opportunity to learn what was available for them. A barking dog was not an "animal" in the same sense as the neighbor's rooster or donkey. The families of barking dogs needed to learn what they could do. At the same time, the complaining neighbor needed to be assured that the problem was being worked on. He distributed some articles on barking dogs, noting what Westridge was trying to do. The Council could no longer ignore this issue and needed to review what could be put into the ordinance or Element that would give the staff all the ammunition and authority it needed to set up a good program to help the relationships between the neighbors. It should avoid any references whatsoever to enforcement by the Sheriff, staff or through the mediation process. There needed to be community involvement. He thought it could be done through the Web page and information that was readily available. He was glad that barking dog noise was finally out in the open. Councilmember Toben suggested getting a DVD of the Animal Planet broadcasts and keeping it in the library.

Bill Vermeer, Alpine Rd., said he appreciated all the work done on establishing dBA levels. But, the OSHA requirement for a hearing detection program was 80 decibels. He questioned the rationale for picking something that was below the OSHA level. Secondly, he said he was serenaded almost every night by 200 coyotes behind his house.

Tom Waschura, Shawnee Pass, thanked Councilmember Toben for holding the workshops. He was happy to see the form of the document. He felt there was an implicit contract out there for both people who generated noise and people who didn't as to what the status quo was and had been for many years. It was a unique environment in Town. With his kids' activities, he had to do yard work on Saturdays and Sundays. Pulling off half of his available time to do the work would have been a big problem. Additionally, there was not really any change in the draft ordinance. From the workshops, he found what was lacking was the enforcement side. Everything that people described—except for dogs—already had rules or limitations. Having other mechanisms other than calling the Sheriff should be the focus and how to enforce the rules that were already in place.

Referring to the staff report (p. 5), Jon Silver said it was suggested that existing generators be grandfathered. He felt amortized would be a better concept than grandfathered. If a generator cost \$30,000 or \$40,000, it should be amortized over 15 or 20 years. He said there was a generator across from the Zaffaroni property that was incredibly loud when it came on. It would be a shame to see existing generators like that grandfathered in in perpetuity. Also, many people had portable generators for use in a power failure. They couldn't power the whole house and didn't cost \$30,000 or \$40,000. They were also quieter. It might make sense to have a 2-tiered regulation. He discussed prices of portable generators and their capacities.

Ted Walker, Grove Dr., said he would be happy if the ordinance went through as is. But, there were people in Town that had perpetual noise problems. He questioned whether they should be handled the same way as the barking dog issue was. It could be parties, construction or whatever was going on. He thought there should be a way for the Town to get involved instead of going directly to the Sheriff.

Ms. Lambert said she was currently working on a program for the barking dog issue that included suggestions for what could be done with and for the dog, how to assist the dog owner and the resident with the complaint, etc. She looked forward to seeing the Animal Planet program.

Councilmember Toben said he appreciated the work staff had done in response to comments heard from residents. The ordinance was on the right track. There were some who were quite sensitive to noise and who would have preferred a stronger set of restrictions. But, taking this step and doing everything possible to foster a culture of courtesy would bring about some improvement. In that regard, he suggested the preamble provision (Section 9.10.010) include a sentence that indicated, "The Town encourages efforts by residents to address noise issues amicably through direct communication with their neighbors." That got at

the notion that the Town was not about laws and the Sheriff; it was about trying to work these things out in a neighborly fashion. There might be circumstances that necessitated Town involvement or law enforcement, but hopefully most of these problems could be resolved through a very different avenue. He was also not closed to a prohibition of leaf blowers on Sundays. There was something peculiar about leaf blowers that was really vexing to some people. He did not feel there was a strong contingent of people in Town that insisted on using leaf blowers on Sundays. Weed whackers and lawn mowers were different from leaf blowers.

Councilmember Merk said he had a neighbor than used his leaf blower every Sunday. Two weeks ago, he described an ordinance in Citrus Heights. He should have said Carmichael, which was a suburb of Sacramento in Sacramento County. Title 8 of the Sacramento County Code stated that on the first complaint, a letter was mailed to the barking dog owner. On the second complaint, there was a visit from an officer. On the third complaint, there was another visit from the officer who would either arrest the owner or impound the animal at which case it went to court. He had not searched the court actions to find out whether any dog was ever debarked. With respect to the ordinance, Section 9.10.020, Definitions (p. 2) and Table 9-10-1 (p. 3), he felt "churches" should be replaced with "religious institutions." He was also confused by note e) on the table. The differences in the chart between exterior and interior noise levels were all about 10 dBA, but the note said 15 dBA. Responding, Town Planner Mader noted that several were 15 and some were 10. Referring to 9.10.040A, Councilmember Merk suggested adding "current industry standard" to the statement about internal combustion engine-driven equipment. Referring to Section 9.10.040B (p. 5), he wanted to see "only" inserted so it was clear that you could only use these after hour times for clearing grasses for the purpose of controlling fire hazard. It should be "...property owners for only the purpose..." or "...removing dry grasses that pose a fire hazard only...."

