

TOWN COUNCIL MEETING NO. 713, FEBRUARY 28, 2007

ROLL CALL

Mayor Driscoll called the meeting to order at 8:02 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: Dep. Town Planner Vlastic, Town Administrator Howard, Town Attorney Sloan, Asst. Town Administrator Willis, and Assistant Clerk Hanlon

ORAL COMMUNICATIONS

Brent Constantz, Ohlone, said the Town approved a building permit for a house next door. Two years ago, he went to the ASCC meeting at the site and asked whether story poles should have been put up. He was told by the Commissioners: 1) this was all pre-approved; 2) your comments really didn't mean anything; 3) there was nothing he could do; and 4) there was no reason for him to come to the meeting. Recently it had come to his attention, while walking the site with one of the Town Councilmembers, that story poles were required. Additionally, Planning Commissioner Nate McKitterick indicated it should have had a variance and gone through the Planning Commission. By contrast, he received communication from the Mayor, who he asked to look into it, indicating that story poles weren't required. The Mayor also told him that there was a pre-existing foundation. He had an aerial photo that proved unequivocally that there was no pre-existing foundation. The Mayor was totally false in everything he said about the lot. It was just totally irresponsible information. This whole building permit process showed gross negligence by the Town. The Town thought that story poles were put up. The Mayor said story poles weren't even required. The other Councilmember said they were required, as had the Planning Commissioner. The Planning Commissioner said that a variance was required. This was a three-story house, 1' 8" from his property line. He had also met with Tom Vlastic, the Planner who had a pre-existing relationship with the builder for about 30 years. He was defending this thing. The Town was forcing him [Constantz] to file a lawsuit against the Town, which would cost a lot of money. He didn't want to do it. He would have to subpoena the financial records of Tom Vlastic and see what his former relationship was with the builder. He did not want to do any of this. All he and his neighbors were asking was that they be allowed to comment on the height of this structure, have story poles put up, and go through the normal process that everyone else in the Town went through. He lived in the Ranch. If he put on a little addition to his house, he would be required to put up story poles. There were story poles all over the Ranch for every little addition that was going on. For some reason, because of this former relationship between Tom Vlastic and the builder, they're exempt from having to put up story poles. They were exempt from anything. As a taxpayer in Portola Valley, he didn't want the Town to blow \$100,000 on a lawsuit, and he didn't want to blow \$100,000 on a lawsuit. But, he was prepared to move forward. Everything he had ever received from the Town was wrong. It was unequivocal; there were never story poles put up. The builder lied to Leslie Lambert and said he put up story poles. He didn't put up story poles. He didn't know who told the Mayor that there was a pre-existing foundation. That was a totally false fact. It was unequivocal and was easy to show. He felt like he was dealing with the Keystone Kops. He would like the Town to at least give the neighbors the opportunity to do what everybody else in the Town got the opportunity to do: put up story poles and let the neighbors comment on it. He didn't know what the Council was afraid of. He asked if it was that the structure was so out of sync with what the Town would approve today, or if it was so imposing that there was something wrong with it. He wanted to be allowed to comment. It was an illegal structure. You didn't follow your own processes. Your own Town Planning Commissioner said that one of the other members of the Council said that. The Council was trying to snow us under, and it was really disappointing.

CONSENT AGENDA

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

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

- (1) Minutes of Town Council Meeting on February 14, 2007.
- (2) Warrant List of February 29, 2007, in the amount of \$735,150.54.

REGULAR AGENDA

- (3) Certification of CEQA Documents for Westridge Drive Gravity Sewer Installation and Annexation Project, Westridge Drive at Alpine Road, and Approval of Encroachment Permit for Work on Public Right-of-way

Mr. Vlasic reviewed the 2/22/07 staff report on the proposed mitigated negative declaration for the Westridge Drive gravity sewer installation and annexation project. As indicated in the report, he said the mitigation measures, which were attached as Exhibit A to the resolution, would be incorporated into the required encroachment permit. Responding to Councilmember Derwin, he said the project would probably take 2-3 months and would take place during the dry season. He understood that work would occur only during the day, and plates would be used so the road would be open during non-work hours.

Mayor Driscoll asked for public comments, and there were none.

