

TOWN COUNCIL MEETING NO. 733, NOVEMBER 28, 2007

ROLL CALL

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

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

ORAL COMMUNICATIONS: None

CONSENT AGENDA

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

Ayes: Councilmembers Davis, Derwin and Toben, and Mayor Driscoll.
Noes: None

- (1) Minutes of the Town Council Meeting on 11/28/07, as amended by written comment from Councilmember Merk.
- (2) Warrant List of November 28, 2007, in the amount of \$625,260.27.
- (3) Resolution No. 2374-2007 Approving and Authorizing Execution of Amendment No. 7 to the Town Administrator's Employment Agreement Between the Town and Angela Howard, per Asst. Clerk's memo of 11/20/07.

REGULAR AGENDA

- (4) Second Reading of Title, Waive Further Reading, and Adoption of an Ordinance Adding Chapter 18.59 [Creek Setbacks] to Title 18 [Zoning] of the Portola Valley Municipal Code (Removed from Consent Agenda)

Councilmember Davis noted that correspondence had been received from Glen and Jill Howard and Mark Wilson/Deborah Dalzell dated 11/14/07 that opposed application of the ordinance to Los Trancos Creek. Town Planner Mader's response was dated 11/28/07 and included an attachment (dated 11/27/07) from John Wallace, Town Geologist's office. Town Planner Mader reviewed his memo. He used a map to show how the Howard and Wilson/Dalzell properties would be affected by the new creek setbacks. As indicated in his memo, he said the relief from setbacks that unduly restricted use of property in comparison with other parcels in the same zoning district was the variance procedure.

With respect to the argument that the regulations were discriminatory, Ms. Sloan said under the police powers of the State of California, the Town had the authority to establish land use regulations as a legislative matter. The standard for legislation being upheld was that it was not arbitrary and capricious and that there was some standard of reasonableness. It was not a matter of making findings as in the case of quasi-judicial determinations. There was no necessity for findings for adopting an ordinance such as this. Nevertheless, she had asked the Town Planner to provide additional information, and he provided extensive

factual background in his memo. When an individual property owner felt their property was physically constrained, the mechanism was a variance.

Mayor Driscoll said it appeared that the Howard and Wilson/Dalzell letter was written before the Council's meeting on 11/14/07 and that Mr. Howard's comments at the meeting were a summary of his letter. He felt the response had been complete and that the variance process was available to anyone who felt the regulations imposed an undue hardship.

Councilmember Davis moved second reading by title, waive further reading, and adoption of Ordinance No. 2007-369 Adding Chapter 18.59 [Creek Setbacks] to Title 18 [Zoning] of the Portola Valley Municipal Code. Councilmember Toben seconded, and the ordinance passed by a vote of 4-0.

(5) Amendment to Vehicle and Traffic Title of the Portola Valley Municipal Code

Ms. Sloan reviewed her memo of 11/20/07 on the construction traffic road fee ordinance, which would allow: (a) collected fees to be applied to both public roads and roads traveled by the public but privately maintained; and (b) the fees to be applied to road repairs other than paving. The amount of the fee was set by resolution and was not part of the ordinance. The fee would remain the same as it was today until the Council changed it. How the money was distributed was policy and could be addressed at a later date. Councilmember Davis said the subcommittee would discuss the fee and allocation after the first of the year.

Mayor Driscoll asked for public comment, and there was none.

Councilmember Davis moved first reading by title, waive further reading, and introduction of an Ordinance Amending Chapter 10.72 [Construction Traffic Road Fees] of Title 10 [Vehicles and Traffic] of the Portola Valley Municipal Code. Councilmember Derwin seconded, and the motion carried 4-0.

(6) Update on Potential New Site for Phillips Brooks School

Mayor Driscoll said he and/or Councilmember Toben had met with the Santa Clara County (SSC) Planning Department, the City of Palo Alto and WestBay Sanitary District. It had been communicated to all of the groups that the Town felt there were significant problems with this site that were probably not mitigatable. There appeared to be general agreement with that conclusion. The SCC Planning Director stated their concerns and requirements for a site like this, and they were not very different from the Town's in terms of setbacks, findings, etc. They indicated that the Town would be noticed when an application was received. The site was in Palo Alto's sphere of influence but not in their urban service area. Mr. Vlasic had memorialized the meeting with Palo Alto in his letter (11/21/07) to the Assistant Director of the Palo Alto planning commission. Mayor Kishimoto was well informed about the area and the planning issues. WestBay's position was that they did not get involved in politics. If someone made an application, it was dealt with. They were currently putting in a small pumping station to meet residential needs in that area. That pumping station would not be sufficient to deal with a school, and there were questions about how that could be accomplished. They also indicated that they would notice the Town if an application came forward. He noted that the school was just completing a multi-million dollar construction project on the current site in Menlo Park. At the end of 15 years, they planned to abandon the site and donate it to the school district. The Town was trying to put placeholders in the minds of all the deciding bodies about where the Town stood. He felt that had been accomplished, but on-going vigilance would be appropriate.