Referring to Section 9.10.050A, Councilmember Driscoll suggested replacing "animals" with "domesticated animals" or "pets." Coyotes could fall under "animals." Councilmember Merk said people had iguanas and he questioned whether "domesticated" was appropriate. He preferred "pets, animals and fowl." Councilmember Toben said he wanted to include dogs.

Responding to Councilmember Driscoll, Town Planner Mader said he wasn't suggesting the Town require what Palo Alto required for leaf blowers. Mayor Wengert agreed it didn't make sense to require people to show the decibel of the leaf blower. Councilmember Driscoll said if a complaint was made, the burden would be on the noisemaker to prove that the leaf blower was under 65 decibels. A resident [*unidentified*] said there was very explicit language of how that was measured. Just setting something at 65 decibels didn't mean anything.

Councilmember Derwin liked Councilmember Toben's suggestion for the preamble. It set the right tone for the ordinance. Mayor Wengert concurred. She questioned the 65 dBA limit for leaf blowers, whether it would place an undue burden, and how it would be enforced. Even though it had a 1-year grandfather period, it should be realistic. Requiring a certain size and quiet efficiency created a burden on some gardeners who might not have the means to upgrade their equipment. She had not seen sufficient and compelling evidence to make it a part of this ordinance. Strides were being made with all of the other noise issues. Leaf blowers were a problem, but she did not think that this would change their existence in the community.

Responding to Councilmember Driscoll, Town Planner Mader said you should be able to look up the models and get the ratings off the manufactures' web pages. With a little bit of advertising, people who worked in Town could gradually change leaf blowers as they wore out. He thought 65 dBA was a reasonable number as were the prices. Obviously, enforcement was another issue. Councilmember Driscoll said it was important to be consistent with the other local jurisdictions. Mayor Wengert said the issue was whether you had a leaf blower prohibition, as some had done, versus mandating equipment levels, which could apply to any number of pieces of equipment. But, she understood that a lot of people found leaf blowers extremely

annoying and would not hold up the ordinance because of it. Ms. Sloan said she would incorporate the changes and bring the ordinance back.

(7) Adoption of Revised Advisory Committee Handbook [11:45 p.m.]

Ms. McDougall reviewed her memo of 3/11/09 on the latest revisions to the Advisory Committee Handbook.

Mayor Wengert asked for public comments.

Jon Silver referred to his "Executive Summary (ES)" updated as of 5:30 p.m. that highlighted his more important suggestions. There were some things that had not been included in the latest version that included his earlier comments. He also added a brief commentary. He said he received an e-mail from Gary Nielsen about his suggestions for the minutes section, which Mr. Nielsen felt would be onerous. He could see how it might have been misunderstood so he re-wrote that section, which was on page four of his Executive Summary. It was worth remembering that some people on the committees had no familiarity with government and public procedures. He read his latest draft for what the minutes section should say. It was important to give people a feeling of what the whole purpose of minutes was. He also included language about the importance of minutes, correction of minutes, and examples of things that could be added to minutes. Under Miscellaneous Policies and Committee Communications, he read his suggestion for what he felt should be included about individual statements by committee members.

Yvonne Tryce, Joaquin Rd., said the document was very good. She liked the changes submitted by Councilmember Merk and Jon Silver. They made it a more inclusive document. The community wanted to have a broad representation, and that addition was included. Additionally, she felt it encouraged more collaborative efforts—particularly in decision-making.

Councilmember Toben said he was comfortable with all of Councilmember Merk's suggestions for the draft. He agreed that eleven committee members was not inappropriate—particularly when a committee needed to be rejuvenated or refreshed. He shared Gary Nielsen's concerns about Jon Silver's elaborate suggestion for the minutes section. He thought that was a recipe for disaster and opposed it. The minutes should not be fair game for any member of a committee or member of the public to come in and request changes. That would be counterproductive and do severe damage to the efficient business of the committee. In all other respects, he thought Mr. Silver's comments were constructive. He did not think the changes necessitated sending the handbook back to the panel. At the last meeting, he considered re-circulating the handbook to the committees, but he no longer supported that. Some of the best and brightest people contributed to this document and took very seriously the representative obligations. A great set of input had been received from some very thoughtful spokespersons, and he did not feel it was necessary to re-circulate the handbook.

