

TOWN COUNCIL MEETING NO. 769, MAY 13, 2009

ROLL CALL

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

Present: Councilmembers Derwin, Driscoll, Merk and Toben, and Mayor Wengert
Absent: None
Others: Town Planner Mader, Dep. Town Planner Vlastic, Town Attorney Sloan, Town Manager Howard, Deputy Building Official Fitzer, Planning Manager Lambert, Asst. Town Manger McDougall and Town Clerk Hanlon

ORAL COMMUNICATIONS

Bill Lane, Westridge Dr., said he supported the recommendation to start Council meetings at 7:30 p.m. Additionally, he attended the emergency preparedness meeting yesterday and wanted to thank the ham radio operators who were at the crux of disseminating information in a true emergency. It was critical to have that communication—particularly in an earthquake. He also noted that there was an excellent article in the March issue of *Architect Magazine* about the Town Center.

Ms. Howard said copies of an article from the League of California Cities regarding the proposed “borrowing” of 8% of cities’ property tax revenues by the State had been distributed. Phone numbers for the Governor and legislators were provided along with an estimate of how much each town/city in three counties would lose.

CONSENT AGENDA

By motion of Councilmember Driscoll, seconded by Councilmember Toben, the item listed below was approved with the following roll call vote:

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

- (2) Warrant List of May 13, 2009, in the amount of \$500,335.41.

REGULAR AGENDA

- (3) Minutes of the Town Council special meeting of April 22, 2009 (Removed from Consent Agenda)

Councilmembers submitted changes to the minutes of the 4/22/09 meeting. By motion and second, the minutes were approved as amended by a vote of 4-0, with Councilmember Derwin abstaining.

- (3) PUBLIC HEARING: Adoption of Proposed Noise Ordinance and Negative Declaration [8:10 p.m.]

Town Planner Mader reviewed the staff report dated 5/6/09 on changes made to the noise ordinance as a result of the hearing on 4/22/09.

Ms. Sloan said Councilmember Toben had asked how Section 9.10.050 that prohibited certain noises worked with the decibel levels shown. She suggested Section 9.10.050 have an introductory sentence that said, “Notwithstanding any other provision of this Chapter, the following sources of noise are prohibited.”

The things listed in Section 9.10.050 were prohibited regardless of the decibel level. That language was included in Subsection H on leaf blowers and should be moved to the beginning of the section. Town Planner Mader confirmed that that was the intent. He added that the noise consultant pointed out that in the last sentence of Subsection D, "human noise" should be replaced with "human voice."

Responding to Councilmember Derwin, Town Planner Mader said a chipper was not a common domestic garden tool that people normally used, but Section 9.10.040B did not exclude chippers. Councilmember Toben said a chain saw was another example. Town Planner Mader felt both could be classified as "any other lawn or garden tool." Councilmember Toben said it should be made more explicit. He received a call from a resident who was concerned about tree removal, which was not really a gardening activity. Councilmember Derwin said chippers were used when creating defensible space and should be included in the definition of domestic garden tools. Councilmember Merk agreed. People might have or rent a small chipper. Additionally, he felt that on Saturdays there should be a limit on what constituted domestic garden tools.

In Section 9.10.040B, Councilmember Derwin suggested, "for the purpose of removing dry grasses and brush...." Councilmember Driscoll said the recent Santa Barbara fire was apparently caused by someone clearing grass. He questioned whether the May 15 to July 15 clause gave people license to do dangerous things. He suggested adding a clause about the clearing itself not creating a fire hazard. Councilmember Derwin concurred and felt it would at least raise awareness. Mayor Wengert suggested excluding day hours and limiting it to early morning or later in the evening. Councilmember Driscoll said it could be a hazard even in the morning if it was particularly dry. People should be encouraged to clear dry grasses but not when it was a fire hazard. By July 15 in a dry year, it could be hazardous. Town Planner Mader noted that the Fire Marshal supported clearing particularly in the morning hours. Another option was to include that in the guidelines with the Moritz report rather than in the ordinance itself. Councilmember Driscoll said he preferred to add a phrase to indicate "where that clearing itself was not a fire hazard" so that people were aware they needed to use some reasonable caution. Councilmember Derwin felt that would be confusing. Councilmember Toben said extending the date for clearing dry grasses to July 15 might be inadvisable. He suggested June 30. Mayor Wengert said it varied each year. For purposes of the noise ordinance, it might be better addressed in the fire safety regulations.

Councilmember Toben said he was still concerned about the prohibition of amplified instruments for wedding receptions and graduation parties. There were special events that were occasional, and he thought they should be allowed. Permits might also be a way of controlling parking/valet parking, hours, advance notice to neighbors, etc. Ms. Lambert said currently, staff recommended people contact the neighbors and Sheriff's Dept. to let everybody know an event was planned. Town Planner Mader said there was also the question of the threshold of amplification. With a very large event, it became an issue. He noted that there was some authorization required for amplification on Town property. Councilmember Toben reiterated that he did not support language that prohibited any amplified music of any kind. Ms. Sloan pointed out that a "reasonable person" in the neighborhood would have to be disturbed. Councilmember Toben said some neighbors were more sensitive to noise and could invoke this provision for shutting it down. Mayor Wengert said she understood the concerns about the wording, but she would prefer to rely on the neighborly spirit that had prevailed to date. Councilmember Toben said families in Town should be able to host special events on their properties for daughters who were getting married or kids graduating from high school.

