

TOWN COUNCIL MEETING NO. 727, SEPTEMBER 12, 2007

ROLL CALL

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

Present: Councilmembers Davis, Derwin, Merk and Toben, and Mayor Driscoll  
Absent: None  
Others: Deputy Town Planner Vlastic, Town Administrator Howard, Town Attorney Sloan, Asst. Town Administrator McDougall, and Assistant Clerk Hanlon

ORAL COMMUNICATIONS

Georgia Bennicas, Golden Oak, said she also owned a parcel on Arastradero. Recently, Phillips Brooks School purchased a piece of property that abutted her land. They attempted to buy her property as well without identifying whom the actual buyer was. Now, a school would be going in on a 10-acre parcel. Her parcel had an easement that crossed from Arastradero Road into this parcel. The deed that addressed the easement was very old. In one part, it said there was a 12' easement and another part said there was a 20' easement; they were researching it now, as it was the only access off Arastradero onto this particular property. She was not interested in having a school next door. She was in the process of selling the property and had been told that the property would be impacted by having a school next door. While the parcel was not in Portola Valley, the traffic would impact Portola Valley. Portola Valley would not be receiving any revenue from the new school, and the students were not Portola Valley residents. She wanted to know if there were other ways to address this other than trying to do it on her own. Mayor Driscoll noted that one of the Councilmembers wanted to add this issue as an urgency item to the agenda.

Matt Stoecker, Campo Rd., said he had come to hear the discussion of the creek at Town Center. He said he forwarded a report dated 9/11/07 to the Town that addressed the many benefits of daylighting the creek, case studies, and funding sources. He was concerned that the proposed site plan did not show that portion of the creek that was to be set aside for future daylighting of the creek. That was a violation of the democratic process and the agreements that had been reached. There were also donors who donated specifically with the understanding that: 1) this creek was being partially daylighted; and 2) there would be a future option to daylight the creek through the whole Town site. Daylighting the creek was the only element of the Town Center project that did not have funds allocated to start work on design alternatives and implementation. He was also concerned that the Town was spending over \$100,000 to have a consultant say that the building would be LEED certified and a green project. That money could be spent actually doing a green project: designing the creek daylighting project and starting to implement it. Oakland, Berkley, El Cerrito, elementary schools, etc., were jumping all over these daylighting projects, restoring creeks, and designing whole sites around them. That's what the Town Center should have been from day one. There was still time to pull it together, and he requested the Council to direct staff to work with the consultants to look into alternatives, get real cost estimates, and allocate some of this funding that donors expected would go to the creek. He also wanted people to be allowed to provide input to the discussion this evening prior to the Council taking any action.

SallyAnn Reiss, Golden Oak Dr., distributed and read a press release announcing an anonymous donor's \$500,000 matching grant to kick off the final fundraising drive for the Town Center project. She said the Portola Valley Community Fund (PVCF) was a way for a lot of the people who had already donated or new donors to double the value of their donation. This gift supported the donor's commitment to ensure that residents continued to live in a Town that honored its natural beauty, upheld conservation and maintained an aesthetic of rural living.

#### ADDITION OF URGENCY ITEM

Councilmember Toben requested the Council add the issue of Phillips Brooks School's purchase of property east of Los Transcos Creek opposite Rossotti's to the agenda. He noted that he had not been made aware of the issue until Monday and felt it was a matter of considerable concern to many members of the community. By motion of Councilmember Toben, seconded by Councilmember Merk, the issue was added to the agenda as an urgency item by a vote of 5-0.

#### CONSENT AGENDA

By motion of Councilmember Merk, seconded by Councilmember Derwin, the items listed below were approved by a vote of 5-0.

- (3) Second Reading of Title, Waive Further Reading, and Adoption of Ordinance No. 2007-367 Adding Section 13.12.430 [Applicability and Sunset] to Chapter 13.12 [Community Cable Television Franchise] of Title 13 [Public Utilities] and Adding Chapter 13.14 [Video Services Providers] to Title 13 [Public Utilities] of the Portola Valley Municipal Code
- (4) Second Reading of Title, Waive Further Reading, and Adoption of Ordinance No. 2007-368 Adding Chapter 12.12 [Use of Public Rights-of-way] to the Portola Valley Municipal Code.

#### REGULAR AGENDA

- (1) Minutes of Town Council Meeting of August 22, 2007 (Removed from Consent Agenda)

Councilmembers submitted changes to the minutes of the 8/22/07 meeting. By motion and second, the minutes were approved as amended by a vote of 4-0, with Councilmember Derwin abstaining.

- (2) Warrant List of September 12, 2007 (Removed from Consent Agenda)

Responding to Councilmember Toben's question about the water sampling near Rossotti Field (p. 1), Ms. Howard said the Conservation Committee was very concerned about runoff from the field going into the creek. Tests were done by Balance Hydrologics upstream, downstream and directly down from the field. The water was perfectly clean. A change in the maintenance program of the field did not allow anything to be put into the streams. She said the report was available.

By motion of Councilmember Toben, seconded by Councilmember Davis, the Warrant List of 9/12/07 in the amount of \$932,112.22 was approved by the following roll call vote:

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

- (5) New Town Center Creek Status

Larry Strain, project architect, reviewed the history of the creek daylighting project as set forth in the "Project History" section of the PWA memo dated 9/5/07. He said he, Ron Lutsko (landscape architect) and Jorgen Blomberg (PWA) had been asked to develop alternatives for the Council to consider on how to move forward with the creek daylighting portion of the new Town Center project.

Jorgen Blomberg reviewed the advantages and considerations of each of the three alternatives described in

the PWA report of 9/5/07. Using the chart, he discussed the timeline and cost of each alternative. He added that until flows were returned to the open channel, the Town could build this project without seeking the standard permits from the various regulatory agencies. Responding to Mayor Driscoll, he confirmed that the proposed “culvert” was similar to a bridge over the creek; the opening would be 15-18’ wide, 5-6’ tall and would be sized to meet or exceed the conveyance capacity of the existing utility that was in place. The creek bottom would be natural. Responding to Mayor Driscoll, he confirmed that a seasonal creek, such as this one, would not be more subject to permitting. More relevant was what activities would be allowed within the creek once it was opened and flows were returned to the channel.

