

TOWN COUNCIL MEETING NO. 771, JUNE 10, 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 Attorney Sloan, Town Planner Mader, Town Manager Howard, Admin Services Officer Nerdahl, Planning Manager Lambert, Asst. Town Manger McDougall and Town Clerk Hanlon

ORAL COMMUNICATIONS

Michael Bray, Chair-Community Events Committee, asked for feedback on the Town picnic. Ms. Howard said the picnic was one of the best she ever attended. On behalf of the staff, she thanked the Committee for making it a wonderful event. Bill Lane, Westridge, agreed the picnic went very well and congratulated all the volunteers. Mayor Wengert added her thanks to the team for a terrific event. She said there had been nothing but good comments.

CONSENT AGENDA

By motion of Councilmember Driscoll, seconded by Councilmember Derwin, 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 June 10, 2009, in the amount of \$533,035.98.

REGULAR AGENDA

(1) Minutes of the Town Council Meeting of May 27, 2009 (Removed from Consent Agenda)

Councilmember Merk said Mr. Siegel's statement during the meeting of 5/27/09 about who should Chair the meeting when the Mayor and Vice Mayor were absent was inconsistent with what the Town Attorney indicated in a memo to him and his reading of Roberts Rules. Councilmember Driscoll suggested Councilmember Merk's comment be included in the minutes of this meeting. Councilmember Merk submitted an addition to his comments on item 11a in the 5/27/09 minutes: "Councilmember Merk requested a written opinion from counsel." By motion and second, the minutes were approved as amended by a vote of 3-0, with Councilmember Toben and Mayor Wengert abstaining.

(3) First Reading by Title and Introduction of Noise Ordinance and Negative Declaration [8:25 p.m.]

Town Planner Mader reviewed the staff report of 5/19/09 on the proposed noise ordinance and his memo of 6/4/09 on subsequent concerns expressed about noise that did not exceed the noise standards but was objectionable to residents. He said the noise consultant felt the thresholds in the ordinance were appropriate but suggested adding the provision set forth in the memo for "Special Circumstances" when noise generators were controlled by a CUP. He noted that Claire Jernick was unable to attend tonight's meeting but urged the Council to adopt that provision. While the Town Attorney indicated that the Town had the right to require more stringent standards in a CUP than stipulated in the noise ordinance, Ms. Jernick felt the provision would add some clarity and explanation for the public. She also wanted it made clear that

others in the area had the same concerns about noise from The Sequoias.

Referring to Section 9.10.020 of the ordinance, Councilmember Merk said “clearing” was under the definition of construction. If someone was simply clearing land and not doing construction, he questioned how they would know where it was addressed in the ordinance. Town Planner Mader said originally it was addressed under the section on domestic garden tools. He suggested adding: “Clearing of land is included under construction. See definition.” Ms. Sloan said she did not feel it fit under the section on domestic garden tools because it was an activity rather than a tool. Councilmember Driscoll suggested renaming the definition of construction to “Construction and Clearing.” Town Planner Mader suggested “Construction, Grading and Clearing.” Councilmembers concurred.

With respect to the new provision for “Special Circumstances,” Town Planner Mader said the Planning Commission expressed interest in adding some language but they did not make a recommendation. Concerns about the noise at The Sequoias had been discussed at the Planning Commission meeting. Councilmember Merk added that more than one person was impacted by it, and he could hear it from time to time when it was quiet outside, and he was in his yard.

Ms. Sloan added that if a CUP was already issued and in effect, the new provision did not mean the CUP could be opened up in order to do something about the noise. It would only be for new CUPs. Town Planner Mader added that the noise study done for Spring Down resulted in a change to their audio system so that the noise was focused down on the riding area. Responding to Councilmember Driscoll, Ms. Sloan said if an owner changed anything in the CUP, it would require an amendment. Some of the use permits were old and vague. The recent use permits were very specific with a lot of conditions. Councilmember Driscoll said he was concerned about someone changing something that affected the neighbors that was not contemplated when the permit was approved. Responding to Mayor Wengert, Ms. Sloan confirmed that if noise exceeded the thresholds in the ordinance, it could be dealt with under the ordinance. The new provision addressed situations where the noise was non-excessive and didn’t trigger any of the levels in the ordinance. Councilmember Driscoll said the situation at The Sequoias was an example. It was not the volume of the noise, but the nature of the noise against the background that caused it to be so apparent and audible.