Town Planner Mader read two provisions in the existing ordinance that referenced excessive noise. Mayor Wengert said that captured the spirit of what was intended. The intent was not to shut down the ability to have a party on your property. She suggested including the definition of excessive noise, which indicated something that was not a normal threshold. Councilmember Derwin said if she was new to the Town and read Section 9.10.050D, she would read it as saying she could not have a party in her backyard. Town Planner Mader suggested, "the making of any sound or noise which offends, disturbs, or harasses the

peace and quiet of a person's ordinary sensibilities beyond the confines of the property from which the sound emanates...."

Mayor Wengert felt the problem was the word "prohibited." The intent was to manage excessive noise levels. Councilmember Toben said a simpler recourse would be to provide a separate avenue that permitted, on an exceptional basis, special events that included some over-the-counter, simple approval that involved stating the number of guests, hours the music would be playing, provisions for parking and certification that neighbors had been notified. That would be a clean way of carving out an exception that would give homeowners the ability to have special events at their properties but prohibit the problems with, for example, garage bands.

Mayor Wengert opened the public hearing.

Jon Silver, Portola Rd., said he shared Councilmember Toben's concerns. But, he wanted to avoid a solution that involved people coming in for permits for the types of parties that they had held for the last forty-some years that had not caused problems. In practice, he felt people would not object to one-time events or infrequent events that happened from time to time. Wording that could be perceived as an absolute ban on all amplified sound would be a mistake. With respect to allowing commercial gardening activities on Saturdays, he thought not allowing leaf blowers would be a good way to teach the mow and blow gardeners that you could function without using leaf blowers. In terms of enforceability, even if an ordinance was not enforceable, that didn't mean it didn't have any effect. He urged the Council to not allow commercial gardeners with gas-powered leaf blowers on Saturdays.

Virginia Bacon said she was pleased there was some provision for fire safety in the domestic garden tool section (9.10.040B). She suggested, "dry grasses" be changed to "seasonal grasses and plant materials." That covered a broader range. She would also like to see the hours changed from 8:00 a.m. to 8:00 p.m. and the timeframe lengthened from April 15 to July 15. The most important thing was to get rid of the fire hazard. In terms of leaf blowers, she thought it was better to impose a general standard for all gardeners rather than force them to use gas blowers that were quieter.

Ms. Lambert said the Martin Luther King holiday was not included in the list of holidays in the definition section, but it was a holiday that staff observed. It was also not listed in the municipal code as a holiday, and that would need to be changed as well.

Mr. Vlasic noted that the zoning ordinance provided for temporary uses such as a festival, exhibit or other similar activity when it was of a noncommercial nature and sponsored by a group residing in the neighborhood--provided the total duration did not exceed 14 days. That did not address amplified music, but it was clear there was an exception for neighborhood groups. Normal residential use of the property included a wedding reception.

Mark Sutherland suggested having an exception in the ordinance for special events rather than having a permit process.

Mayor Wengert suggested adding the following to Section 9.10.050B: "The making of any recurring, excessive sound or noise by any method so that the sound is plainly audible...." That would address the garage band but would allow for the single events. Councilmember Toben said he could support that and then see if it was interpreted by the community as a restriction on appropriate special events. If so, the Council could revisit the notion of a simple, over-the-counter, one page permit describing what the event would be if there was a minimum number of 50 guests.

Robert Jack, Westridge, said there was a quiet majority that would like a quieter Portola Valley that had not been heard from. He did not want to open up Portola Valley to unlimited commercial gardening on

Saturday. He thought the hours could be limited from 10 a.m. to 2 p.m. Additionally, he supported an outright ban on chippers and chainsaws on weekends. Councilmember Derwin said she wanted to include those specifically for clearing for fire safety. Mr. Jack felt that work could be done during the week. Councilmember Toben added that the change was to allow chippers and chainsaws on Saturdays only.

There were no further public comments, and the hearing was closed.

Councilmember Derwin said she liked the idea of putting an exemption in Section 9.10.060 saying that you could have special events such as weddings. She ordinarily supported no commercial gardening on Saturdays, but because of economic times, the Council needed to be very sensitive to the residents who were trying to hire people to help them for a cheaper price. There also needed to be sensitivity to people who made an effort to clear their land; to clear land, you had to use power tools.

Councilmember Driscoll said he preferred Mayor Wengert's suggestion to add the "recurring/excessive" language to Section 9.10.050D. He thought adding an exemption would encourage people to hold more special events. He was otherwise comfortable with the ordinance.

