

TOWN COUNCIL MEETING NO. 775, AUGUST 12, 2009

ROLL CALL

Mayor Wengert called the meeting to order at 7:30 p.m. and led the Pledge of Allegiance. Ms. Howard called the roll:

Present: Councilmembers Derwin, Driscoll and Merk, and Mayor Wengert
Absent: Councilmember Toben
Others: Town Attorney Sloan, Public Works Director Young, Town Manager Howard, Asst. Town Manager McDougall, Planning Manager Lambert and Town Clerk Hanlon

ORAL COMMUNICATIONS

Virginia Bacon, Golden Oak, asked the Council to agendize transportation in terms of circulation flow within the Town. A lot of cars were coming into Portola Valley to build/service homes. It was time for the community to look at greening transportation. The Town might have a special group to analyze this and determine what the needs were and possible solutions. The Town didn't have any feeder system or any way of getting from Portola Valley to El Camino where all the transportation options were. The utility tax might be looked at in this regard as well as how to incentivize people to carpool.

Ms. Hanlon said this would be an uncontested Council election. There were three Council seats up in November and three candidates.

CONSENT AGENDA [7:35 p.m.]

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

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

- (3) Warrant List of August 12, 2009, in the amount of \$713,648.78.
- (5) Resolution No. 2462-2009 Approving a Purchase and Sale Agreement Between the Town and Dow O. Woodward and Josephine B. Woodward and Randall Dwight and Terry Dwight, per Town Attorney's memo of 8/5/09.

REGULAR AGENDA

- (1) Minutes of the Joint Town Council and Emergency Preparedness Committee Special Meeting of 7/22/09 (Removed from Consent Agenda)

Councilmember Merk submitted changes to the minutes of the joint Council/EPC special meeting of 7/22/09. By motion and second, the minutes were approved as amended, by a vote of 4-0.

- (2) Minutes of the Town Council Meeting of July 22, 2009 (Removed from Consent Agenda)

Councilmembers Merk and Driscoll submitted changes to the minutes of the meeting on 7/22/09. By motion and second, the minutes were approved as amended by a vote of 4-0.

- (4) Proposed Amendment to Policy Regarding Start Time of the ASCC and Planning Commission Meetings (Removed from Consent Agenda)

Councilmember Merk said he was not in favor of this change. It had not been discussed as an agenda item at the Planning Commission or ASCC during the time he was the liaison. Last week, the Planning Commission meeting started at 7:30, but the agenda did not say it was a special meeting. Responding to Councilmember Driscoll, Ms. Howard said Ms. Lambert checked with both bodies, and they were fine with the change. No one told them that they had to do this. She understood it had been agendaized for both bodies last year before the Council voted on it.

Councilmember Driscoll moved to approve the policy on the start time of the ASCC and Planning Commission meetings. Councilmember Derwin seconded, and the motion carried 3-0, with Councilmember Merk abstaining.

(6) PUBLIC HEARING: Adoption of Field User Fee Policy [7:45 p.m.]

Ms. McDougall reviewed the staff report of 8/12/09 on the proposed field user fee policy. She reviewed past increases in the fees, noting that the fees went up to the current level in 2005.

Responding to Mayor Wengert, Ms. McDougall said the chart on page 3 showed the current residency status of the leagues in bold. For example, the Alpine FC league was currently <50% PV residents, and the fee would be \$37. If next season they had >50% residents, the cost would drop to \$28. All of the charts in the staff report reflected what Parks and Rec recommended. With the Committee's recommendation, the fees were assessed on whether the league had greater or less than 50% Portola Valley residents. If a league had more than 50%, the hourly rate for the whole league was the lower rate. If it was less than 50% PV residents but had 10 people who were PV residents, they would not get that break, which staff had some concerns about. To administer staff's recommendation, the rosters would have to be checked. Staff did not feel that that would create a lot of extra work.

Responding to Councilmember Merk, Ms. McDougall said the chart on page 3 showed what the Town would receive per season per player. Currently, the fee was \$15 per child per season. Responding to Councilmember Derwin, she said the adult sports fees would be increased significantly under the Committee's proposal. The record showed there was a desire to keep the children's programs relatively affordable. That was one of the factors considered by the Committee.

Responding to Councilmember Merk, an AYSO representative said the weighted average per player was around \$157. The Town's increase in fees would be passed to the players in the future; fees had been collected for this season. *[Inaudible]* This was not the only field fee the league paid.

Councilmember Derwin said she assumed the water bills would be higher in the future, including the increase from Cal Water, and that the \$170,000 it cost the Town for field maintenance would increase as well. Ms. McDougall said the numbers shown on Exhibit A were from last year's budget.

Referring to Exhibit A, Ms. McDougall confirmed that the labor charge was for 80% of the full-time equivalent of the staff member(s) working on the fields. Other tasks included maintaining the playground, trail work, etc.

Mayor Wengert opened the public hearing.