Responding to Councilmember Derwin, Mr. Blomberg said a lot of specialties would be involved in the daylighting project as indicated in the proposal dated 9/6/07. He had tried to maintain consistency between the Town Center team that had been involved in all the elements of the project and the elements that would be necessary for the daylighting project. He noted that this area would be an active recreation area and deserved the attention of a professional landscape architect. He said Mr. Strain would be retained for the creek project to help weave all the aspects together to ensure the vision of the Town Center would be followed and enhanced. He described other aspects of the project that required civil, structural, and electrical engineering expertise. He said there was some overlap and the responsibilities would be clearly defined. The intent was for the creek project team to provide a lot of consistency and cohesion with the Town Center project.

Responding to Councilmember Derwin, Mr. Blomberg said the cost for technical analysis; design and permitting for alternative 2 had come down and was closer to \$390,000. Responding to Councilmember Derwin, he said the Auburn project involved daylighting about 530’ and had a bottomless arched “culvert” that was about 50’ long. That project had a much more steep profile, high-energy stream, with much more rock structure than would be necessary or desirable in the Town’s project. He described other features of the project noting that it cost \$2.4 million, of which Auburn paid \$300,000. Through 13 grants, they received about \$1.6 million. Responding to Councilmember Derwin, he felt the Town could absolutely win grants. This project had a lot of merit. It was integrated with a civic center, and there was an opportunity to develop an education/interpretive program and watershed stewardship program. He felt it would be a very attractive project for grant agencies—especially with the demonstrated commitment that the Town had and the initial investment already put forward by the Town. Agencies were more interested in putting money into projects that already had traction and were moving.

Responding to Councilmember Derwin, Mr. Strain said the LEED point that would apply, “Restoring Natural Habitat,” was already earned. Converting the existing culvert to an underground cistern to collect water to be used for irrigation had been discussed. But, you had to have no potable water used for irrigation in order to get the LEED point. Regardless, you would be saving thousands of gallons of water to do that step. It was not currently in the proposal, but it was not a huge item because the culvert was already there. He described the work that would be necessary to make the cistern.

Councilmember Toben said he was concerned about the cost for this project. To consider any of the scenarios, he felt the Town should be thinking about other firms that might be able to come in and do a comparable job at less cost.

Mayor Driscoll asked for public comment.

Bernie Bayuk, Paloma Rd., said 1-2 years ago, there was some serious concerns about the creek flooding during the rainy season, which could complicate landscaping and endanger kids. Responding, Councilmember Toben said there was a series of public meetings starting in the spring of last year and going through the summer. A number of liability questions, issues of risk, managing a dry creek, flooding, etc., had been discussed. Legal counsel and the experts had all weighed in. There was a great spectrum

of viewpoints from the Sausal Creek Advisory Committee and representatives from all the major Town committees, including the Planning Commission, ASCC, Conservation Committee and Trails Committee. They were able to come to a unanimous position at the end that the idea of opening the northern reach of this creek through the campus was a desirable result—assuming funding could be found and it didn't transgress the rest of the project development. The issues had been looked at very seriously, and a resolution among a fairly large and diverse number of people had been agreed on.

SallyAnn Reiss said she was totally for opening the creeks and providing another resource for the community. Everyone agreed it was a good idea, but she hadn't seen any drawings or plans. She also thought there was money in the Town and that people would get behind it, but they needed to know what it was.

Mr. Strain said renderings had not been done because he hadn't been hired to do the job yet. Some sketches and plans had been done showing the alignment, and he had examples of other creeks of similar nature that had been used for the Town advisory committee to give them a feel for what it would look like. He gave a short Powerpoint presentation and discussed: 1) the alignment of the creek; 2) area to be daylighted; 3) the arched, open bottom culvert; 4) transition areas; 5) slope and flow channel; 6) elevations; 7) creek velocity; 8) energy dissipation basin; 9) gates/grates for safety; and 10) renderings and photos of similar projects.

Responding to Ms. Reiss, Mr. Blomberg explained that the more the creek was bent; the flatter it got and flow would be lost across the site. Any sediment that it was transporting would start to fall out. The intent was to develop a natural, stable, sustainable meander through the site. There might be an opportunity to put a little more bend into it to preserve the performance lawn and add some more interest to the channel line itself. Within the channel, there was a base flow, which could have a smaller meandering pattern within it. There were multiple layers in these stream channels. Mr. Strain added that different alignments had been discussed, but there was not enough fall and the creek would stop. Responding to Ms. Reiss, he said footbridges could be added as well as some other small features.

Matt Stoecker said there was the potential to expand the length once the culvert was removed and the stream was allowed to drop. Mr. Blomberg said there would be a technical analysis in the design process. Mr. Stoecker said he supported alternative 2. He said visuals would be helpful to get people excited about the project. The more the projects were separated, the harder it would be to get funding. Additionally, he said half the culvert had water in it now. It was isolated and not flowing. The fact that there were some pools in the culvert and upstream led him to believe that during the summer if the creek was dug a little deeper, you could get groundwater percolation. There was more water there than people thought. Additionally, he felt Councilmember Toben's comment about shopping around was valid. This was a great first step but it made sense to see what other people were thinking. He had worked with Quest who completed a 350' daylighting project for Alameda County; that project was \$600,000 for the construction. The design costs were 10-15% of that. It was valid to shop around and bring the price down. He felt the flooding issue would be reduced by the daylighting project. Additionally, the liability would be lessened by removing the culvert. As kids, we used to dare each other to walk through the culvert. He reiterated that his memo of 9/11/07 addressed grant funding and case studies.