Mayor Wengert opened the public hearing.

Danna Breen, Alpine Rd., said she had not attended the workshops. She felt there was too much noise in Town. She supported the work of the Planning Commission.

Bill Lane, Westridge, said he had listened for over two years about noise concerns. The Sequoias kept coming up, and he questioned what the noise was and why it couldn’t be stopped. He offered to assist. Ms. Lambert said three noise consultants had been hired, with The Sequoias paying for their consultant, Ms. Jernick’s consultant and the Town’s consultant. A complete and thorough investigation had been done of all the noise sources at The Sequoias. They would be coming up with a mitigation plan to address each noise. The new chillers were part of the study and would be part of the mitigation plan. Hopefully by the end of summer, all the issues would be handled. She added that The Sequoias had been extremely responsive in figuring this out. With respect to the ordinance, she reviewed Section 9.10.040.B and restrictions placed on chippers and chainsaws for use on the weekends. Ms. Breen said including chippers in the category of residential/domestic garden tools was unbelievable.

George Jetson, Christ Church, said there was an 8:00 a.m. service at the Church. He was sometimes requested to clear the pathways with a leaf blower for public safety. He needed the leaf blower for 10-15 minutes. There were people with walkers and canes, and this was a safety issue. He appreciated quiet and the community was very quiet [*inaudible*].

Councilmember Driscoll questioned how the Town could make an exception for the Church. Responding to Councilmember Merk, he said a rake could make more noise than an electric leaf blower. He noted that an e-mail dated 5/28/09 had been received from the Aldags that indicated July 15 was too late to clear seasonal grasses and that it should be done by June 1 or no later than June 15. He suggested changing July 15 to June 15 in the ordinance (Section 9.10.040B) in order to encourage earlier clearing and reduce the amount of time to allow that exception to happen. Town Planner Mader pointed out that the noise ordinance was being used to achieve another objective. He felt the period for clearing needed to be addressed in and of itself.

With respect to the Special Circumstances provision, Mayor Wengert said she did not support inserting it in the ordinance. Language should not be added to address a specific situation—particularly when there had been huge efforts to rectify it. The purpose of a threshold was to have some standardization and some metrics to gauge the amount of noise and determine whether it was excessive. She did not want to allow for an open-ended, not clearly defined exception that created a level of subjectivity. She did not know how those levels would be defined and who would establish them. She did not want to insert language in an ordinance that was a reaction to a specific situation that had been a long-standing problem and would likely have a very positive outcome. The user was clearly sympathetic and was trying to work with a group of residents that felt impacted by the noise.

Councilmember Merk said he concurred with changing the time for clearing to June. With respect to the Special Circumstances provision, it might be redundant, but it put people on notice. He did not think it referred specifically to The Sequoias but referred to unknown events that might or might not happen in the future. It might have come about because of what was happening at The Sequoias, but he felt the provision added an additional way to address an issue that might come up in the future. Referring to Section 9.10.040B, he said it was untenable to allow commercial entities to use garden tools on Saturdays—particularly if chippers and chainsaws were going to be used. Chippers and chainsaws were really, really noisy. There had been characterizations that there was an outpouring of favor to this at a couple of weekend meetings. He talked to at least two people who indicated that at one of those meetings, they didn't remember anything like that. At another, there were a couple of comments. Those people had not come to the hearings. No one stood up at the Planning Commission meetings and asked that this happen. He was particularly concerned that chippers and chainsaws would invade the quiet and enjoyment people had in their gardens and yards on weekends. He could not support the ordinance as long as commercial companies were allowed to do business on Saturdays unless there was something that eliminated blowers, chippers and chainsaws. It should say what tools could be used on Saturdays—such as hedge trimmers or lawnmowers. He wanted Saturday added to the clause that prohibited chainsaws and chippers on Sundays.