Councilmember Merk also preferred the addition of "recurring" and "excessive" to Section 9.10.050D. In Section 9.10.040B, he supported a change from dry grasses to "seasonal grasses and plant material." He did not support allowing commercial gardening on Saturdays. The economics of the situation had been cited. But, when you got a job cheaper, it was usually from an unlicensed individual who didn't have insurance or training. These were the kind of people who started recent fires in the Santa Cruz Mountains and the Santa Barbara area. The Council should not be creating an opportunity for people to hire someone who didn't really know what he/she was doing but needed extra money and would work on the weekends. He was also concerned about there not being any quiet on the weekends. Three weeks ago, he brought up the question of agricultural uses. He had a party last Saturday and talked to the neighbor, who had a vacant lot across the street, about parking. They had a standing deal with someone local who disked land. On Saturday at 12 p.m., he showed up with a trailer, unloaded the equipment and made an unbelievable amount of noise and dust for about 2 hours. If he had come a couple of hours later, it would have been a problem. That same day, neighbors on both sides had gardeners with blowers going. People needed to have a break and be able to enjoy the quiet of Portola Valley on the weekend. He could support the ordinance except for the provision allowing commercial gardening on the weekends. Responding to Mayor Wengert, he said controlling agricultural use might be looked at if the ordinance was brought back. He thought there was a potential problem there.

Councilmember Toben felt disking was a construction activity. Councilmember Driscoll said it was also related to fire safety and might be included with the same timeframes for seasonal grasses and plant material. Ms. Sloan noted that construction activities were Monday through Friday, and that construction included work on vegetation. Councilmember Toben suggested having a definition for agricultural activities. Councilmember Merk said a definition might also be included for clearing of land. Mayor Wengert said permitted sources of noise (Section 9.10.040) included "all vehicles, equipment and machines associated with the enumerated activities...." All that was needed was to call out that activity. Councilmember Driscoll suggested changing Section 9.10.040A to "Construction and Clearing Activities." Demolition/deconstruction should be under that. The definition of "construction" should be broadened to include grading as well.

Councilmember Toben said he supported the suggestion to include chippers and chainsaws, changing the terminology to seasonal grasses, changing the start date to April 15—especially in a dry year, allowing clearing to 8 p.m., and adding the "recurring/excessive" noise language. While he still favored adding a clear and simple process for special events for "x" number of guests or greater, he would support the ordinance as amended and see how it played out. He also felt commercial gardening on Saturday was appropriate based on input received from the Town.

Mayor Wengert supported the ordinance as amended. Responding to Mayor Wengert, Ms. Sloan listed changes: a) broaden the definition of construction to include grading; b) include chippers and chainsaws in the definition of domestic garden tools; c) include Martin Luther King Day under holidays; d) change Section 9.10.040A to read "Construction and Clearing Activities;" e) change Section 9.10.040B to read "seasonal grasses and plant material" with hours of 8 a.m. to 8 p.m. from April 15 to July 15; f) include an introductory sentence in Section 9.10.050 to state "Notwithstanding any other provision of this Chapter, the following sources of noise are prohibited;" g) in Section 9.10.050D, add "recurring and/or excessive" sound or noise and replace "human noise" with "human voice"; and h) in Section 9.10.050H delete "Notwithstanding any other provision of this Chapter." Councilmember Toben moved to continue the item to the June 10 meeting. Councilmember Driscoll seconded, and the motion carried 5-0.

(4) Town-wide Fire Safety Discussion and Introduction of an Ordinance Amending Chapter 15.04 [Building Code] of the Portola Valley Municipal Code

(4a) Update on Cal Fire Map and Recommendations to Move Forward with Fuel Hazard Assessment and Fuel Hazard Map Prepared by Moritz Arboricultural Consulting [9:07 p.m.]

Councilmember Toben stepped down from the dais. Ms. Lambert reviewed the section of the staff report of 5/13/09 on the Cal Fire Hazard Map. Responding to Councilmember Driscoll, she said she did not know the other jurisdictions that had not adopted the Cal Fire map, but reasons for not adopting the Cal Fire map were similar to the Town's. The State was really interested in towns adopting Chapter 7A townwide.

Mayor Wengert opened the public hearing.

Virginia Bacon concurred with staff's recommendation not to adopt the Cal Fire map.

Steve Toben, Woodside Highlands, said he was a member of the newly constituted Woodside Highlands Fire Safety Committee, and the group was interfacing with the Woodside Fire Protection District. He agreed with staff's recommendation to not adopt the Cal Fire map. He was concerned by the response received from Cal Fire and found the reasons for designating this area as very high fire severity unconvincing—particularly with regard to the eucalyptus trees, which had been, by and large, removed by Family Farm in conjunction with the Fire District. He also found the notion that just because this area was adjacent to some other area was not adequate reason to single out the area when so many other areas of Portola Valley disappeared from the very high fire severity designation without any explanation at all. He hoped the Council would continue to stay the course and decline to adopt the Cal Fire map.

Councilmember Merk supported staff's recommendation. He said he was disturbed by Cal Fire saying there were two reasons to call this area very high fire severity. When they were told one of the reasons didn't exist, they said there were other reasons but didn't indicate what they were. They indicated that there were no plans to revisit the very high fire severity zone recommendation but would continue to monitor improvements in wildland fire behavior prediction science, etc.

Councilmember Driscoll [*inaudible*] said he supported staff's recommendation.

Councilmember Derwin said she also supported staff's recommendation. She was happy to see that Cal Fire finally made some comments and that they were willing to come to Town and speak to the Council.

Mayor Wengert said the Council was unanimous on this. She always felt the focus should be on being fire safe and fire ready. The Town had demonstrated that it had superior mapping, and she was much more interested in moving forward with Chapter 7A and vegetative clearing requirements. In the end, the outcome would be much better than any map that was being disputed.