Derry Kabcenell, Alpine Rd., said he supported this project after having looked at it in more detail over the last few days. He felt there was considerable environmental value to this project beyond the educational and aesthetic value. He thought alternative 2 should be seriously considered. It would be very hard to restart this activity after the Town Center project was finished. There was a lot of rework that would need to be done. If it was practical to do it without derailing the Town Center project, alternative 2 was a good one. He felt it should be funded largely or completely through private and grant money—particularly private money that didn't interfere with completing the funding for the rest of the Town Center project, which was

the priority right now. He felt the money could be raised for this project. With respect to Phil Williams, he said the firm was expensive and that the Town should shop for alternatives. But, they did very good work and he had heard many positive comments about the bank repair done at Corte Madera Creek and the open space preserve. Responding to Mr. Kabcenell's question on permitting, Mr. Blomberg said the issue of the connection with the open stream was a question. He thought initial consultation with agency staff would be advisable. The team had a strong reputation with the regulatory agencies. Nothing would be designed that the agencies would not be in support of. Anything that was recommended to the Town would be consistent with the agencies' priorities and expectations.

Jerry Hearn, El Nido Rd., offered his whole-hearted support of the project and concurred with Mr. Kabcenell's comments. Alternative 2 was the way to go in terms of cost savings. Once a project got going, you needed that energy to keep moving as the engine. He didn't want the creek project to stall out. He noted that a nearby project was a daylighted creek on the Arastradero Preserve. Costs of that project could be obtained from the City of Palo Alto. All the funds were obtained from non-city sources.

Marianne Plunder, Kiowa Ct., concurred with Ms. Reiss's comments. There was enough money in Town for this project without impinging on the funding for the Town Center project. She had a good sense of where the passions lay. She thought the money would be available in no time once a fundraising drive was started.

Danna Breen, Alpine Rd., supported alternative 2 and felt it was the right thing to do. The Town had been headed in this direction for a long time with the committee and from the response from the Council the first time it was heard. Once it was in, it would be a completion of the vision of the whole site project. It needed to happen for the design legacy and moving forward.

Marty Mackowski, Los Charros, said he was on the committee that discussed the daylighting and had done a fair amount of research. With respect to the safety issue, he called a number of towns throughout the State and Oregon; some of the projects were pretty substantial. There had never been any problem with kids playing in the creek or liability issues according to all the city officials he talked to. He supported the project whole-heartedly.

Alex Von Feldt, Creek Park Dr., supported alternative 2 and concurred with comments about the recreational aspect and habitat value. This was really keeping with the Town values in terms of revering and being stewards of the land. Having a part of this creek running in a pipe under the Town Center sent the wrong message. It was an investment and seemed expensive. But, 2, 5, or 10 years from now, this would be a very important investment for the Town.

George Comstock, Alamos Rd., said he and his wife were strongly in support of alternative 2 and wanted to move it along. Responding to Mr. Comstock, Ms. Howard said she did not think the project would affect insurance rates in terms of liability. Other communities had creeks and weren't affected. Mayor Driscoll said he spoke with an insurance agent who felt it was a greater risk to have the creek in the culvert because children could be injured in a flood or drawn into a culvert. It was actually safer to take it out of the culvert.

Linda Yates, Mapache Dr., strongly supported alternative 2 and would support opening up the whole creek. When she made her contribution to the Town Center project, it was under the assumption that this would be integrated in the design and that the funds would be raised separately. She read from the fundraising pamphlet that talked about a place where families and neighbors gathered to play, learn and celebrate the natural beauty of Portola Valley for generations to come. The creeks were a major part of the Town. As to the safety issue, there had not been any incidents since 1967. It was a little sad that in the old days there was more access to creeks. Having it as a part of the Town Center was truly an asset. As to the funding, she also believed there was plenty of money out there—both from people already into the Town Center,

new money for this particular passion, and money from grants. It was fine to shop around, but the Town shouldn't be penny-wise and pound-foolish. If you had someone who could do a beautiful design and had experience, that was important. The unintended consequences of always going for the cheapest bidder might not pay out over the long term. She also thought that this project was consistent with the Town guidelines and also consistent with sustainability and the climate change issue. Anything that you did to restore habitat, restore natural beauty and raise the awareness of people of environmentalism, conservation and ecology would go a long way to support efforts towards sustainability. The more cement the Town could do away with, the better.

Mayor Driscoll suspended the public hearing.

Councilmember Davis said he thought the Council had already made the decision that some of the creek would be daylighted. The question was timing and how. Responding to Councilmember Davis, Mr. Blomberg said there was currently a pipe that was 8' underground that was not a riparian corridor. There was no ecological function, and the pipe conveyed water from A to B. It was a storm drain utility. Funding would be sought from riparian corridor organizations based on what would be created. After it was created, it would be regulated. Responding to Councilmember Davis, he said there would probably need to be an initial investment from the Town to get the designers working on the project. Concurrently, the Town could initiate a grant pursuit/fundraising effort, which would be done with the documents that the design team would be developing. Responding to Councilmember Davis, he said the agencies had different grant funding cycles throughout the year. Typically, there was a large rush early in the year during which many of the agencies accepted applications. The grants were issued typically 1-2 months later. Funds were allocated and you invoiced against the account set up in the project's name. He thought it would be helpful to set up a non-profit organization that would be in partnership with the Town. Those types of partnerships also tended to be more attractive to funding agencies around the State. Responding to Councilmember Davis, he said there were different models. When there was wholesale investment at the front end, that investment could be repaid as grants were awarded or other funding became available. In other cases, stakeholders managed to get in the pipeline of these grant awards and start matching funds that they had in place.