Councilmember Toben said he supported the ordinance largely in its present form. He endorsed the suggestion to change the clearing dates from July to June. With regard to the proposed amendment for Special Circumstances, Town Planner Mader confirmed for Councilmember Toben that the provision had been drafted with the noise consultant. He [Mr. Rodkin] did not want to establish a lower threshold and thought the provision addressed the concerns that had been raised by people who heard a noise that did not meet the standards. Councilmember Toben said this ordinance had been massaged many many times. While it was not perfect, if it was adopted and the Town experienced problems with residents utilizing chippers and chainsaws on Saturdays, it could be revisited at some future point and amended to address that problem. He did not want to invent circumstances that wouldn't prove to be an issue. Based on all the input over the last 8-9 months, he was comfortable with a first reading and introduction with the minor change from July to June.

Councilmember Derwin said she could go with June 15 but preferred a longer time. Residents should have the longest amount of time and the most options to make their properties fire safe, which was best for everyone. She liked the Special Circumstances provision. If this made people feel better and it was fairly redundant and benign, she supported it. With respect to the use of garden tools by commercial gardeners

on Saturdays, she said it was all about defensible space. Chainsaws were obnoxious but were needed for defensible space. She also agreed with the comment about going back and amending the ordinance if there were problems.

Councilmember Driscoll said the Special Circumstances provision appeared to be redundant. But, it could be helpful and was not too onerous. He also felt it was important to allow residents to clear their backyards on a Saturday—particularly if they were working people.

Councilmember Toben felt there was a risk of failing to come to closure on something that invited continued input and change; sometimes things started to unravel. He said the Special Circumstances provision would necessitate bringing the ordinance back for a first reading—again—and could invite more comment.

Mayor Wengert said she agreed with the change from July to June. Some of these issues would be addressed in future actions relative to fire safety. She was also averse to bringing the ordinance back for another first reading for something she felt was of marginal benefit at best. She also felt it was not reasonable to impose upon residents in this economic environment and not enable them to clear their properties on Saturdays. The language in the ordinance on this had been very carefully crafted.

Councilmember Merk moved to include the Special Circumstances provision in the noise ordinance. Councilmember Derwin seconded. Councilmember Merk said it was a valid inclusion and covered the Town for events in the future that could not be foreseen. Even though it was redundant and the Town could already do it, it provided one more handle to get a hold of these kinds of problems when they came up. Ms. Sloan confirmed for Councilmember Driscoll that if the Special Circumstances provision was included, there would need to be another first reading. Councilmember Driscoll was concerned about opening a Pandora's Box. Councilmember Derwin felt adding another two weeks was worth it. Councilmember Merk said something in the media about this might bring out more people and give the Council a better feel about how people really felt. There hadn't been very much public input. Rather than a Pandora's Box, he characterized it as another opportunity for the public to give input. Councilmember Derwin concurred. Mayor Wengert called for a vote and the motion carried 3-2 [Wengert and Toben].

Ms. Sloan said she would insert the provision in Section 9.10.030 after "Noise Standards."

(4) Adoption of Ordinance Permanently Changing Start Time of Regular Council Meetings [9:00 p.m.]

Referring to the staff memo of 5/26/09, Ms. Howard noted that this was the second reading of the ordinance that would permanently change the start time of Council meetings from 8:00 p.m. to 7:30 p.m. Responding to Councilmember Merk, Ms. Sloan said the start time of the ASCC and Planning Commission meetings could be set by policy.

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

Councilmember Toben moved second reading by title, waive further reading, and adoption of Ordinance No. 2007-378 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 Derwin seconded the motion.