Moritz Fuel Hazard Assessment and Fuel Hazard Map

Councilmember Toben rejoined the Council. Ms. Lambert reviewed the sections in the staff report of 5/13/09 on the Moritz report and map. Responding to Mayor Wengert, she felt the proposed task force could come up with an outreach program. There should be some interface with neighborhood groups who were working on their own fuel management and maintenance plans. Responding to Councilmember Derwin, she confirmed that the Moritz fuel hazard map was in digital format.

Virginia Bacon said she was not aware of the Moritz map. There needed to be some public communication effort and get it on the website. Responding to a resident from the Hayfields, Ms. Lambert confirmed that there was a report that accompanied the map that would also be made available.

Mayor Wengert said she liked the suggestion to form a working group with representatives from the Council, Planning Commission, ASCC, Conservation Committee, staff and Woodside Fire. She asked Ms. Lambert to suggest the composition of the group, and she encouraged that it be a high priority. Councilmember Merk said the town should get the information on the website in a form that people could download/print out. Responding to Councilmember Driscoll, Ms. Lambert confirmed that the Moritz map had the parcel lines on it. Ms. Howard said the real challenge was to present the map and the narrative in a way that people could understand how it related to their parcel. The working group would help staff do that. It was a great tool as long as you knew how to use it.

Ms. Bacon said she would like to see the information included on the residential data report so the new property owner would understand what fuel management area they were in and what the guidelines were. Mayor Wengert said the working group would be providing additional suggestions. There were broad reaching implications that the group would need to look at.

Councilmember Toben said the focus of action needed to be in the neighborhoods. He did not think community-wide workshops would be the best approach. There should be an intense focus on notice to the community with directions to the website and a capability on the website to magnify your affected area and print out just that section. The relationships between homeowners' associations and CERPP should be strengthened. There was a lot of energy in his neighborhood group.

(4b) Town-wide Adoption of Chapter 7A of the Building Code

Ms. Lambert reviewed the sections of the staff report of 5/13/09 on Chapter 7A, including a definition of "new building." As set forth in the staff report, she discussed: 1) the overview of the past year's permits and what it would mean to lower the proposed threshold from 75% to 50% for new building; and 2) how Chapter 7A related to the Green Point Rating System. Referring to the proposed ordinance, Mr. Fitzer reviewed the exception for non-structural repairs involving less than 10% of the exterior wall surface to an existing building or structure within any one-year period. He said 10% was arbitrary, and Council might want to discuss it. Responding to Mayor Wengert, he confirmed that if it was 10% of an existing wall frame that needed repair, they could use the existing material—even though it might not comply with Chapter 7A.

Ms. Sloan added that at Council's direction, the requirement for an automatic fire sprinkler system would also have the 50% threshold. Mr. Fitzer confirmed that currently, the automatic fire sprinkler was based on 75% of the value. Now, the mechanism would be the affected floor area.

Responding to Councilmember Merk, Mr. Fitzer said if it was a new structure under the new definition, the entire structure would have to comply in all aspects. For an addition/remodel that did not trip 50%, the proposed work under the scope of the permit would have to comply. For example, if you had an existing 2,000 sf house and you were doing a 400 sf addition, the whole house would not need to comply with the provisions of Chapter 7A, but the work for the 400 sf addition would have to comply. This was spelled out in

the ordinance (p. 4), paragraph #2. This was an effort to respond to Council's request to say that not only roofs but sidings, window replacements and decks—even if minor—should still comply to reduce the fuel loads.

Referring to the ordinance (p. 1) and the replacement of roof coverings, Mr. Fitzer confirmed for Councilmember Driscoll that under the definition of new building, if you just tore off your roof and applied a new one, you would not have to bring the whole house up to Chapter 7A requirements. You would still have to have a Class A roof. If you wanted to change the pitch of your roof, Chapter 7A would apply. Responding to Councilmember Derwin, he confirmed that a lot more projects would be captured by basing the requirement for automatic sprinklers on affected area as opposed to value. Under the 75% rule based on value, smaller homes were more easily captured. By doing just a kitchen and bathroom remodel, it was possible to trip that threshold, but larger homes would escape that. He felt taking the dollars out and looking at the affected floor area was more fair.

Mayor Wengert opened the public hearing.

Ms. Bacon said she found this terribly confusing to the homeowners. Responding to Ms. Bacon, Mr. Fitzer confirmed that if she remodeled 50% of her home, she would have to put in a sprinkler. Ms. Bacon said that was onerous. Additionally, she wanted some kind of exemption for materials. If a homeowner did a larger addition, the new replacement materials might not match the existing material. She found the ordinance very complex and difficult for the homeowner to understand.

Councilmember Toben expressed appreciation to the Town of Woodside for adopting Chapter 7A throughout the town. The fact that Woodside went first on this was very helpful. He was similarly pleased to note that the standards the Town was considering for construction were being used by Woodside as a way of solving the problem of how to deal with these tricky definitional challenges. He commended Mr. Fitzer and Ms. Lambert for the artful job of drafting the ordinance. He did not agree that this was a complicated ordinance to understand. There was more objectivity introduced into the system now with regard to 50% of affected area. He understood that if he wanted to replace his shake roof, he would have to use Class A material and that he would not have to put in sprinklers as long as he was just replacing the skin of the roof. He felt this ordinance was on the right track. Additionally, he went to the fire Board meeting three weeks ago and was able to tell the Board that the Fire District could help the Town by increasing resources for fuel abatement. The Town would handle the issue of fire safety in construction practices. He felt that was the right kind of collaboration with everyone going in the same direction.