Councilmember Merk said he had additional changes that needed to be looked at. In the motions section, State law did not require the public to identify themselves when they spoke at meetings. They could be asked, but if they declined, they still had the right to be heard. Also, with the definition of motions (p. 10), it should state that a motion is a formal proposal that the committee acts on or proposition that is on the agenda. For Motions 1.g (p. 10), he did not think withdrawing a motion required the approval of the committee; "...and with the approval of the committee" should be eliminated. He agreed with Councilmember Toben's comments about the minutes. Minutes were a complex issue. Asking anything more of the committee than the basic minutes (i.e., the motion, second and action taken) wasn't necessary. There was no requirement for a roll call vote. At times, there were two sets of minutes coming from a committee because there was disagreement about what was in the minutes. The minutes should indicate the motion and the action taken. Other than that, it would be difficult to find someone to take the minutes. On most of the committees, that was the worst job, and no one wanted to do it. He wanted to stick with action minutes. Also, there was a statement in an e-mail that indicated "...equal concern was expressed

over the possibility that much of the essence of the panel's work might be lost if the document is too heavily scrutinized by too many people." He was surprised to see that kind of language come up in Portola Valley. Over many, many years, the Town had bent over backwards to let everybody have their say. It slowed things down, but it had served the Town very well over time. There was no such thing as too much scrutiny of government.

Councilmember Driscoll said he suspected the document would be reviewed again in a year or so. Referring to page 1 and the Application and Selection Process section, he suggested replacing "and/or" with "and." On page 15 under the section on the Town's website, he assumed that committee members were not able to refresh the committee's web page without some staff member seeing the content and approving it. Ms. Howard said Ms. Nerdahl would be reviewing content. Councilmember Driscoll suggested that some language about staff review be added.

Councilmember Derwin said she supported the change to "recommended" maximum of nine members. She thought the decision should be left up to the committee in terms of whether they could handle a few more people. With respect to the changes from "mayor" to "Town Council," she said "mayor" had been lifted from the previous document, and the panel had not discussed it. She asked if there had been a problem where the mayor made unilateral decisions. Councilmember Merk said he saw the document as giving the mayor powers to do things without consulting the Council in terms of appointing, etc. That power belonged to the Council. Responding to Councilmember Derwin, he said what he proposed was a change for the better because this was being codified. This panel took place under the radar, and he hadn't seen the document until it came to the Council. The meetings were not published, and the public was not invited. Councilmember Derwin disagreed. Councilmember Merk said the five councilmembers were elected equally and the powers were held equally. That should be maintained. Councilmember Derwin said she saw no need to change it. The Council acted as a 5-member body, but she would not object to the change.

Councilmember Derwin said she agreed with Councilmembers Merk and Toben on the minutes section. Referring to Mr. Silver's comment under Committee Communications and expressing individual views, she questioned why it had been added; of course everyone was free to speak their mind. There had been an incident where someone spoke out and was reprimanded. But, she did not think that happened very often and hoped it would never happen again. She did not think the language was needed. Councilmember Toben agreed and said the language didn't have value. Councilmember Merk disagreed. Once was too many, and having it in the document made it clear.

Mayor Wengert felt some changes had been made out of a sense that there were attempts to change the way the Town operated that were not appropriate. In the spirit of moving this forward and recognizing that the document would continue to morph, she would support Councilmember Merk's changes. With respect to Mr. Silver's changes shown in his Executive Summary, she did not object to the changes shown on ES pages 1-3. She agreed that the suggestions for the minutes section (ES p. 4) were inappropriate. Under the subcommittee section (ES p. 5), she did not see the need to include "It is against Town policy to form subcommittees to simply avoid the requirements of the Brown Act." That had not been a problem. She further agreed with Councilmembers Derwin and Toben that the statement about expressing individual views (ES p. 5) did not add value to the document. The goal now was to work with these committees as expeditiously as possible. Councilmember Toben concurred with her comments relative to Mr. Silver's draft.

After discussion, Councilmember Driscoll moved to: 1) adopt changes recommended by Councilmember Merk as shown in the redlined document; 2) adopt changes recommended by Mr. Silver as shown in the redlined version, with the exceptions of changes to the minutes section, additions to statements made by individuals, and the statement that subcommittees would not be formed to avoid the Brown Act; 3) adopt the three changes suggested by Councilmember Merk during the meeting; and 4) include staff review of committee modifications to web pages. Councilmember Toben seconded the motion.