Councilmember Merk said this would end forty-five years of history, which had worked fine for the Town. This change would mean a lot of people would show up late for meetings. It would not get Councilmembers home any sooner, and it would be a hardship for some Councilmembers to arrive at that hour. He opposed the ordinance.

Mayor Wengert called for a vote, and the motion carried 4-1 [Merk].

(5) Review Proposed 2009/2010 Budget and Set Public Hearing [9:04 p.m.]

Ms. Howard said this was an especially difficult budget process for the staff. Requests from committees, staff and consultants along with normal operating expenses ended up being over-budgeted by about \$420,000; normally it was off by about \$40,000-\$50,000. Two currently unfilled staff positions had been eliminated; some committees and consultants budgets had been cut; there were across-the-board cuts in services and supplies; all capital improvement and equipment budgets were eliminated, with the exception of the annual road work and a few Town Center remaining items; and all salary increases for the staff were eliminated. The Town's operating budget continued to grow significantly. During the past several years, staff strove to better serve the community with increased budgets for maintenance and by being preventive rather than reactive. New policies approved by the Council also provided greater assistance to residents during and after their building process. The staff was committed to increased communications, which translated to increased costs. The Town's website had been redesigned to be more informative and user friendly; staff time had been increased to manage and maintain that. Since 2003/2004, two full-time positions had been added with part-time hours increased. In addition, sustainability had been a top community and Council priority. The Town purchased 100% recycled materials, eco-friendly cleaning and janitorial supplies, and a dedicated staff person had taken on the management of sustainability for the Town. In addition, costs that the Town had no control over increased, such as water, gas for the trucks, benefits and some service contracts such as the Sheriff's contract, which would increase by 30%. The general fund operating costs increased from \$2.59 million in 2003/2004 to \$3.59 in 2009/2010. Revenues had become less stable and less secure. When the 2003/2004 budget was presented, she expressed concern about the Town's ability to find additional or creative revenue streams. She had questioned why the Town only received 4% of the property tax. During the search for old documents, Barbara Powell stumbled across the information about the Tax Equity Allocation Act that ultimately led to the Town receiving 7% of property tax. In 2008/2009, that translated to \$523,000. Woodside, Belmont and Half Moon Bay also benefited from the discovery with increased property taxes for them as well. In the meantime, significant revenue streams were in flux. State revenues from bonds and reimbursements for State mandated costs were eliminated. The State had "borrowed" DMV fees, sales tax, and now it appeared that property taxes were next—with the Town potentially losing another \$200,000 in revenue this year. Building and permit fees had dropped significantly—over 50%. Interest revenue had dropped significantly because there were no longer large balances, and the interest rates were down to 1.9%. It was financially prudent for the Town to maintain a certain percentage of its revenue that was safe and secure. The only revenues that were safe were most of the property taxes, the franchise fees and the UUT. These revenues represented money that could not be diverted or taken by the State. This budget was balanced using all 4.5% of the UUT and all 7% of the property tax. If the State "borrowed" any property tax or other sources, cuts would have to be made. Depending on the State's actions, she might need to bring forward an amended budget in the fall. Finally, should the UUT not be approved by the electorate in the fall, the 2010/2011 budget would lose over \$500,000 in revenue, which would most certainly require broad cuts in services, maintenance, permanent and part-time personnel, and flexibility to address unforeseen expenditures.