Councilmember Merk said he was generally supportive of the ordinance. It was worth noting that putting sprinklers in your house was an extremely expensive proposition. It could mean running new line out to the street, getting a bigger meter, and having a much larger water bill. Depending on the design of your house, installing sprinklers could also be very problematic. Notwithstanding those concerns, it was in the interest of everyone that these rules be implemented because it made for a safer house if you had sprinklers. If your neighbor's house was on fire, there was a good chance that your house would be catching a lot of embers. He supported this even though he realized there were people who would find the requirement for sprinkler systems to be a real hardship. In terms of the exception for nonstructural repairs involving less than 10% of the exterior wall surface, if you were doing some work on your house and you had a particular kind of siding and there was nothing made that was fireproof like it, he questioned how you could make it look like it belonged to the house. One wall of his house faced the afternoon sun, and from time to time he had to replace those boards. He questioned whether 10% was enough. One wall could be 25% of the house, and he thought a little more than 10% might be appropriate to allow for putting back the same material that was there before. Responding to Councilmember Merk, Mr. Fitzer said under the roofing ordinance, a Class A roof was required if you replaced more than 25% of the roof. The threshold could be raised to 25% and reviewed by the Building Official on a case-by-case basis. He chose 10% instead of 25% in response to the Council's direction to lower the threshold from 75% to 50% and also include minor projects like decks and

window replacements. The 10% was an aggressive number that could be amended. Responding to Councilmember Merk, he said in Blue Oaks, a layer of gypsum was put on the face of the studs before applying, for example, wood siding. This would not necessarily comply with Chapter 7A, which sought ignition-resistant construction. Unfortunately, Chapter 7A clearly stipulated that any applied coating that you could paint on would not be consistent with the intent. Field-applied coatings did not weather well. In looking at the product list from Cal Fire, he was surprised at the materials that were included that were considered ignition-resistant even though they burned readily. The intent of Chapter 7A was to have structures that would be able to resist that brief but very intense period of time where a wildfire passed through the house. It was not as if you were trying to build a house that could withstand a fire for 20-30 minutes. The time involved was more like 3-5 minutes. The challenge was up to the designer, contractor, and homeowner to select a material that would either match the existing structure or at least be architecturally compatible.

Councilmember Driscoll said in this Town when people were talking about doing remodels of the scale that might trigger this ordinance, they were using a design professional who could understand a somewhat complicated ordinance. This ordinance was meant to serve as direction to design professionals. A couple of months ago, there was a concern about how long it would take to make the Town architecturally fire safe. Requiring someone to put on new siding was a price that had to be paid in order to accelerate the process of getting the Town to a more fire safe place. He did not want to put the burden on citizens, and he understood the concern about sprinklers, etc. But, if you couldn't do it here, where could you do it. People were spending \$150,000-\$250,000 on kitchen remodels, which didn't change the exterior skin of the house. He thought it was a price that needed to be paid for fire safety.

Councilmember Derwin said as elected officials, the number one job was public safety and ensuring that the residents were safe. The Town had rejected the Cal Fire map and now had to walk the talk and adopt Chapter 7A. She agreed the ordinance was pointed towards the architects rather than the homeowners, and she supported it.

Mayor Wengert said she supported the ordinance. The Council had the responsibility—particularly given that it had chosen to reject the Cal Fire map—to lead the way. That was demonstrated by applying Chapter 7A to every home in Town, lowering the threshold at which it was being applied, and including additional items. She was also happy to be working in concert with Woodside; a fire would see no demarcation between Woodside and Portola Valley. Fire safety was the number one concern, and she thanked staff for an elegant solution.

Councilmember Merk reiterated his suggestion that in the exception called out on page 4, the percentage be kicked up to 15%. That would allow someone who was repairing damaged walls to do a little bit more. Mayor Wengert concurred that a little more flexibility should be provided.

Councilmember Merk moved introduction and first reading by title, waive further reading, of an ordinance, as amended, of the Town Council of the Town of Portola Valley Amending Section 15.04.010 [Definitions] and Section 15.04.020 [Amendments to the Building Code] of Chapter 15.04 [Building Code] of Title 15 [Business Taxes, Licenses and Regulations] of the Portola Valley Municipal Code. Councilmember Driscoll seconded, and the motion carried 5-0.

(5) Introduction of Amendment to the Current Solicitation Ordinance of the Portola Valley Municipal Code [10:00 p.m.]

Ms. Sloan reviewed her memo of 4/2/09 on the proposed amendments to the Solicitation Ordinance. Responding to Mayor Wengert, she said she would need to research whether the solicitor could be required to show an ID if requested. Mayor Wengert said her concern was about people moving permits around if there was no matching of the individual to the name on the permit. Ms. Sloan noted that the ordinance

stated that no permit shall be transferred or assigned. Responding to Mayor Wengert, Ms. Howard said there had been problems when the Sheriff tried to enforce it and the solicitor said they did not have any form of identification. Councilmember Derwin thought having to show an ID would make residents feel safer.