Councilmember Davis said he would have a different attitude if the Town was at \$20 million in the current fundraising. The Town would be taking on an added responsibility, and it was impossible to prove that those who would give to the creek hadn't already given or would give less to the base program. He liked the decision the Council had made earlier because it separated the two variables and permitted the completion of the funding for the base program before adding to it. The timing had also not been addressed. He was encouraged by the non-interference of the licensing properties with the execution of the project. With all six agencies he spoke to about licensing existing riparian corridors, they all said the process was longer than anticipated and took well over a year. For the fundraising and actual construction, it was awkward to run into problems. He was encouraged that the likelihood of that was very low. He did not feel the amount of savings would be that great. The amount of savings in the tearing up, displacement and emotion was high. From the standpoint of ensuring the Town was monetarily solvent on the base program, he supported moving forward. The tear up was significant. There might be other alterations, and the earlier that was determined the better. He was torn but was leaning toward alternative 3.

Councilmember Derwin said she served on the Sausal Creek Committee and was present at the meeting on 10/10/06 when the Council decided to conceptually accept the creek daylighting and asked for more information. It was a year later getting this information. If the consultants had been released to go out and do this work in a more timely fashion, the Council could have had this information last April. Mr. Blomberg could have been asked to bring the price down. Fundraising could have started for the creek. Now, the Town was right up against the construction window.

Councilmember Toben said he would support a variation on alternative 3. He did not support alternative 2. He had had a lot of input from individuals in the community who were not present tonight who took a very different view of the timing and funding of this project. There were concerned citizens who accepted the fact that this Council had vigorously endorsed the creek project but had serious concerns about interference with the ongoing fundraising for the primary project. This Council had energetically endorsed the notion of opening the northern reach of this creek. The Council accepted and embraced the recommendation of the Sausal Creek Advisory Committee last year. He endorsed the notion that this amenity would introduce a safe and wonderful experience of the creek without the vice of poison oak to deal with. He thought a year ago that the notion of having the fundraising for this element trail the main fundraising was a clean way to go so there was no interference with the momentum of the PVCF steering committee. He remained with that view. Last October 10, there was not a complete picture of what this project would entail or its cost. In hindsight, he agreed it would have been preferable to have this presentation back in April. It would have been great to have been able to take up this discussion tonight with \$500,000 available to launch this project. Alternative 2 called for the immediate commitment of \$400,000, which the Town didn't have in hand. That was not keeping faith with the Sausal Creek Advisory Committee or the residents of the Town to say the Town could find \$800,000-\$1,000,000 in the next 12-24 months. That was not prudent. At the same time, it would be foolish to take the alternative 1 approach and build the driveway and then tear it out in 18+ months to do the creek project. He supported a variation on alternative 3, which contemplated the design and installation of the creek channel crossing. It would eliminate the problem of disruption, which he thought would be bad politically and bad in terms of the community's momentum behind the project. He was not prepared to accept the proposed cost on the alternative 3 proposal of \$330,000, which was what prompted his suggestion about shopping the project around. That was a ton of money, and he was troubled by that figure. He wanted to consider other designers to submit bids for this particular job. He recognized the outstanding reputation of Phillip Williams, but he felt it was the responsibility as elected officials to consider other bids. If the cost figure could be re-examined and brought down to a level that was more palatable, he could analogize to the decision made several weeks ago which was to front some of the cost for the baseball field. That was essentially what the Council was being asked to consider in this instance as well. If the numbers could be squeezed, he was inclined to consider that. He questioned what the drop-dead line was on this, which was also a concern. His variation of alternative 3 was to pare back the work proposed in the near term on the meadow. He would defer the work on the meadow including the irrigation, pathways, and landscaping for a savings of \$100,000-\$150,000. He would give the fundraising team, grant writers, etc., 15 months to December 31, 2008, to raise the money. The targets of fundraising should not conflict with the targets that remained in play for the PVCF steering committee. The \$20 million had not yet been raised, and the Town should not be diverted from that single-minded goal. He was also skeptical about the likelihood that this affluent community would compete well against the likes of Richman, Oakland, Hunter's Point, or Auburn when it came to competition for public funds. If he was a public agency person, he would be much more inclined to support a grant application from those communities than from Portola Valley. He was flexible with the timing to raise the money, and it could take two years. But, he could not support alternative 2. He supported alternative 3 under the variation that he suggested.

Mr. Blomberg said the \$130,000 estimated for the technical services included all of the hydrologic, hydraulic and geomorphic assessment that would go into the alternative 2 technical analysis. There was no inefficiency there, and it represented the foundation of technical understanding for the entire project. He felt the cost for PWA was being unfairly characterized. PWA had established a team of the Town's consultants for the Town Center project. The expense of the culvert in alternative 3 included headwalls, a utility and culvert fittings. Those were large engineering elements and not PWA elements; PWA would be coordinating and providing input. The \$200,000 estimated for the culvert was not unrealistic. The Auburn culvert was not graded for emergency vehicle loading and cost \$107,000 to be installed. The numbers presented were real world costs and represented what he thought it would cost. His role was to provide realistic numbers, help the Town understand who was involved in the elements of the job, get the project designed and refined to maximize the cost benefit, and end up with a good, safe, sustainable project. He

described the culvert, which was in addition to the daylighting project, and the revegetation project that were in a very visible spot in the Town Center. He did not think the costs presented were pie in the sky. His firm's fees were less than half of the total. This was a multi-disciplinary team who would put together a very complex and important project for the Town. The firm was more expensive than competitors and was far and above more rigorous. Projects were approached from a natural systems perspective, and the projects stayed in the ground and proved to work within the systems they worked. In 5 years, this project would look the way it was supposed to look. He could not say that for all his competitors. The team assembled was based on what he understood were the goals and priorities of the Town to have a well-integrated, multidisciplinary team that was capable of delivering the project within the timeframe asked for.