Referring to the budget, Ms. Howard answered questions and discussed: 1) the cover memo; 2) Sheriff's contract; 3) fund activity summary; 4) 2009/2010 total revenues budget summary; 5) revenue from UUT; 6) revenue pie charts; 7) government agency revenues; 8) franchise fees; 9) permits and fees; 10) other revenues; 11) cost of field maintenance and user fees; 12) lease income; 13) service charges; 14) revenue from taxes and potential State actions; 15) visibility of Town-based businesses; 16) Town Center facilities/class revenues; 17) interest income; 18) UUT; 19) expenditure budget summary and pie charts; 20) labor costs including consultants; 21) administration and operations; 22) committee/commission expenditures; 23) consultant services; 24) miscellaneous expenses; 25) parks operations; 26) public works operations; 27) service agreements; 28) services and supplies; 29) Town clean-up for fire prevention; 30) Town Center facilities expenses; 31) mechanical systems maintenance/repairs of Town Center facilities;

32) possible solar savings; and 33) capital improvement program.

Responding to Mary Hufty, Ms. Howard said \$40,000 was budgeted for trail work, which could be used for the Town Center perimeter trail. Councilmember Merk said parking was at a premium around the library. People were parking perpendicular in the area where part of the trail would be. He thought that perpendicular parking would need to remain. Ms. Howard said there were two issues with the perimeter trail: a) the back where the space was very limited; and b) the need for more parking. At some point, those decisions would need to be made. Ms. Hufty said safety was an issue, and there needed to be a place for people to walk between the church and the parking. She was worried that the trails would not be completed.

Councilmember Toben moved to set the FY 2009/2010 budget for public hearing on 6/24/09. Councilmember Merk seconded, and the motion carried 5-0.

Councilmember Driscoll suggested another budget be produced that represented what the State might do. He did not want to have to counter that action after the Council passed the Town's budget. Ms. Howard said the State would wait for the cities/towns to pass their budgets, which had to be done by June 30. She said she was already planning for additional cuts. The Town might need to take a different approach to handling the facilities and increasing revenues. Councilmember Driscoll said it would be in the Town's best interest to define that now. Ms. Howard noted that there was currently no funding mechanism to pay the Town back for money the State "borrowed." A contingency budget would be a combination of spending down some of the restricted funds, cutting expenses, and transferring from reserves, which were now less than \$2 million. There was also no money to pay for improvements to Ford Field and Rossotti Field in four years. Councilmember Driscoll said there was also the possibility that the UUT might not be renewed. Ms. Howard noted that that wouldn't affect this budget.

Councilmember Toben said the Finance Committee recommended adoption of the budget in the form presented. They also recommended the UUT be renewed at 4.5%. Responding to Councilmember Merk, Ms. Sloan said if the general fund tax was lowered from 5.5% to 4.5% permanently, it would require a two-thirds vote to raise it. If it was lowered for four years, a majority vote would be needed to raise it. The issue was on the agenda for the next meeting.

(6) Town Manager's 2009/2010 Goals and Objectives [10:45 p.m.]

Councilmember Toben said last fall, the Council came up with a new process for evaluating the Town Manager's performance. He asked that the questionnaire developed last year by Mayor Wengert be completed within a week. That input would be compiled for discussion in a closed session on 6/24/09. The process also required the definition of goals and objectives for the next fiscal year. Included in the packet, was the statement of goals for FY 2008/2009. Most of the goals were project-oriented. He asked for input on specific projects or goals that were tangible in nature that should be assigned to the Town Manager for the next fiscal year.

Councilmember Merk said he was caught off guard by this. He had not spent any time preparing but had a few notes on what could be added to the list. Additionally, he felt trying to do this in a week was pushing it.

Mayor Wengert said part of this process was to discuss the priorities to be set. Obviously, if Councilmembers were setting different objectives for the Town Manager, it created problems. The idea was to prioritize and give direction. For example, sustainability was an objective that Councilmembers shared in common. Goals related to that for the next fiscal year should be put forward. The same would apply to the objective of emergency preparation. She felt Ms. Howard would have huge challenges managing the fiscal crisis. In addition to the UUT and State issues, there could be other things. Managing that process was at or near the top of the list.

Councilmember Driscoll said a principle thing for Ms. Howard to do was to assist in the move from one facility to another. This would be the first year that proactive things could be looked at as opposed to reactive things. Given the financial situation, this would involve process rather than spending. It might be things like improving outreach rather than repaving roads.