Referring to Section 5.40.040, Councilmember Toben asked about political solicitors who requested a signature on a petition. Ms. Sloan said she felt that would be protected but would have to check. On section 5.40.050B, Councilmember Toben said it sounded as if one master solicitor could apply for a permit, with multiple permits provided to one applicant. Responding to Councilmember Toben, Ms. Sloan said Section 5.40.050B2 and the requirement to show an ID applied just to the applicant. Councilmember Driscoll said there were situations where one person dropped off a van of kids. This provision encouraged that. Ms. Sloan said she would check.

Referring to Section 5.40.020D, Councilmember Merk felt "volunteer" or "sanctioned volunteer" should be added to the list of persons. Under Section 5.40.050B.3, he wanted to change "for which" to "for who." Under Section 5.40.080B, he suggested there be one other person in Town whom could sign the permit in case the Town Manager was away.

Ms. Sloan said she would bring the ordinance back with requested clarifications/changes.

(6) Introduction of Proposed Ordinance Permanently Changing the Start Time of Council Meetings
[10:10 p.m.]

Ms. Howard reviewed the staff memo of 4/17/09 on changing the start time of Council regular meetings to 7:30 p.m. Responding to Councilmember Derwin, Ms. Howard said the ordinance would have to come back for a second reading. Adoption required 3 votes, and it would take effect in 30 days following adoption.

Mayor Wengert opened the public hearing. There were no comments, and the hearing was closed.

Councilmember Merk said this had been discussed twice by the Council. There had been no notice to the public. At the last meeting where this was discussed, one member of the public commented that starting at 7:30 would be difficult and interrupt his family's dinner. Forty-five years of history of meeting at 8 p.m. without anyone having a problem with it, except for a couple of Councilmembers, showed that this change was unnecessary. He would not support it.

Councilmember Driscoll said the start time had traditionally been 8 p.m., and a lot of citizens expected 8 p.m. He expected that there would be citizens in the next year or two who would come in at 8 p.m. expecting to address an issue that had already been addressed. Additionally, he would probably be late for meetings some times.

Councilmember Derwin moved to introduce and read by title, waive further reading, an Ordinance of the Town Council Amending Section 2.04.010 [Regular Meetings] of Chapter 2.04 [Council Meetings] of Title 2 [Administration and Personnel] of the Portola Valley Municipal Code. Councilmember Toben seconded the motion.

Councilmember Driscoll said he would vote in favor of this as a trial. It might need to be re-examined later if necessary. Mayor Wengert called for a vote, and the motion carried 4-1 [Merk]. Ms. Howard said the second reading would be at the June 10 meeting.

(7) Approval of an Agreement with Callander Associates for Community Outreach and Conceptual Design for Ford Field *[10:15 p.m.]*

Ms. McDougall reviewed the staff report of 5/13/09 and proposal by Callander Associates for outreach and

conceptual design for Ford Field. She noted that the Town was eligible for some grant funding through ABAG for risk management-type activities such as improvements to Ford Field. ABAG confirmed that \$20,000 in grant funds was available and would expire in June of this year. A part of that money could be used for the first part of this process. There was an additional \$15,000 that could be utilized for the rest through the end of October. ABAG was pleased about the improvements because of the age and condition of the field. Anything done would be seen as a safety enhancement. If the agreement was executed, ABAG would take that as evidence that the Town was moving ahead with this portion of the project. Responding to Councilmember Derwin, Ms. Howard said the State money for the construction portion had disappeared. She added that she was not budgeting to do the project itself during the next year. There were no funds, and no one felt this was a good time for fundraising. The project would stop after the outreach and conceptual design.

Responding to Mayor Wengert, Ms. McDougall said the additional \$15,000 also expired in June, but ABAG introduced a grace period because there had not been many takers for this money. The grace period for the \$15,000 pot of money expired the end of October. Responding to Mayor Wengert, she confirmed that the schedule could potentially be accelerated to make sure the Town qualified for the grant money. Responding to Ms. Bacon, she said this project would not encroach into the open space adjacent to it. The Town had some maps and the grant deed that made it clear that the adjacent open space was to remain open space. All the components that were accessory to the baseball field such as the batting cage, etc. would be looked at. Responding to Ms. Bacon, she said the Little League paid users fees; they also made donations over the years.

Mayor Wengert said the Town was fortunate to have the grant money available. The question was how willing the Council was to do the work with the uncertainty about the ability to proceed once the studies were done. Ms. McDougall confirmed that this project would be development of the conceptual plans—not the construction drawings. Councilmember Driscoll said conceptual plans didn't expire, and it would be valuable in three years. If the funds were available, it made sense to proceed.

Due to the history and sensitivity of the site, Councilmember Merk suggested the Open Space Committee, Conservation Committee, and Trails Committee participate in the process to ensure there was more input than just from the one user group.

Councilmember Driscoll moved approval of Resolution No. 2445-2009 Approving and Authorizing Execution on an Agreement Between the Town and Callander Associates. Councilmember Merk seconded. He reiterated his suggestion to add the three committees to the outreach process. Mayor Wengert called for the vote, and the motion carried 5-0.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(8) Appointment to Open Space Acquisition Advisory Committee [10:30 p.m.]