Mike Houlihan, Alpine Road, said he represented the Arastradero/Alpine neighborhood group, which consisted of some Town residents and some residents from north Santa Clara County. The group's primary ally was the Town. He felt the City of Palo Alto had been receptive to the Town's input. There were some remaining questions, such as whether the Town had any input to the annexation process in that area by WestBay Sanitary District. This property had not been annexed yet, although the sphere of influence had

been recorded by both counties and by WestBay Sanitary District. Not all the properties had been annexed. The Town had an opportunity to comment, if that process was started by the school. He did not know if the Town would have a veto or could influence that decision. He said the neighborhood was somewhat forgotten by the City of Palo Alto and the county. His group had learned that hillside protection was important to the county people. Unless there was extensive construction on the hillside, he did not think a facility could be put on the site that would justify the investment. The school's public statement was that they believed they could mitigate that issue. Supervisor Kniss indicated that some of the land use decisions favored hillside protection. These were the kinds of things that needed to be constantly worked on as this issue went forward. There were 25 active members in his group who would continue to be active. He appreciated the support from the Town and wanted to continue to work together.

Mayor Driscoll noted that the property on the corner was for sale, although the owner was adamantly opposed to this project. This issue could get more complicated.

Bill Lane, Westridge Dr., said the Council had been very thorough on this subject. Phillips Brooks School indicated that they would not be doing anything for some years. He encouraged the Council to do everything it could to re-enforce the work of the Town Planner, Councilmembers and Town Attorney for future Town Councils. He thought some photography might be helpful to back up some of the observations. County personnel and Board of Supervisors might also change.

Mayor Driscoll suggested the Planner's office summarize comments made at the meeting with Santa Clara County planning department. Their staff would turn over, but they would maintain a file on the property. Councilmember Toben suggested the heading include the APN and address.

Councilmembers and Mr. Lane discussed site constraints, evaluation of the site by a consultant retained by the school, other sites considered by the school, Menlo Park's and Palo Alto's interest in private schools, and the school's interest in owning the property the school was on.

Councilmember Toben suggested contacting the relevant agencies annually to touch base and see if there was any activity. Mayor Driscoll asked staff to ensure the Council revisited the subject next year.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(7) Reports from Commission and Committee Liaisons

(a) Parks and Rec Committee

Councilmember Toben said the membership was quite engaged. They were in the process of finalizing the pros and cons of synthetic turf.

(b) Council of Cities Meeting

Councilmember Derwin said the speaker at the meeting in Half Moon Bay was James Sweeney, Director of the Precourt Institute for Energy Efficiency at Stanford. The title of his presentation was "Energy Problems, Energy Policy, Energy Efficiency."

(c) Newsletter

Councilmember Derwin said the newsletter was out.

(d) Friends of the Library

Councilmember Derwin said the Friends just received a donation of \$10,000. The librarian noted that the children's programs attracted 130-150 people. Additionally, the Friends had a website. They were working with the IRS to get their 501(c)(3) status back and a permanent tax ID. They would be kicking off their campaign in January with a mailing.

(e) ADT Meeting

Mayor Driscoll said the Town Center project continued to be on budget and on schedule. The sod was in for the playing field and looked very good. The northeast corner of the community hall was being mocked up with the siding, colors, etc. The roof material that was on the color board did not have the correct reflectivity, and a slightly lighter gray material would be used. The color board was being updated. Mr. Young would be providing a summary of change orders coming through. The weather had not delayed construction. He said a solution for the playground equipment installation problem was on going.

(f) Planning Commission

Town Planner Mader said the Commission would be discussing Roberts Market next Wednesday. At the joint Planning Commission/ASCC meeting, there was some discussion about people congregating at Roberts. There was a limited amount of space outside for eating, and one possibility was to use Triangle Park as an outdoor area linked to Roberts. Some felt the park should be more for the kids. A different dynamic would be set up when Roberts went in. The Town might be able to utilize that in some creative way to involve more people.

Councilmembers and staff discussed possible improvements to Triangle Park that would relate to Roberts. Councilmember Toben said it might be worth exploring with George Roberts whether he had any interest in contributing financially to improvements to the park. Town Planner Mader noted that the staff report going to the Planning Commission suggested that George Roberts might want to develop a little more seating area at the store. That might mean giving up some parking spaces. If that was not feasible, he might want to make a contribution toward Triangle Park. Chair Wengert said another suggestion was to develop some of the back lot for picnic tables. George Roberts had some resistance to that. The consensus reached at the joint meeting was to see how much demand there was. The Planning Commission would be discussing it further.

WRITTEN COMMUNICATIONS

(8) Town Council 11/16/07 Weekly Digest

(a) Weed Abatement

Referring to Gunther Steinberg's letter of 11/8/07 on weed abatement, Mayor Driscoll said it was his understanding that this was a Fire District issue. Ms. Sloan said her experience was that Fire Districts took care of weed abatement. Woodside Fire District apparently did not have a program. She noted that the letter was copied to the Fire Marshal. Mayor Driscoll suggested asking the Fire Marshal to provide an update on the status of the ordinance he understood they were working on. Town Planner Mader discussed the property adjoining Mr. Steinberg's property and other properties. He felt the problem should be addressed. Responding to Councilmember Toben, Ms. Sloan said the Town would not be liable if a fire broke out on the property adjacent to the Steinbergs. Mayor Driscoll asked for a report at the next meeting. Responding to Councilmember Toben, Ms. Sloan said the Fire District had a Board that met once/month. Richard Merk was the liaison and might want to attend the next meeting. She suggested pursuing the issue with the Fire Marshal after receiving the status report from staff.

ADJOURNMENT

The meeting adjourned at 9:00 p.m.

Mayor

Town Clerk