Councilmember Toben said the fiscal management piece was clearly front and center this coming year to ensure the Town got through the year. Councilmember Driscoll added that another focus should be how to reduce operating expenses in the coming years as opposed to improving the physical facilities. Ms. Howard had projected that the operating costs would go up; a lot of the expenditure numbers would need to go down as time went on.

Mayor Wengert said there were areas that the Town hadn't kept current with, such as permit fees and fees for recreational facilities. Councilmember Driscoll agreed noting that it would mean "appropriate cost recapture" as opposed to revenue enhancement.

Ms. Howard said there were some opportunities to do some new and exciting things now that the Town Center was complete. If the fee study remained in the budget, she would like to take that on. It was a big project with an RFP for a consultant, etc. She would also like to look at the entire site and come up with some policy for uses and fees that had not been looked at before. It was clear that there were all sorts of new opportunities with the new facilities. Undergrounding was another issue. Staff would need to put in sufficient time to look at what was involved (e.g., outreach, cost, financing, timelines, etc.) to allow Council to see if it wanted to go down that road. She would also like to be involved in the San Mateo County task force on sustainability. She attended the first meeting and felt there was a lot of potential in working with the rest of the towns in the County to come up with some plans that might help everyone move forward without each city reinventing the wheel.

After discussion, Councilmember Toben asked that suggestions for goals and objectives as well as the questionnaire be submitted in one week for discussion at the next meeting.

(7) 2009 Election [11:00 p.m.]

Referring to the staff memo of 6/5/09, Councilmember Merk moved approval of Resolution 2446-2009 Calling and Giving Notice of the Holding of a General Municipal Election to be Held on November 3, 2009, for the Purpose of Electing Three Members of the Town Council. Councilmember Driscoll seconded, and the motion carried 5-0.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS [11:01 p.m.]

(8) Appointment to Cultural Arts Committee

Referring to Susan Thomas's e-mail of 5/14/09, Mayor Wengert appointed Deirdre Clark to the Cultural Arts Committee. By motion and second, Council unanimously concurred.

(9) Appointment to Emergency Preparedness Committee

Referring to Craig Taylor's e-mail of 5/26/09, Mayor Wengert appointed Chris Raanes to the EPC. By motion and second, Council unanimously concurred

(10) Appointment to Teen Committee

Referring to Ellen Hoffman's memo of 6/3/09, Mayor Wengert appointed Sharon Driscoll to the Teen Committee. By motion and second, Council unanimously concurred.

(11) Reports from Commission and Committee Liaisons

(a) Council of Cities

Councilmember Derwin said the City Selection Committee nominated people for the California Coastal Commission. The speaker discussed foreclosed properties that Menlo Park was buying.

(b) Trails and Paths Committee

Councilmember Derwin said the Committee discussed the perimeter trail. The Woods property was now totally controlled by MROSD. There would be a meeting with Bear Creek Stables to discuss defensible space around stables. The Dengler Preserve was now open to hikers and equestrians. They still needed to clear some area for the dedication building. There was also discussion about the Committee's remaining budget.

(c) Planning Commission

Councilmember Merk said the Commission approved a variance request from The Sequoias to put in two transformer enclosures within the rear setback. The Planning Commission was concerned about additional equipment the transformers could accommodate in the future. There was also discussion of noise from the chillers. The Commission also approved grading for a large residence in Blue Oaks. They also held a preliminary review of a request on the Neely property to build a recreation/entertainment building, a greenhouse with indoor pool, and two 4,000 sf barns in the future. A field trip had been held, and it was a complicated application.

(d) Teen Committee

Councilmember Merk said the Committee discussed events they would like to hold, including a pizza dinner and dance. They also discussed what to do with money earned from their dances.

(e) ASCC

Councilmember Toben said the field meeting on the Neely project was a joint ASCC/Planning Commission meeting. It was an unusual application that raised a lot of questions about intensions, etc. The proposed improvements to the Jelich shopping center parking lot were approved, including perpendicular parking.