Councilmember Driscoll reviewed Gary Nielsen's e-mail of 5/5/09, noting that the Committee recommended the appointment of Charlene Kabcenell for the open position. At that meeting, Ward Paine presented his letter of resignation, and the Committee would like to have Jeanie Treichel appointed to the new vacancy. Mayor Wengert appointed Charlene Kabcenell and Jeanie Treichel to the Open Space Acquisition Advisory Committee. Councilmember Toben moved concurrence, and Councilmember Driscoll seconded.

Councilmember Merk said he had no problem with these appointments but in other situations, Council required that all openings be noticed. He was uncomfortable with the way this was being handled. As indicated in the memo, Councilmember Driscoll said the Committee was fine with noticing the new vacancy. The one opening had been posted, and there were two applicants. With Mr. Paine's resignation, there was another opening. He would be surprised if another posting generated a lot of applicants.

Ms. Howard said one of the issues that came up with the committee handbook panel was committees appointing someone without going through the process of inviting new people. In this case, she felt it was appropriate.

Mayor Wengert called for a vote, and the motion carried 5-0.

(9) ASCC Review and Recommendation on Proposed Triangle Park Plan Including Proposed Parking Improvements for Jelich Shopping Center [10:35 p.m.]

Mr. Vlasic reviewed the staff report of 4/16/09 on the ASCC's review and recommendations on the proposed Triangle Park plan and parking improvements for the Jelich Shopping Center. Responding to Mayor Wengert, Ms. Howard said improvements to the park had been in the budget for the last couple of years, but the funding was now gone. She felt some of the minor improvements could be done out of the operating budget. If the Jelichs went ahead with their portion, staff always envisioned the Town's portion would be fairly inexpensive. Mr. Vlasic added that if dirt was removed, it needed to be placed where the mounds would be so that it didn't get trucked away. The one mound near the intersection could be used to stockpile the majority of the dirt. Responding to Ms. Howard, he said the ASCC found the Jelichs' plan acceptable. The Jelichs would like to move ahead with both the encroachment permit and a detailed plan as soon as they received Council's concurrence. Responding to Councilmember Merk, he said parking spaces 39-59 were part of the parking that served the shopping center. They would be improving parking spaces for the shopping center on Town property. That was what existed now and what was understood with the use permit.

Responding to Councilmember Toben, Mr. Vlasic said the crosswalk between the Jelich building and Triangle Park was shown by an arrow on the drawing. It came from the activity area to the path that existed. There was a transition across, but it was not marked in the pavement. That would need to be detailed out when the final plan was developed. Councilmember Toben said it would be nice to have the crosswalk in close proximity to the speed bump. Mr. Sutherland, CJW Architects, said it was his understanding that a formal crosswalk had not been recommended by the ASCC. Councilmember Toben said a formal crosswalk was necessary for safety; making it explicit would create that connection between the two parcels. Councilmember Driscoll said the crosswalk should be very apparent and as safe as possible.

Virginia Bacon said she was on the Triangle Park Committee. She was concerned about the design and how one side of the parking area looked with respect to the other. She was not sure what was proposed, and she would like to see some design consistency between one-half of the parking lot and the other half.

Councilmember Merk said in the northwest corner where it showed the trail coming out from the Pollock building, there were two trails but only one trail was shown. The Garcia memorial was not called out, and it looked like it was right in the area where the picnic tables were. He was also concerned about the width that would remain between the parking spaces. A lot of contractors parked in front of the hardware store, and those trucks were big and took up the entire parking space. You had to back straight out for quite a long distance before you could start to turn your wheel to turn around. In the past, there had been a number of fender benders where people backing out ran into the cars on the other side. The proposal was to take 6-7 feet from that. That needed to be looked at very carefully in terms of larger vehicles/trucks that could be 8 feet wide--even if it meant taking a couple more feet from the park. With respect to the mound at the corner of Alpine and Portola Roads, it appeared to be about 4 feet. If he was driving one of the new little electric cars, he would not be able to see over it. The sight distance there needed to be maintained. Mr. Vlasic said that was a central issue for the Traffic Committee. Mr. Young was also very sensitive to it. There were also some concerns about how it would work with the bus stop. Mr. Sutherland said there was a depression there and not flat ground. The mound was not actually that high. Referring to the plans, Councilmember Merk reiterated that someone in a low car needed to be able to see around that corner.

Councilmember Driscoll said he agreed the perpendicular parking was too close together and people could back into each other. He suggested having the new parking places be at a slant that would at least allow people to back out more easily. Mr. Sutherland said putting more distance between the two parking areas was more difficult to achieve because of the oak trees. Additionally, slanted parking would limit the number of spots that could be put in. Responding to Councilmember Driscoll, he said what was proposed was the typical minimal, but not typical for a large truck. Councilmember Toben said a hardware store invited that kind of vehicle. He felt diagonal parking would be a better solution. Mayor Wengert suggested creating some larger spaces in one section. Councilmember Driscoll noted that large pickups often parked in compact spots. Mr. Vlasic said the concerns would be taken into account as the detailed plans for added parking were worked out. It would also be referred to the Traffic Committee and Public Works Committee. Councilmembers discussed possible configurations for diagonal parking. Councilmember Merk felt the changes in the curbing would slow down the cut-through traffic.