Councilmember Davis moved approval of Resolution No. 2298-2007 Approving Adoption of a Mitigated Negative Declaration for the Westridge Drive Gravity Sewer Installation Project. Councilmember Toben seconded the motion.

Referring to the list of mitigation measures (Exhibit A), Councilmember Merk said he was concerned about the introduction of exotic/invasive species carried in on construction equipment. MIDPEN indicated that *Dittrichia* was being introduced from truck wheels/equipment. He suggested having some one see if *Dittrichia* was there. If it wasn't, the contractor should be responsible for removing any *Dittrichia* that came up during 18 months after the project was finished. Once it was established, it was very difficult to remove. He was concerned about the public right-of-way and, in particular, the parking lot. Ms. Sloan said that would require some kind of bond; you couldn't chase a contractor 18 months after they left the site.

Craig Barratt [*unidentified*] said adding this requirement would cause him to take on a bigger responsibility than his project might cause; there were a number of construction projects going on in the area. It might also increase the contractor's bid. Responding, Councilmember Merk said the problem was caused by earth moving equipment; other projects weren't unloading that type of equipment on the public right-of-way. Mr. Barratt felt the contractor would be asked to take on the liability of weeding a section of public roadway; they could reasonably estimate that the weeding liability was larger for things completely unrelated to their activity over an 18-month period. That would give the contractor an excuse to charge an additional fee because of the added responsibility and liability. Councilmember Davis said the intent was to protect the areas specific to the sewer line—not a broader arena. Mr. Barratt said the excavation would only occur on the existing paved road. Councilmember Merk pointed out that you would not need to be after the weeds all year. The weeds were easy to identify when they came out. Someone would need to go out perhaps two times and do a survey; if they saw this particular weed, they could pull it.

Referring to mitigation measure #3 (Exhibit A), Ms. Sloan said this condition required a detailed staging and management plan. As with all work in public rights-of-way, the final construction staging and management plan had to provide for repair of all areas disturbed by construction activities. When someone worked in the road, there was an inspection before construction started. She suggested adding this particular weed to the construction plan. She noted that the 18-month timeframe made it more difficult. Councilmember Merk suggested discussing it with the Conservation Committee. Additionally, he thought the Committee might be willing to do the survey. If the weed was not there already, it could become a significant problem. Referring to mitigation measure #3, Mayor Driscoll suggested: "Further, the plan shall provide for protection of creek side vegetation and prevent the introduction of exotic species."

After discussion, Mr. Barratt said he preferred not to involve the contractor and would work with the Town on the number and timing of inspections.

The motion and second were amended to include the additional language to mitigation measure #3, and Resolution No. 2298-2007 passed by a vote of 5-0.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(4) Community Events Committee:

- (a) Approval of Picnic Venue at Corte Madera School on June 9, 2007
- (b) Location of Blues and BBQ Venue on September 16, 2007

Mayor Driscoll said he had walked the Town Center site with the construction management team on Tuesday. It appeared that the site would be usable for both the picnic and the Blues and BBQ event. The area that would be graded and hydro seeded in the next couple of weeks should be available as a meadow in June. There was also a paved area adjoining it that would be preserved throughout the construction process. In addition, it looked as though the tot lot would be finished around the time of the Blues and BBQ event; the ribbon cutting ceremony might occur then.

Diana Raines [*unidentified*], Co-chair Blues & BBQ event, said it might be safer to have the picnic at Corte Madera School. Michael Bray [*unidentified*] said approval by the school board to use Corte Madera was expected next week. Mayor Driscoll said the Town Center could be the back up for the picnic, but the site should be able to accommodate Blues and BBQ. Responding to Councilmember Merk, he said the hydro seeded area would be pasture grass, which would be mowed down. The soccer field would be available in September as well. He suggested the Committee members walk the site with the construction manager with the idea of using the site for the Blues and BBQ event on September 16 and proceed with using Corte Madera School for the picnic on June 9.

(5) Emergency Water Storage Tank at New Town Center Site

Mr. Willis reviewed the staff report of 2/22/07 on an emergency water storage tank at the New Town Center. Responding to Councilmember Toben, he said the architect would be asked to work with staff on the location.