(g) Airport Roundtable

Councilmember Toben said he was not getting good information with respect to the implementation of Oceanic Tailored Arrivals. His e-mails went unanswered, and there was an absence of transparency. A resident of Woodside was extraordinarily upset about what he perceived to be changes in noise patterns; Anna Eshoo and others were involved.

(h) Fire Safety Group

Mayor Wengert said the first meeting was held two weeks ago. The Moritz map was discussed and would be posted on the website soon. There was a lot of discussion about how the Town would work with the Woodside Fire Protection District on outreach. Emergency Preparedness was already working on some verbiage for the website about how residents could help themselves with fire safety.

Councilmember Toben said he met today with the Fire Marshal and Fire Chief in his capacity as representative of the Woodside Highlands Fire Safety Committee. The Fire District reps had a hard time

seeing him in his citizen capacity as opposed to his Vice Mayor capacity. Mayor Wengert said it would be important to make sure all the neighborhoods in Town who were working on fire safety were coordinated. Ms. Lambert was working with the homeowners' groups. She added that the Fire District offered to inspect properties of any resident who called. That would be conveyed to Town residents. Councilmember Toben added that the Fire District's budget was being increased for fire prevention.

(i) Community Events Committee

Mayor Wengert said the Committee discussed the picnic. They were already planning Blues and BBQ and discussed other possible events. Councilmember Driscoll noted that the crows emptied all the trashcans after the picnic, and there was trash all over the site on Sunday. That should be addressed next year.

WRITTEN COMMUNICATIONS [11:23 p.m.]

(12) Town Council 5/29/09 Weekly Digest

(a) Findings of the Conservation Committee on Open Space

Referring to the memo from the Chair of the Conservation Committee of 3/24/09, Councilmember Driscoll said he felt a discussion of open space should be agendized. There were a lot of issues, including the definition of open space, the UUT, use of the Spring Down property, etc. Additionally, the Open Space Acquisition Advisory Committee was not certain whether money could be used to purchase property that could be turned into open space. There was a lot of ambiguity on the subject, and he felt there should be a public hearing to get comments from a number of interested parties.

Councilmember Toben said there were no concrete proposals for converting existing open space to any other function. His concern was that if this was opened up to a conversation about defining open space at the same time as going to voters about the UUT, there was the potential for stirring up a lot of controversy and conflict. It would be a difficult issue to resolve because of the spectrum of viewpoints on what open space meant. While he was a big proponent of community workshops and dialog, he was concerned about the timing. He was also troubled that the Conservation Committee took it upon itself to define for the Town what open space was. That should have been a more open-ended conversation. Their work would provide a useful starting point at some time, but he preferred not to introduce that charged issue into the community fabric four months before the vote on the UUT.

Councilmember Derwin disagreed. If people were going to be asked to pay taxes for open space, defining open space was perfectly appropriate. In the interest of transparency and open government, she thought everyone should be given a chance to talk and debate. She felt it should be agendized.

Councilmember Merk concurred with Councilmembers Driscoll and Derwin. He did not see this as an explosive or big issue. It was a clarification that had the potential of reassuring the voters that what they were voting for was what they thought they were getting. By having a more clear definition of open space, the voters would feel more confident voting to tax themselves to continue to support open space. He felt it was worth some discussion. The Conservation Committee and done a very comprehensive job in going through the General Plan.

Mayor Wengert said she shared Councilmember Toben's concerns that it might be an explosive issue. The Committee's work was excellent but was a reaction to old threats that had abated. There was no money to do anything in any of these spots right now—even if there was a decision or will to do something. To raise the issue in this environment could incite a lot of heated discussion among the various groups. It could be more polarizing than unifying. She did not think it was the right time to introduce another item that could derail the Council off into long discussions. She preferred to focus on the things that could be done that had

been started.