Councilmember Merk said he was in favor of alternative 2. It was the best thing the Town could do right now. If this was put off until the project was finished, it would be very hard to rekindle the momentum and the enthusiasm to dig up something that had been built and start working over it again. He was very concerned about putting it off until the end. He had quite a bit to do with PWA and their survey of the creek and attended a number of the meetings that they presented. He felt they were the best company that the Town could possibly get to be involved in something like this. The Town Center deserved that kind of care. He was not opposed to looking elsewhere, but he felt the Town would be foolish to spend a lot of time looking elsewhere trying to trim a few dollars off of this project and get a cheap job rather than a good job. He was excited about the idea of having the creek and this natural transition that it would create between the meadow and the performance lawn. When the creek was dry, you could walk across it; you could walk from the natural meadow to a lawn on the other side of the creek bed. When there was water in the creek, you would go around. He couldn't think of a nicer thing to have running through the middle of the Town Center. When the creek first came up after the initial design for the Town Center was completed, he was against the idea. But, having seen the plans and heard the information that came back from the creek study committee, he was more and more in favor of it. In terms of the private funding, he felt it was a risk the Town needed to take. Adding 5% to the overall project and moving it from \$20 million to \$21 million would energize the fundraising efforts—not slow them down. In fact, the Town would be more likely to reach the goal with this feature than to reach the goal without it. It was a good idea to add some momentum and energy to the end of the fundraising. There was also the line of credit from the County if push came to shove and money needed to be borrowed to complete or kick off the project. In terms of the high cost of alternative 3, you couldn't just put in a \$30,000-\$50,000 culvert. You wouldn't know where it would go until you knew what the fall was over the length of the project. He did not think alternative 3 was a very effective way of reaching the goal. Alternative 2 was also the greenest alternative. If something was built and then torn up, he didn't think there should be any LEED credit. While there was a lot of work that would need to be done in a short amount of time, he thought alternative 2 would be the best outcome for the Town Center.

Councilmember Derwin said she did not like alternative 3. It seemed a wishy-washy compromise. She also questioned whether it would be attractive for grants. She agreed that there was some momentum going now and that it needed to be kept up. To have a LEED platinum project sitting atop a creek in a culvert was pure hypocrisy. The Town had a Climate Protection Task Force, more houses had solar roofs than any other town, the Town taxed itself to keep open space, etc. Not to daylight the creek was absurd. Daylighting was the new trend. In five years, she thought everyone would be daylighting creeks. Daylighting the creek also went to core values. Every time she was troubled about an issue of this sort, she returned to the General Plan. She read some of the Conservation Element provisions that dealt with the Town being the steward of its resources, which included creeks and ponds. She favored alternative 2 because it would demonstrate the commitment to go forward on the project. She was in favor of the Town borrowing money from the general fund or the County line of credit until the donations and grants came in. Daylighting Sausal Creek was the right thing to do and should be done. Additionally, she wanted to work with Mr. Blomberg, even if he was expensive. She understood shopping around, but this firm had a proven track record for doing gorgeous work.



Mayor Driscoll said he also favored option 2. He had been in favor of opening up this creek since 1996, and he wanted to see it done now. It was important enough that he was prepared to allocate money from the general fund reserves to do it. It would be a challenge to the fundraisers and grant writers. He agreed it was less likely that the Town would get a grant than Hunter's Point, etc., but he was willing to take that risk. Throughout the project, decisions had been made for the right reasons, and the money brought along to help pay for it. The Council had already decided to open the creek. Doing it with the least disruption in the most economical way possible was the goal, and he supported option 2. Included in any motion for option 2, he wanted to ask the team to figure out a way to make the cistern work.

Councilmember Merk moved to proceed with option 2 as set forth in the PWA memo of 9/5/07 and direct the design team to integrate the use of the old culvert as a cistern for storage of rainwater.

Ms. Howard noted that the scope was included in the proposal. Once the Council made its decision, she would bring back an agreement. The Council would also need to clarify that \$400,000 of reserves could be used to fund this until the money could be reimbursed from the fundraisers. Councilmember Merk amended his motion to include those items. He confirmed for Ms. Howard that he did not want to go forward with an RFP for this project. Councilmember Derwin seconded the motion.

Councilmember Davis said the target for the fundraising would be changed. Ms. Reiss said the PVCF steering committee had discussed this. They understood that the creek was a separate project and had advised donors of that. Half of the people supported the creek and half didn't. She thought it would be unfair to fold this fundraising into the Town Center fundraising on an honor basis. It should be another group, but everyone could work together.

Mayor Driscoll said he did not think the target should be changed from \$20 million to \$21 million. He thought another target should be created for \$1 million; the Town's general fund could spot the initial cost.

After discussion, Councilmember Merk amended his motion to incorporate a discussion on setting up a separate committee to do the fundraising for this particular aspect of the project. Councilmember Derwin amended her second.

Councilmember Toben said he would vote "no" on the motion. He was not satisfied that it represented a fiscally responsible move. He had spent 200+ hours on this campaign in the last couple of years. It was tough work. He had also spent most of his career funding environmental projects. Several of the prospects that had been identified very blithely as ready sources of funding would not give five seconds consideration to this Town and this project. He was also quite concerned about what staff was being asked to do. There were many agencies that had full time grant writers on their staff that knew how the grant letters worked. He was not comfortable with this strategy based on his personal experience of fundraising, his professional life, and his understanding of how public agencies worked. That said, he hoped it would work because he loved the project. Financially, he did not think it was the right path.

Mayor Driscoll said to a certain extent, the Town wasn't committed to the \$1 million expense until contracts were let next spring. What was being done tonight was asking the architects to begin the design process. The Council was potentially making a commitment of roughly \$400,000. That fell into the same category of conditionally doing the community hall design not knowing whether there was enough money for the community hall at the time. The design documents didn't expire or suddenly not work two years from now. He thought it was sensible to take that \$400,000 general fund risk to at least do the design and put a challenge out to the people who were fundraising to help build it. It wouldn't get built until the money was raised. He felt the Town should go with option 2 and take the \$400,000 risk.

Councilmember Toben said two years ago, the Council represented to the community that funds would not

be transferred from the general fund reserve for any purpose related to the Town Center project. The message needed to be quite clear that this was borrowing from the general fund--not drawing down funds. Mayor Driscoll said this was the same for the baseball field. He felt it had been made clear in discussions about the County loan that there were a lot of construction financing aspects that might involve transfers in and out in order to cover any gaps between moneys coming in and moneys going out. This was the same thing. Borrowing from the general fund was just to make things happen.