Councilmember Davis said he was concerned about keeping the water fresh. There was an advantage to having the Alhambra truck deliver sealed, plastic water containers. He also questioned whether there was an appropriate area on the site for a water tank that didn't interfere with the low profile of the structures.

Ray Rothrock, Emergency Preparedness Committee, noted that there were currently jugs of water in the storage containers. With time, bottles broke and destroyed other materials in the containers. They were constantly being replaced by volunteers. The proposed water tank was about 8' in diameter, 6' high and sat

a couple of feet off the floor. It was a flow-through tank, so the water was constantly fresh. The water came off of the main line into the tank and flowed out to the Town Center for use elsewhere. This type of system was very common in agriculture and other irrigation areas. If there was an emergency and the Town water supply was shut off, the tank water would be fresh. He added that it was a problem keeping the existing water in the containers fresh and not destroying other things in the container. The tank water was not intended to supply the Town with water for a week. It was intended for people who couldn't get water out of their water heaters or swimming pools or other stored water. Primarily, it was for manning the Town EOC during an emergency.

Councilmember Davis said years ago, there was a contract with the water supplier to replace the bottles. But, 2,500 gallons meant a lot of bottles. Mr. Rothrock said there were currently about 75 2.5-gallon containers at Town Center. Responding to Councilmember Merk, he confirmed that the plastic bottles did not hold up well.

Councilmember Davis said the intent was to have an assured supply of water in an emergency for people who ran out of water and needed a place to find it. That was one of the purposes of government, and it should be pursued. He was just concerned about the proposal.

Responding to Mayor Driscoll, Mr. Rothrock estimated the cost would be about \$10,000-\$15,000. Responding to Councilmember Davis, he said he envisioned that it would be on a concrete pedestal and bolted down.

Councilmember Merk said he felt a rectangular-shaped tank could be placed on the backside of the bathroom structure. It didn't need to be very far off the ground, and a pit could be dug to access water by gravity flow. Mayor Driscoll agreed noting that the building could be redesigned to accommodate a tank since it had not yet gone out for bid. The maintenance building could also be considered. He recommended that the architects be asked to look into the location and cost to put in a 2,500-gallon earthquake safe water tank on the site. Councilmember Davis suggested the architects also look into some type of closets for storage/distribution of bottled water. There were many advantages to having bottled water in a couple of buildings on the site as well as other locations such as the Priory. The water man could change out the bottles as needed. Additionally, water in 5-10 gallon containers could better withstand earthquakes and other problems.

Bill Lane, Westridge, said he had experience with different types of tanks. For many years, his well pumped into a wooden tank. Water was bled off the top into a 5,000-gallon fiberglass tank, and water was drawn off the bottom for irrigation. He urged the Town to look into a fiberglass tank—not only because of earthquakes but to prevent leakage.

Referring to Mr. Rothrock's information sheet, Councilmember Toben said he supported the suggestion to make chemical treatment packs available to treat swimming pool water. He would like to see that pursued as quickly as possible.

(6) Conservation Committee Appointment

Referring to Paul Heiple's e-mail of 2/21/07, Mayor Driscoll appointed Jane Bourne to the Conservation Committee. By motion and second, Council unanimously concurred.

(7) Status of Town Center Project

Ms. Howard said the first walk-through with 24 potential bidders was held today. There would be two more opportunities for people to come. Because of the rain, the grading would be delayed until there was one week of dry weather. After grading, it would be another week before the story poles were put up—probably

mid-March.

Mayor Driscoll said the fundraisers were interested in putting a web cam up to track the progress of the construction.

Councilmember Toben said Kate Greswold, TOSA Foundation, was interested in creating a documentary about the project, which also might mean a LEED point. One possibility was to engage the video class at the Priory to do some of the work. Interviews might also be conducted with those who attended the charettes, significant donors, people interested in green design, etc. Ms. Greswold indicated they might consider funding some of the cost. Ms. Howard said she would follow up.

(8) Reports from Commission and Committee Liaisons

(a) Mayor's Letter to County Regarding a Loan for Town Center Project

Mayor Driscoll reviewed his draft requesting a loan from the County Board of Supervisors for up to ten years. He noted a correction was needed in the letter for the total amount of Town reserves accumulated for the project, which was \$3 million. Councilmembers discussed the County's response to a previous request for a loan.