Councilmember Driscoll said the Open Space Acquisition Committee had some real questions about its charter and what it could do. There was \$2.3 million sitting in the fund, and they were not quite sure what to do with that. A number of citizens had made the observation that they were not sure why they should vote for a continuation of that particular UUT; they couldn't figure out what it was getting. The Committee didn't know if they could take a piece of property and make it into open space. Responding to Councilmember Toben, he said there was a diversity of questions around the issue. There was the charter issue, how open space interacted with vegetation and fire management, etc. He understood the concerns about stirring up problems, but he did not think having a hearing that had no particular resolution would be a bad thing.

Councilmember Merk said if the item was agendaized, all of these questions could be considered together. There might be a subcommittee set up to study this. It could take months of discussion—particularly at a subcommittee level. They could come back with a comprehensive report from a number of viewpoints.

After discussion, Councilmember Driscoll suggested liaisons let their committees know that there would be a discussion of the concept of open space and what that meant. Committees could submit a memo on their questions about open space. Committees involved included Trails, Parks and Rec, Open Space Acquisition and any committee concerned with fire management and clearing. Council agreed an August/September discussion would be appropriate.

(b) Cable and Undergrounding Committee

Referring to the Committee's memo of 4/9/09, Ms. Howard said a meeting had been held with members of the Committee to work on a well-thought up plan starting in September. Councilmember Merk said that decision was not made by the full Council. The Committee had done a lot of work to give the Council an idea of the work that was involved in undergrounding and the hurdles that needed to be addressed. Councilmember Driscoll suggested holding off on this issue while the Council worked on the objectives for the Town Manager, who indicated that this was an area that she would like to focus on in the coming year. He added that the wording for the renewal of the UUT should not preclude use of these funds for undergrounding. Ms. Sloan said citizens, including members of the Council, wrote the ballot arguments. Councilmember Toben noted that he wrote the argument four years ago. This year, Ed Davis volunteered to lead a committee for renewal of the UUT. Anyone on the Council was welcome to join the committee. Gary Nielsen was the treasurer, and Chip McIntosh had also volunteered. Ms. Sloan noted that 5 people could sign a ballot measure.

Councilmember Merk said the Council should discuss the Committee's request and at least give them a response to their recommendation. Responding to Mayor Wengert, he said the Committee proposed a strategy for undergrounding as well as how to fund it. Ms. Sloan said if the Council wanted to specify a certain amount of money that would go for undergrounding, it would be a special tax and require a two-thirds vote. Councilmember Driscoll said there needed to be economic certainty before requiring a certain amount be spent on undergrounding. Process and strategy could be discussed at the Council level. Mayor Wengert said the docket was very big, and it was being loaded up with more and more things. She suggested it be put on a reasonable time line and not try to slam it into the next few months. Ms. Sloan should progress with the appropriate language for the ballot measure. Councilmember Merk said he did not think this had anything to do with the wording for the UUT ballot. Councilmember Driscoll reiterated that he wanted to make sure the ballot didn't preclude undergrounding. He did not think it had to be called out or earmarked. Ms. Sloan said in the past, the argument for the general UUT indicated that the money went into the general fund and listed the types of things it could be used for. It would be fine to include undergrounding utilities, which was something that could come out of the general fund. Ms. Howard said the Council would need to change the allotted uses that had already been determined.

(c) Resignation from Teen Committee

Councilmember Merk asked that a thank you letter be sent to Ellen Hoffman.

(13) Town Council 6/5/09 Weekly Digest: None

CLOSED SESSION [11:50 p.m.]

(14) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Government Code § 54956.9a
Michael and Lisa Douglas vs. Town of Portola Valley
Case No: CV 484299

(15) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Government Code § 54956.9b
Significant Exposure to Litigation: One case

REPORT OUT OF CLOSED SESSION: None to report.

ADJOURNMENT: 12:03 a.m.

Mayor

Town Clerk