Councilmember Davis said he would abstain. He was uncomfortable with this transaction. This project had been run on time and slightly under budget. He was reasonably optimistic that the funding would come through. He was concerned about this being so late in the process; it added a degree of risk to the base project.

Mayor Driscoll called for a vote, and the motion carried 3-1 [Toben], with Councilmember Davis abstaining.

(6) Interior Features of Library, Community Center and Town Hall

Jim Goring used samples of interior finishes and materials boards and discussed: 1) recycled ceiling material and stains; 2) widows and door skins; 3) paneling and stain; 4) flooring and carpeting; 5) recycled glue lam countertops and public/staff cases; 6) use of branches and trees; 7) reinforced tree columns; and 6) the slat wall system. He confirmed for Mayor Driscoll that the library interiors were developed with library staff over the last 1½ years. Responding to Councilmember Merk, he reviewed the ASCC's discussion of the carpeting and other comments set forth in Mr. Vlastic's memo of 9/12/07. The final carpet would be part of the final interiors and furnishings package presented to the ADT, ASCC and Council in a few months.

With respect to the pole mounted light fixture, Councilmember Merk said the skirt did not seem to make a lot of difference. It blocked the source of the light when viewed from the road, but lowering the light an additional six inches would eliminate the need for the skirt. He felt the skirt made the light look a lot bigger. Mr. Strain said he did not know if lowering it 6 inches would be sufficient. He said he would speak to the lighting consultant.

George Comstock described the new public library in Seattle. On Sunday afternoon, it was very busy, and it was a fantastic community center. He hoped the Town library could be a similar community center. The community hall would be event/class oriented, whereas the library could be a continuous community area. He hoped the interior features could achieve that kind of community feeling that would draw people in. One of the features in the Seattle library was a tiny kiosk where they were selling non-alcoholic drinks, candies and cookies near a seating area. He hoped the interior planning of the Town library could include a facility for doing that sort of thing. This was a tremendous opportunity to build a community meeting place.

(7) Amendment to Agreement with Siegel and Strain

Ms. Howard reviewed the staff report of 9/12/07 on the third amendment to the Siegel and Strain agreement for an additional \$147,000 for work authorized by the original scope of services and previous amendments to the agreement. A detailed description of the tasks undertaken and associated costs were included in Exhibit A-6. Mr. Strain said an 8% design contingency was included in the project budget, and that was what was being asked for at this point. Granting part of it now and part of it later would be fine. Ms. Howard said the current budget included \$151,058 for the contingency.

If the contingency was used now, Councilmember Merk questioned what would happen a year from now. Mr. Strain said the Town could release half of the contingency now. The request included what was anticipated to be needed in the future. It had taken longer to pull all the drawings together. There was not a lot of design left, and he did not anticipate anything significant going forward. Responding to

Councilmember Merk, he said additional water storage would be included in the creek work.

Responding to Councilmember Derwin, Mr. Strain said he had not anticipated that ADT meetings would take place every two weeks for the entire project. Those meetings had been very useful to the project and design and were valuable. As decisions were made, that would drop off. The additional fee request granted a few weeks ago was for going forward with those meetings. If the meetings didn't take place, they wouldn't be billed.

Responding to Councilmember Toben, Mr. Strain said \$33,000 for additional work already performed was included in the total request. Councilmember Toben said the excuses being offered in the staff memo didn't align with the numbers presented in Exhibit A-6. Ms. Howard said the staff report tried to list some of the reasons for the \$33,000 figure and why more time was used up front. Whether it was the Council, ASCC or ADT, Mr. Strain and his team had been given a lot of additional requests. The lighting pole was one example. When Mayor Driscoll asked if the Council wanted to see the interiors, suddenly there were three more meetings that Mr. Strain had to go to. Mr. Strain had also been asked to look at a number of possible LEED points. He had been doing that but it wasn't necessarily budgeted for or included in what it would cost to provide the design.

Responding to Councilmember Davis, Mr. Strain said in some cases things had to be taken care of quickly. For example, a new irrigation line had to be put in the playground tomorrow. Rather than taking the time to go to all the consultants and get a proposal, he just did it. He tried to do that judiciously, but that was how he worked. Before starting anything significant, he would come to Ms. Howard and let her know this was extra. But on little things, like those described in Exhibit A-6, it had not been kept track of because the team was moving full steam ahead in responding and trying to keep things moving.

Councilmember Davis said if this was approved, the contingency would be spent half way through. He questioned what would happen in six months if the demand was higher than what was estimated. Mr. Goring said the project was three-quarters completed. It was very unlikely that three-quarters of the contingency would be needed again. Additionally, the design team had a lot of optimism, eagerness and excitement to be responsive. During construction, all architects did whatever they needed to do to serve the project. He and Mr. Strain were working full time on this. The design team was not asking for enough money to cover the amount of money spent by the design team to finish this for the next seven months. Councilmember Davis said he was not asking the design team to lose money. He wanted the estimate for unforeseen demands to be accurate. Mr. Strain said trying to estimate the worst possible scenario would mean a big number. He tried to provide a reasonable number that he felt comfortable with. He did not anticipate coming back to the Council again. If they came back again, it would be for something extra—not for mis-estimating.

Mayor Driscoll said the Council wanted the architects to be responsive. But, he would rather not find out "x" months later about the extra charges. Since the project was roughly two-thirds complete, he suggested allocating \$100,000 of the contingency right now. If the project came in on budget, the rest could be allocated. If the project was over budget, then the architects would share the risk with the Town.

Councilmember Merk questioned whether the architect was responsible for whether the whole project came in under budget or not. On one hand, he didn't like the way this had come to the Council and it was troubling that it was an amount that was close to the whole contingency. On the other hand, the Council was asking them to say how many shots it would take to hit a moving target. He didn't want the Council to make them take fewer shots at the moving target. He didn't think it should be tied to the overall project budget.