Councilmember Merk said he was concerned about dropping the change recommended by Mr. Silver about statements made by individual committee members. He would not support the motion without that paragraph. Mayor Wengert called for a vote, and the motion carried 4-1 (Merk).

Councilmember Toben said a couple of scenarios had not been addressed in the handbook. The first was where a committee member who might have served a few years too many wanted to continue to serve. The second was where there was an obstreperous or difficult person who was disrupting the chemistry of the group. The only provision for removal of a committee member went to questions of moral turpitude and woeful absences. The committee chair wasn't given any ability to build a functioning team. Councilmember Derwin said the panel had discussed that. Councilmember Driscoll said he was concerned that if the committee chair was given the ability to "build his team," second opinions could be sterilized out. Councilmember Toben said there would always have to be a dialogue and oversight by the Council, which addressed the concerns about balance, a variety of viewpoints, and took into account concerns about team chemistry and dead wood. Councilmember Driscoll said there were two issues: a) committee members that weren't working out for behavioral reasons; and 2) people who had been on the committee for too long. These were difficult issues. Councilmember Merk said he could think of people who had been on committees for a long time who were very valuable.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(10) Reports from Commission and Committee Liaisons [12:20: a .m.]

(a) Sustainability Building Workshop and Green Speaker Series

Councilmember Derwin said the workshop was excellent. About 25 people attended and were very supportive. The next workshop would be Sunday. The speaker at the last Green Speakers Series was also excellent.

(b) Newsletter

Councilmember Derwin said work had started on the next newsletter, which would be published before Memorial Day. The website, green activities in Town, green-ups and fire hazard would all be discussed.

(c) Trails and Paths Committee

Councilmember Derwin said the Committee discussed: a) trees cleared on Coal Mine Ridge; b) holding off driveway scoring until staff could come up with a selection process; c) an update on and estimates for the C-1 trail; d) the committee's budget; e) the former Woods property and connecting Arastradero to Los Trancos.; and f) 4 applicants for 2 vacancies.

(d) ASCC

Councilmember Toben said the Priory was building a Celtic labyrinth above the performing arts center. It would be available to residents for meditative/contemplative things.

(e) Community Events Committee

Mayor Wengert said the Committee was working on the Town picnic, Blues and BBQ and thinking about the holiday party.

WRITTEN COMMUNICATIONS

(11) Town Council 2/27/09 Weekly Digest [12:28 a.m.]

(a) Donation of Software

Referring to Ms. McDougall's letter to Dave Story, Councilmember Driscoll said the software cost \$295.00.

(b) Daily Post Article

Referring to the article run in the 2/27/09 issue of the *Daily Post*, Councilmember Merk said the copy of the article in the digest cut off the last column, which listed the payroll of everyone on the Town staff. He felt this was censorship in a public document, and he was shocked. Councilmembers and staff discussed: 1) appropriateness of publishing salary information; 2) high sensitivity to salaries; 3) impacts on organizations and colleagues of having salary information; and 4) accuracy of the article and quality of the *Daily Post*.

(12) Town Council 2/20/09 Weekly Digest [12:34 a.m.]

(a) Budget Goal Setting and Committee Handbook Workshops

Referring to Ms. Howard's memo of 3/6/09, Mayor Wengert said she met with Peter Steiner who would be assisting the Town. She was very positively impressed and felt he would be a tremendous asset in determining goals and objectives—particularly at a time when the budget was being discussed. She encouraged Councilmembers to work with the Town Manager and Mr. Steiner in this effort.

(b) Douglas Conditional Use Permit

Referring to Ms. Lambert's memo of 3/5/09, Ms. Sloan said it appeared that the Douglasses would be connecting to the sewer. She thanked the Planning Commission and Council for handling this issue so professionally.

(c) Woodside Fire District

Referring to the correspondence between the Woodside Fire Protection District and Patrick McCallum, Councilmember Toben said the Woodside Highlands Association would be meeting tomorrow night in the Community Hall to talk about ways to constructively engage the Fire District in Town to ramp up the fire prevention program. Mr. McCallum's correspondence reflected some of the sentiments of the neighborhood. There was also a Fire District Board meeting on Monday night. Responding to Councilmember Driscoll, Ms. Howard confirmed that the issue was on the next agenda.

ADJOURNMENT

The meeting adjourned at 12:37 a.m.

Mayor

Town Clerk