Referring to the draft, Councilmember Merk questioned whether requesting a response within 60 days was too long a timeframe. Mayor Driscoll said he understood that the construction people would need to know exactly what they would be building not long after March 28, but not exactly on that date. If the Council decided to proceed on March 28 with two-thirds of the project, the decision could be held off on the final one-third for another month without derailing the whole project. Responding to Councilmember Davis, Mayor Driscoll said he had already met with two of the Supervisors and would be meeting with the rest as well as the County Manager before the 28th. He was reasonably sure that they would not be able to get the item on their agenda before the 28th.

After discussion, Council approved the letter with the corrected reserve amount.

(b) Trail Use Discussion Group

Councilmember Toben said the group would be holding its final meeting on March 24.

(c) Parks and Rec Committee

Councilmember Toben said the Committee discussed improvements to Triangle Park. The scope of work discussed would amount to about \$32,000 and consist of fairly cosmetic improvements. If grant funds were available, that space could be made much nicer with some stronger functional relationship to the surrounding facilities—including the proposed Robert's Market, hardware store, deli, etc. Mr. Willis had been asked to look into additional funding.

Mayor Driscoll noted that the old tot lot would be dismantled in a couple of months. The existing equipment needed to be moved and could potentially be put in Triangle Park or at Ford Field. He asked that the Committee make a recommendation.

Councilmember Merk noted that there were a number of trees dedicated to residents at Triangle Park. Any plan involving that area needed to take that into consideration. Also, he said as soon as the picnic tables were added to Triangle Park, the Town's maintenance went way up due to trash.

(d) Airport Community Roundtable

Councilmember Toben said the Roundtable would be meeting next week. Mark Church had contacted the public affairs director at TRACON about non-compliance operations over the VOR. As chair of the sub-committee working on this issue, he [Toben] had specific ideas for generating feedback from the FAA. Unfortunately, he had not been included in the conversation. Apparently, TRACON indicated they had nothing to offer.

(e) Council of Cities Meeting

Councilmember Davis reported on the results of the City Selection Committee's election for the SamTrans Board position. He said the speaker was David Victor, Stanford's Director of Energy and Sustainable Development. Dr. Victor discussed oil/coal supplies and future requirements, global warming, political concerns, and alternate sources of energy.

(f) Emergency Preparedness Committee

Councilmember Merk said the EPC discussed the water tank. Also, an application had been submitted to CERPP requesting that CERPP act as a feed through for a 501(c)(7) private corporation. The request was to add equipment to a facility in Town so that it could qualify as a permanent shelter for the Red Cross. The CERPP's Board of directors felt it was outside of their purview, and they were very concerned about the workload it could cause. The 501(c)(7) organization was referred elsewhere.

(h) Conservation Committee

Councilmember Merk said the Committee was having a broom pull on March 10.

WRITTEN COMMUNICATIONS

(9) Town Council 2/16/07 Weekly Digest

(a) Minutes of Trail Use Discussion Group

Councilmember Derwin said she had some revisions to the minutes of the trail use group's meeting and would present them for review/approval at the next group meeting.

(b) Bay Area Council Outlook Conference 2007

Councilmember Derwin said she would like to attend the conference.

(c) Assessed Valuation of Portola Valley Homes

Councilmembers discussed the assessed values of single-family homes provided by California Municipal Statistics, Inc.

(10) Town Council 2/23/07 Weekly Digest

(a) Letter from Airport Labor Coalition Re Virgin Airlines

Referring to ALC's letter of 2/22/07 objecting to Virgin Airlines application to operate as a U.S. airline, Mayor Driscoll asked for input on whether he should send a letter in support of Virgin Airlines as discussed at the last meeting. Councilmembers Davis and Merk felt a letter in support of Virgin Airlines should be sent.

CLOSED SESSION

- (11) Public Employee Performance Evaluation
Government Code § 54957
Title: Town Administrator

REPORT OUT OF CLOSED SESSION

Nothing to report.

ADJOURNMENT

The meeting adjourned at 10:00 p.m.

Mayor

Town Clerk