Mayor Driscoll said right now, the project was on budget. If that continued, he had no problem paying them

the contingency they asked for. But, if it ended up over budget and the Council was scratching for dollars, then it would be hard to pay more.

Councilmember Davis said if they had come forward in a timely manner, the Council would have probably paid them. He was not questioning the value, and he appreciated the responsiveness and product. His concern was from this point forward. Responding, Mr. Goring reiterated that it was unlikely the design team would come back and ask for money.

Ms. Howard said she and the design team had been discussing this for many months. Because of scheduling and so many other things, it had not been brought to the Council in as timely a manner as Mr. Strain would have liked. Mr. Strain had learned to say "no," and when he was asked to do certain things that were not within the scope, it would have to come to the Council.

Councilmember Davis moved approval of Resolution No. 2360-2007 Approving and Authorizing the Third Amendment to the Agreement (AIA Document B-141/CMA 1992 Edition), as Amended Between Siegel and Strain Architects and the Town. Councilmember Derwin seconded, and the motion carried 5-0. Mayor Driscoll noted that the Council was very happy with the architects' work.

(7.5) Phillips Brooks School (Added to Agenda as Urgency Item)

Councilmember Toben reviewed his memo of 9/11/07 on the site for the new Phillips Brooks School and impacts on the Town. He noted that Mr. Vlastic's memo of 9/12/07 provided additional background information and summarized discussions with a Board member of the school and the Santa Clara County planning department. He suggested that the Council discuss and agree on a process that would have some official involvement from members of the Council and staff as well as the Town Planners. Furthermore, he suggested the Council and staff play a liaison role with members of the community to show a united front.

Mayor Driscoll said it was important to understand what leverage points the Town had on a project that was outside the Town's boundary. Responding, Mr. Vlastic said the Town had established policy and positions relative to land use. The Town could raise technical issues that were tied to its General Plan which would have to be listened to by the planning commission and Board of Supervisors. The Town would have many opportunities for input along the way. His memo of 9/12/07 set forth the County's review process. A use permit would be required and environmental review would be a part of that. The County's process would take 6 months to a year to get to a hearing stage if it made it through the technical review without the staff concluding that it wouldn't work. Santa Clara County staff had not received anything yet. The Town would be able to weigh in directly on the use permit and environmental review process. This was a very difficult piece of property for this kind of use as indicated in his memo, and the Santa Clara County planning commission would pursue that. Responding to Mayor Driscoll, he said if they were able to obtain the opportunity to make improvements at the intersection of Arastradero and the private road, they would probably also have to consider something at Alpine Road. That would require an encroachment permit from the Town. There would be a whole process of evaluating circulation patterns, what the improvements would have to be, etc. That would be a part of the environmental evaluation.

Councilmember Davis suggested the Mayor contact the school. They might have some other use planned for the property.

Georgia Bennicas said Los Trancos Creek had a right to meander as it wanted. It overflowed. There was no way from where the road was to where her barn was to where the creek was to widen this road. That was why they were talking about coming over through Rossotti's and building a bridge over the creek. There was no sewer system. She said John Shenk's feeling was that the Town wouldn't be able to do anything about this. Responding to Ms. Bennicas, Mayor Driscoll said unless the school came to the Town

with a specific improvement on Town land, the Town would be an important party in front of the Santa Clara planning commission. Ms. Bennicas felt the Town should be more proactive. The County hadn't received anything yet, but maybe they needed to be put on notice that the Town was aware of this. Councilmember Toben said Ms. Bennicas had a lot of support from the Council and the Town. The Town would mount a good argument to Santa Clara County and would be talking to the leadership.

Linda Yates added that another critical point was the geographic location of most of the students. Ninety-eight percent would come through Portola Road or Alpine Road. From a traffic perspective, maybe 1% would come up Arastradero; all the rest would come through the Town. She estimated that 4 students came from Portola Valley. She added that the letter sent to the parents of the students at the school indicated that this site was the future home of the school.

After discussion, Mayor Driscoll and Councilmember Toben agreed to contact the school's Board. Councilmember Toben said he and Mayor Driscoll would also confer with concerned residents. The memo from the Deputy Town Planner was now a public document and presented a very measured, thoughtful analysis. It contained a number of significant arguments. That was the kind of document that should go to residents so that they knew that the Council was on top of the issue and would pursue it vigorously.

(8) Town Center Project Phase 2 – Softball Field and Related Site Work – Bid Packages 23 and 25

Ms. Howard reviewed the staff memo of 9/12/07 on bid packages #23 and #25 for the softball field and related site work. Staff recommended Council authorize staff to enter into agreements with the lowest responsive bidder for each bid package, or the packages could be re-bid.

Referring to the explanation of why the bids were higher than budgeted, Mayor Driscoll questioned how a smaller backstop than the one originally planned would increase the cost. He also thought escalation had been built into the budget. Ms. Howard confirmed for Mayor Driscoll that Mr. Hodgson felt the bids were legitimate. She confirmed for Councilmember Merk that the project was still under budget even with the additional \$66,585 required for these two contracts. The full construction contingency was still available.

By motion of Councilmember Merk, seconded by Councilmember Davis, Resolution No. 2361-2007 Awarding a Contract for the Town Center Project Phase 2 Bid Package 23 was adopted by a vote of 5-0.

By motion of Councilmember Merk, seconded by Councilmember Davis, Resolution No. 2362-2007 Awarding a Contract for the Town Center Project Phase 2 Bid Package 25 was adopted by a vote of 5-0.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(9) Status of Town Center Project

Ms. Howard said there had been an enormous amount of activity in the last couple of weeks. Today, Portola Road was trenched for hook up of fire hydrants. The playground was near completion, and the custom pieces were delivered today. The fence was almost complete, and the sand was delivered. Mayor Driscoll said not all of the playground would be assessable during the Blues and BBQ event. Councilmember Toben noted that Erica Hughes from Parks and Rec was very comfortable with not opening up the entire playground. She felt it was better to allow enough time for proper installation.

