

TOWN COUNCIL MEETING NO. 773, JULY 8, 2009

ROLL CALL

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

Present: Councilmembers Derwin and Toben, and Mayor Wengert  
Absent: Councilmembers Driscoll and Merk  
Others: Town Attorney Sloan, Asst. Town Manager McDougall and Town Clerk Hanlon

ORAL COMMUNICATIONS: None

CONSENT AGENDA

By motion of Councilmember Toben, seconded by Councilmember Derwin, the items listed below were approved by a vote of 3-0:

- (1) Minutes of the Town Council Meeting of June 24, 2009.
- (4) Resolution No. 2455-2009 Adjusting the Appropriations Limit for 2008-2009 and Determining and Establishing the Appropriations Limit for 2009-2010, per Admin Services Officer's memo of 7/8/09.
- (6) Ordinance No. 2009-379 Deleting Chapter 5.52 [Motor Vehicle Fuel Price Signs] of Title 5 [Business Taxes, Licenses and Regulations] and Adding Section 18.40.041 [Exemption from State Law for Motor Vehicle Fuel Price Signs; Control by Use Permit] to Chapter 18.40 [Signs] of Title 18 [Zoning] of the Portola Valley Municipal Code, per Planning Manager's memo of 7/8/09.

REGULAR AGENDA

- (2) Warrant List of July 8, 2009 (Removed from Consent Agenda)

Councilmember Derwin asked staff to verify if the California Water Service Co. bill (p. 2) was typical. By motion of Councilmember Derwin, seconded by Councilmember Toben, the warrant list of 7/8/09 in the amount of \$263,501.90 was approved with the following roll call vote:

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

- (3) Lease Agreement with U.S. Bank for Sharp Copier (Removed from Consent Agenda)

Ms. McDougall said staff had been able to negotiate more favorable terms for the lease of the copier after her memo of 7/8/09 was prepared. While she was on vacation, Dan Siegel reviewed the agreement and felt it could be strengthened. An agreement had been worked out with Sharp Business Systems that provided the Town some indemnification. She noted that the new machine could scan in color for posting to the website. By motion of Councilmember Toben, seconded by Councilmember Derwin, Resolution No. 2454-2009 Approving and Authorizing Execution of a Lease Agreement Between the Town and U.S. Bank and an Agreement Between the Town and Sharp Business Systems for Lease of a Sharp Copier was adopted by a vote of 3-0.

- (5) Adoption of Proposed Noise Ordinance and Negative Declaration (Removed from Consent Agenda)

Mayor Wengert asked for public comment.

Dorothea Nell, Valley Oak, said she had not attended the previous meeting on the ordinance. She said a chain saw in the hands of a property owner or a helper made the same amount of noise. She and her husband were in their eighties and did not have the safest hands to hold a chain saw. Her helpers had worked with her for 18 years. They came on Saturday because they had weekday jobs. They were U.S. citizens and worked on Saturday for extra money. Her six acres required weekly maintenance to clear fallen leaves, limbs and trees. They had to constantly work on trees that endangered the horse fencing. If leaf blowers were banned, the alternative, after raking monstrous mountains of sycamore leaves, was to hose down the paths and driveway. A roof couldn't be raked, so she would have to use a spray power nozzle. That was a horrible waste of water. A blower was needed every week, but the hours could be restricted or restrict it to a day like the first and third weekend. Mayor Wengert noted that leaf blowers were not prohibited on Saturdays.

Ted Walker, Grove Dr., said the big, industrial wood chippers made a lot of noise, and he understood why they were prohibited on Saturdays. But, he felt chain saws should be allowed for downed trees or limbs due to natural causes. Two weekends ago, his neighbor's tree fell down, and he had to have it removed. He asked the Council to consider allowing chain saws for trees that fell down on their own or endangered people. Councilmember Toben noted that the ordinance permitted homeowners to use chain saws and rent a wood chipper if they wanted to. It did not allow commercial crews using chain saws on Saturdays and Sundays. Mr. Walker said he tried to use his electric chain saw when he could because it made less noise, but occasionally, something bigger was needed for a large branch or tree. During the stormy season, it was hard to get people because they were very busy. They might be free on a Saturday to deal with an emergency situation.