Councilmember Toben said he was not enthusiastic about the parking plan the last time it was discussed. But, he felt the arguments for additional parking were somewhat stronger at this point, and he could support it. Mayor Wengert said there was concurrence on the need for additional parking.

Mr. Vlasic said the next step would be for the Jelichs to develop their plan and go through the ASCC process with committee input. Councilmember Toben said he would like to see it again, formally or informally, after ASCC approval. There were a number of issues that went beyond the normal scope of ASCC review, including community usage of Triangle Park, parking and traffic safety, connection between the park, Jelich building and Roberts, etc. Mr. Vlasic noted that the ASCC recommended that a subgroup of various committees and interest groups participate in the review of the overall plan. That would include looking at the final parking plan and the way it transitioned. Councilmembers Toben and Merk volunteered to be liaisons to the subgroup.

(10) Reports from Commission and Committee Liaisons

(a) Green Speakers Series

Councilmember Derwin said she attended the first hour of the program and heard Paul Welschmeyer talk about greening a 1910 house with a 2005 addition.

(b) Conservation Committee

Councilmember Derwin said the Committee discussed the "Sensitive Biological Resources" document by Thomas Reid Associates that was part of the biometric mapping. The Committee also discussed site plans for various homes.

(c) Library JPA and Friends of the Library

Councilmember Derwin said a member of the public expressed concern to the JPA about graphic CDs that were available at the library. The Foster City library project would be looking at the Town's project for their remodel. The group also discussed: 1) the need to develop an investment policy; and 2) improving programs that supported communities, such as the Town's Green Speaker Series. The Friends of the PV library sponsored the 10th annual poetry reading, which was well attended by students of all ages.

(d) Trails and Paths Committee

Councilmember Derwin said there was good support for starting the meetings at 7:00 p.m. instead of 7:30 except for one member who felt there should be an ending time if the meetings started earlier. The Dengler Preserve should be opened next week. Mary Hufty expressed concerns about the surfaces at the Town

Center, which she felt were slippery and treacherous for horses. She also wanted an update on the perimeter trail and the hitching post.

(e) Emergency Preparedness Committee

Councilmember Driscoll said Emergency Preparedness and Public Works held a joint meeting. Mr. Young gave a walking tour showing where all the various valves, shut offs and switches were so they could be turned off in an emergency. The group discussed producing a user's manual for the Town Center. There was also a discussion of the location of keys, etc. It was a very useful meeting.

Councilmember Merk said a lot of information had been presented and needed to be done more often. There was also an appeal for more volunteer help on projects around Town.

(f) Geology Committee

Councilmember Driscoll said the Committee discussed updating the geologic mapping of the major and thrust/stress faults based on studies that had been done. Town Planner Mader had identified a few dozen properties that were impacted. Those homeowners would be invited to attend an informational session on additional geotechnical investigation that might be necessary for remodels or rebuilding.

(g) Teen Committee

Councilmember Merk said the Committee discussed their dances and donating the profits to open space. They elected a new Chairman who was not a member of the Committee.

(h) ASCC

Councilmember Toben said the ASCC was divided over a major project in Westridge. There was also apparently some dissidence between the ASCC and the Westridge architectural committee; a joint meeting had been suggested. The gas station sign was conditionally approved pending the revision of the signing provisions of the Town's ordinance.

(i) Parks and Rec Committee

Mayor Wengert said the Committee discussed user fees. This issue would be relevant in budget discussions to help bridge the gap between what was being spent on field maintenance and revenues from user fees. Ms. McDougall gave a report on the Ford Field RFP.

(j) Community Events

Mayor Wengert said the Committee was planning for the picnic. They were meeting every other week and were recruiting.

(k) Special Events

Mayor Wengert said the Town would be participating--along with Atherton, Woodside, Los Altos Hills, and Menlo Park--in the Conversation on Climate Action event next Tuesday in Atherton. It was posted on the website.

WRITTEN COMMUNICATIONS

(11) Town Council 4/24/09 Weekly Digest

(a) AIA Award

Referring to his e-mail of 4/21/09, Councilmember Driscoll noted that the AIA named the Town Center project as one of its Top Ten Green/Sustainable Projects in the world in 2008. He described his comments at the award session, which was attended by 750 people. Siegel and Strain had won the award four times.

(b) Vacancy on ASCC

Referring to Sam Gelpi's letter, Ms. Howard said the vacancy was posted in the *The Almanac* and asked Councilmembers to encourage/suggest applicants. Councilmember Toben asked that future postings be proofread.

(c) Acterra Environmental Award

Referring to the letter from Acterra of 4/20/09, Councilmember Driscoll said he would represent the Town at the Business Environmental Awards Reception.

(12) Town Council 5/1/09 Weekly Digest: None

(13) Town Council 5/8/09 Weekly Digest

(a) Agenda for Cable & Utilities Undergrounding Committee

Referring to the agenda for the 5/14/09 meeting of the Committee, Councilmember Toben noted that there were references to: 1) the use of the UUT proceeds; and 2) a display on the ugliest tree/pole. He said a meeting was held with two committee members to offer some cautionary comments about earmarking proceeds of the UUT for undergrounding.

ADJOURNMENT: 11:40 p.m.

Mayor

Town Clerk