Councilmember Merk said a post hole had been dug 6" away from a redwood tree trunk. Ms. Howard said the arborist had been out several times to assess the trees. He indicated that there hadn't been any major damage. He recommended a deep root fertilization as soon as things were done. Councilmember Merk said the tree would also probably damage the fence in 5-10 years.

Ms. Howard said the underground plumbing and electrical was going in the Town Hall. The slab had been poured for the library, and the framing was going up for the community hall.

Mayor Driscoll noted that tours would be conducted for major donors at the Blues and BBQ event. Responding to Councilmember Toben, he said Mr. Hodgson did not feel hard hats were necessary because no construction would be going on.

(10) Reports from Commission and Committee Liaisons

(a) Planning Commission

Councilmember Derwin said the Planning Commission discussed the recommendations from the Climate Protection Task Force at their meeting on 8/29/07. They supported using the LEED for Homes for new construction and Build it Green for remodels. There would be a joint meeting with the ASCC in October.

(b) Trails

Councilmember Derwin said the trail had changed on the Kersten property and would be coming before the Council. There was also discussion about the Mirador Ranch and the Larry Lane Trail, and Mr. Young had been asked to fix the fence. The Committee was very pleased about the Shady Trail open space acquisition. On the issue of the Committee's membership, they decided to keep it at 9 but would actively look for new members who were younger and represented different points of view. If they got new members, they would raise the membership or others might step down. Additionally, the Committee discussed where the signs should go on Coal Mine Ridge. She said there had been a considerable amount of vandalism of the "NO DOGS" signs on Alpine Road in front of the market. Responding to Councilmember Toben, Mayor Driscoll suggested that until the sign issue was resolved, the Town should hold off on enforcing the rules regarding dogs on trails.

(c) Library JPA

Councilmember Derwin said the JPA discussed whether to eliminate the 75-cent hold fee. Ms. Howard said they also discussed the budget and surplus. She would be assisting them in revising the way they did their budget.

(d) ASCC

Councilmember Merk said the ASCC was reviewing a proposal for AT&T Lightspeed to put in a new network. The proposal was for seven pad-mounted boxes measuring 5'x4'x2' around Town. They were painted a green color but were very shiny in order to make them graffiti proof.

(e) Joint Public Works/Emergency Preparedness Committee Meeting

Councilmember Merk said Mr. Young made a presentation at the joint meeting, and there was a tour of the maintenance building. Public Works was shown where the emergency preparedness equipment was at Town Hall, and the alternate EOC at the Priory was discussed. That was the first Public Works Committee meeting since June 2005.

(f) Traffic Committee

Councilmember Davis said the Committee discussed the sewer project on Westridge and the way traffic

was handled. Additionally, John Courtney would be the new Lieutenant replacing Ken Jones of the Sheriff's Dept.

(g) Construction Road Traffic Fees

Councilmember Davis said a meeting had been held to discuss allocation of construction road traffic fees for private roads. The group preferred a simple approach.

(h) Open Space Acquisition Committee

Councilmember Toben said *The Almanac* reported that a significant amount of money had been raised for the Shady Trail open space acquisition.

(i) Climate Protection Task Force

Councilmember Toben said the reports from the Climate Protection Task Force received a good reception from the Planning Commission. The upcoming October 4 special Council meeting would feature input from the Task Force on: 1) what level of staffing was needed to get some traction; and 2) ways to re-imagine the Town's permitting processes to, for example, require up front energy modeling before design.

(j) Parks and Rec

Councilmember Toben said the Committee was still interested in a dog park and were looking at locations. They were pleased about the improving condition of Rossotti's Field. The Committee was also addressing the question of turf. He felt the Town could look to neighboring communities who had already dealt with the issue.

(k) The Sequoias

Councilmember Toben said he had lunch with the Residents' Council at The Sequoias. There was some controversy about plans to enable residents' units to be expanded when they were vacated; it would apparently send protuberances out into the courtyards and take up garden space. An amendment to their CUP would be required.

WRITTEN COMMUNICATIONS

(11) Town Council 8/24/07 Weekly Digest

(a) Cool Mayors

Mayor Driscoll referred to the e-mail from the Communications Director of ICLEI requesting Mayors who signed the Mayors for Climate Projection Agreement to submit a profile. Councilmember Toben felt the request was meant for larger cities. Mayor Driscoll agreed.

(b) Windy Hill

Councilmember Toben referred to Shirley Larson's letter of 8/14/07 and her request for the Council to work with MROSD to clean up the brush on Windy Hill. Councilmember Merk said the Conservation Committee had discussed the letter. MROSD was working on some of the brush but would probably not try to clear it all off and make it look like it did ten years ago. Councilmember Toben suggested staff respond and indicate it was MROSD's responsibility.

(12) Town Council 8/31/07 Weekly Digest

(a) Vacancy on Planning Commission

Referring to Ms. Howard's memo, Council agreed to interview candidates at the 10/24/07 meeting.

(13) Town Council 9/7/07 Weekly Digest

(a) Portola Valley Post Newsletter

Referring to Ms. Howard's memo of 9/6/07, Mayor Driscoll said it was great to have Julia Dillingham working on the Post newsletter. Councilmember Derwin said she would be meeting with her on Monday.

(b) Williamson Act Audit of Town Parcels

Referring to the letter to the State Department of Conservation, Councilmember Merk thanked Mr. Vlastic for responding to the audit.

(c) Council of Cities Dinner

Councilmember Derwin said she would attend the dinner meeting on 9/28/07

CLOSED SESSION

(14) Conference with Real Property Negotiator

Government Code § 54956.8

Property: Trevis Parcel #077-212-140

Negotiators: Town Attorney and Town Administrator

Under Negotiation: Price and Terms

(15) Public Employee Performance Evaluation

Government Code § 54956.8

Title: Town Attorney

REPORT OUT OF CLOSED SESSION: Nothing to report.

ADJOURNMENT

The meeting adjourned at 12:20 a.m.

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Mayor

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Town Clerk