Virginia Bacon, Golden Oak, said she was particularly concerned about Section 9.10.040B and the use of domestic garden tools by residents. Most of the people who lived in Town worked. The hours in the ordinance prevented them from doing any work on their properties Monday through Friday after 5:30 p.m. A lot of people got home at 5:30 or 6:00 p.m. and found it therapeutic and healthy to get out and mow the lawn, etc. There was no provision for quieting the neighbor's kid who was yelling or having a temper tantrum. She felt common sense was needed. As long as there were noise levels, strict hours weren't needed. Like Mr. Walker, she was also concerned about not allowing the use of chain saws by commercial people on weekends. That should be allowed under emergency circumstances. Responding to Councilmember Toben, Ms. Sloan said the exemption for emergencies in Section 9.10.070A applied to duties of duly authorized governmental personnel. It was not designed to include homeowners. Referring to Section 9.10.040B, Ms. Bacon said the timeframe for removing seasonal grasses had been changed to June 15. She suggested moving it to July 1. One of her neighbors didn't like to mow her grass until as late as possible because of the baby quail that nested in the tall grasses.

Janice Aldag, Westridge Dr., said she had been involved in the meetings and had emailed quite a bit. Having personally experienced a fire that was accidentally set, the only thing that saved her home was that her property had been cleared by the beginning of July. The grasses were so dry at the end of June, many places were tinderboxes. She had a lot of pasture on her property. She walked around every year with her crew and told them what to look for. There had only been one quail's nest over the years, and the crew walked around it. Other people had to show the same type of care. She feared more for fires than earthquakes.

Ms. Bacon said it had been her initial suggestion to put this provision in the ordinance because she was concerned about fire. She preferred July 1 instead of June 15. That would accomplish Ms. Aldag's objectives as well.

Ms. Aldag asked how residents would be officially notified of the changes in the ordinance. A lot of people

had a little bit of information here and there from the various versions. No one understood what was happening and what the impact would be. There should be an official notice sent out with a little box showing what it used to be and what it was now. A lot of people in her neighborhood were seniors who didn't have access to the PV forum or bulletin boards. They used not knowing as an excuse to do what they wanted to do. During the past two holidays, the noise had been constant. The whole Memorial Day morning was filled with noise from a construction site. In the afternoon, they were using power generators, chain saws, etc., on a different construction site. On July 4, two neighbors each had commercial crews working on their properties. There needed to be an official notification that everyone received. Secondly, she said if there were no consequences for violating the ordinance, it would just be another scofflaw like stop signs and bicycles. People would do whatever they wanted because they felt it was their private property. She suggested people be allowed to complain to the Town anonymously if someone had commercial activity going on when it was prohibited. A form letter could go out asking people to acknowledge whether they had commercial activity going on on such-and-such a day. Holidays should be quiet unless there was an emergency, and there should not be any commercial-related noise on Sundays. If you had to have commercial gardeners on Saturdays and you wanted to supervise, the hours should be limited. They could weed and prune and do quieter things outside those hours.

Regarding enforcement, Mayor Wengert said there was a well-established process for complaints about construction. Enforcement was not addressed in this ordinance. As things moved forward, the depth of the problem would become known. She agreed that the information needed to be passed to the community so that it was clear. It would be widely disseminated in all forms of communication available. Ms. Aldag reiterated that it should be communicated in a simple chart.

Councilmember Derwin said she would be comfortable adding language that would allow people to hire someone to deal with a downed tree in the event of a storm or emergency. Ms. Sloan suggested adding something to the exemption section (Section 9.10.070A). In an emergency, Councilmember Toben said the exemption should not be limited to homeowners. Responding to Ms. Sloan, he said the exemption should apply to emergencies that posed a threat to safety or impeded ingress/egress to a property. Mr. Walker said fences should be included as well if animals were involved.

Councilmember Toben said he was comfortable adding another provision to permit emergency removal of trees that posed a threat to safety or property. He also appreciated the comment about enforcement. This was not the only area where the Town was constrained in what it could do to execute every provision of the ordinances. He wanted to encourage a culture of courtesy. It placed a certain amount of risk on the part of the aggrieved party to reach out to a neighbor causing noise on a weekend. It might not have a perfect outcome. There had been 7-8 meetings, and the Town spent an inordinate amount of time on this ordinance; it had been massaged to death. He was willing to support the ordinance with the additional provision for emergency tree removal.

For the added provision, Ms. Sloan suggested: "Emergencies that pose a threat to property or safety of persons or animals and require action by a resident, including with the help of immediate family members or commercial companies...."

Mayor Wengert said the addition to allow for emergency situations was appropriate. She still believed that homeowners should be allowed to use commercial contractors with whatever equipment was necessary on a Saturday. But, a lot of work had been done on this, and it was close to being passed. She supported bringing it back for a second reading. Councilmember Toben added that the documents would be on the Town's website before the next meeting.

Ms. Bacon said commercial gardeners should be able to use chain saws on Saturdays. Mayor Wengert said that was not permitted at this point but could be discussed before the full Council at the July 22 meeting. Ms. Aldag said none of the construction sites she visited had the construction hours posted.

Councilmember Toben said the building permit had to be on the site at all times and would have the hours. Ms. Aldag said subcontractors didn't read the permit.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS [8:55 p.m.]

(7) Approval of the 2009-2010 Planning Program

Ms. McDougall reviewed the staff report of 7/8/09 on the 2009-2010 Planning Program. Responding to Councilmember Derwin, Mayor Wengert said the total planning budget had been reduced by \$20,000 and was less than the previous year.

Councilmember Derwin moved approval of the 2009-2010 Planning Program as set forth in the 7/8/09 staff report. Councilmember Toben seconded, and the motion carried 3-0.

(8) Reports from Commission and Committee Liaisons

(a) Nature and Science Committee

Councilmember Derwin referred to the article in *The Almanac* about the Star Party organized by the Committee. Additionally, Paul Heiple gave a talk on oil resources and exploration. She felt these programs were of great benefit to the community.

(b) Historic Resources Committee

Councilmember Derwin said Nancy Lund suggested the Town start keeping track of memorial tributes around Town. When a tree died or a bench was in disrepair, the Council or some committee should evaluate its significance and decide whether to let it go or replace it. She said there were a number of memorials that needed to be looked at. Mayor Wengert suggested the Committee be given a copy of the current policy and have the Committee make a recommendation.

Responding to Councilmember Derwin, Ms. McDougall said she would check to see if there was any policy on consulting the Town Historian when work was being done on historic properties. Responding to Mayor Wengert, Councilmember Derwin confirmed that the Town's historic resources were listed in the Historic Element of the General Plan. Ms. McDougall said she would follow up on both issues with Ms. Lund.

(c) Planning Commission

Mayor Wengert said the Commission considered the changes to the firehouse. The Fire District wanted to remodel the existing footprint, which would not require any modifications to the CUP. There was some question where the garage would be located, and it was removed from this process in order to meet the deadline to apply for the grant.

(d) Community Events Committee

Mayor Wengert said the Committee was preparing for Blues and BBQ. They discussed a letter from Marge DeStaebler who indicated she would not be participating in the event until the open space definition issue had been resolved. Additionally, there was a suggestion to have a celebration for Bill Lane's 90<sup>th</sup> birthday on November 7. The Committee was also seeking input for the Volunteer of the Year nominee.

(e) NorCal Energy Association Ranking

Mayor Wengert said the Town was one of the top three towns ranked by NorCal Solar Energy Association

in the category of watts per capita installed for solar. There was an event on 7/15/09 in San Francisco, and any three Councilmembers could attend.

WRITTEN COMMUNICATIONS

- (9) Town Council 6/26/09 Weekly Digest: None
- (10) Town Council 7/3/09 Weekly Digest
  - (a) Creek Walk

Referring to the notice on the creek walk on 7/10/09, Councilmember Derwin said she would be attending. Mayor Wengert said she would try to attend.

CLOSED SESSION [9:08 p.m.]

- (11) CONFERENCE WITH LEGAL COUNSEL – Existing Litigation  
Government Code § 54956.9(a)  
Michael and Lisa Douglas vs. Town of Portola Valley  
Case No. CIV 484299
- (12) CONFERENCE WITH REAL PROPERTY NEGOTIATOR  
Government Code § 54956.8  
Property: Parcel #076-261-010, 900 Portola Road  
Town Negotiators: Town Attorney and Mayor

REPORT OUT OF CLOSED SESSION: None to Report.

ADJOURNMENT: 9:25 p.m.

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Mayor

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Town Clerk