Lindsey Bowen *[largely inaudible]*, Parks and Rec and Little League Board, said the Board had not addressed the fees this summer. The Little League wanted to work with the Town to come up with a plan to pay an appropriate fee. He felt what was proposed was overly complex; volunteers would have to try to figure it all out. Using an exhibit, he discussed the residency of the Alpine/West Menlo Little League. He felt there should also be reciprocity for other towns. The proposal implied that the dollar spent was some how equal to the time that you had on the field and equal to the intensity of the play on the field. Baseball was not as intense on the grass portions of the field as soccer. He suggested a per game basis. Trying to figure

it out by hour, who was on your team, where they came from, etc. would be a logistical nightmare. The League was willing to pay for its share but it needed to be simpler.

Michael Sterns, AYSO Commissioner, said an hourly fee was difficult to get his arms around. He reviewed his letter [undated], and discussed: 1) AYSO Region 25; 2) organizational structure; 3) complexity of his database; 4) PV resident members (56.5%); 5) difficulty in figuring out residency team by team; 6) registration deadlines; 7) budget per player of \$20-22; 8) fees paid for other fields; 9) capital equipment; 10) number of teams (85) and volunteers (300) in Region 25; 11) proposed increase of \$31 per player; 12) doubling of requests for scholarships; 13) AYSO pricing; 14) reciprocation by other towns/school districts; 15) items included in player fees, including \$50/player for coaches; 16) inability to use Town Center field for half a season; 17) regional versus local leagues; and 18) impacts of raising fees and shifting play to distant locations. He said AYSO was willing to pay more, but not by 105%.

Virginia Bacon said she paid taxes and supported the fields. The users did not support themselves. She asked what the benefit to her as a taxpayer was and why she should subsidize these groups that had no benefit for her. She would rather have the money spent on other things in Town or have the fees equal the cost to maintain the fields.

Patty Lewis, Alpine Soccer Board member, said her son had been involved in soccer in Town for almost 6 years between AYSO and CYSA. She said Michael Sterns's letter discussed: 1) appreciation for the fields; 2) help from the Parks and Rec Committee; 3) Alpine Soccer League organization of 22 teams, ages 7 to 18, for 350 total players; 4) Town resident players; 5) fields used in Town and neighboring jurisdictions; 6) parent involvement; 7) year-round play; 8) coordination with other leagues to manage fields; 9) additional expenses; 10) capital expenses; 11) concern that other fields would match the Town's proposal; 12) willingness to pay some increase; 13) times when fields were not available; 14) field stewardship; and 15) compensation for field closure for any reason. She requested there be some policy adopted so that there was some management of the fields to prevent overuse for purposes of revenue generation.

Jon Silver, Portola Road, discussed his personal use of the field. Given the cost of the fields, there was no way the fields would make money for the Town. It was clear that the Town had to have policies to ensure the fields were not overused. It would cost much more in the long run if they had to be rebuilt. He felt this kind of recreation for children and adults should be subsidized by the Town even though the users needed to pay a little more of their fair share. It was obviously not easy to figure out exactly how to craft the increases so that they would have the intended effect. A great many taxpayers in Town supported subsidizing the fields to some degree.

David Tuck, said he represented the Portola Valley Soccer Club--an over-35 group that played on Rossotti Field, which was immaculate. He was concerned about how this burden was being allocated between adult users and youth users. Youth users used approximately 85% of the available hours on Portola Valley fields; adult users used approximately 15%. At present, the adults paid about 63% of the fees that were being collected, with youth groups paying about 37%. Under the proposal, that burden shifted so that 85% of the users would be paying less than 50% of the collected fees. That was unfair. Secondly, if less than 50% were residents, his hourly rate would be \$150 per hour. A nonresident youth group would be paying \$20 per hour for the exact same hours on the field. A ratio of 7.5:1 was fairly significant, and he asked what the justification was for that. He believed in giving the youth teams a break and thought residents should be able to pay less than non-residents. But, he was concerned about the disparity.

Bill Pickering, Family Farm, said he ran the Portola Valley Softball League. He was trying to figure out how he would apply some of the proposed formulas. He asked what the hourly rate was based on. Responding, Jon Myers said a number of slots were reserved at the beginning of every season. Whatever you reserved, you paid for. Mr. Pickering said he reserved 5:30 p.m. on a weeknight because the field had to be lined and made ready to play on. Games started at 6:15, and he would have to pay for the whole time reserved. It didn't seem right that he had to pay to get the field ready to play on. Secondly, comments indicated that a

lot of the youth programs were regional and shared regional fields. For his league, it was defined as live or work at an established business in Portola Valley or have children in the Portola Valley School District. If someone got on a team that didn't meet those requirements, he would hear about it. There were about 250 players and a handful of grandfather players who had since moved out of the area. In the staff report, it indicated, "live within the Portola Valley School District." He asked how Ladera residents were counted. He would have to figure that out. He asked how an employee of an established business in Town would be classified. He felt it was difficult to figure out the formulas and hourly rates. In the past with per person, you could just add up the number of people and write a check. Also, he thought there was one water meter for the entire Town Center. The cost of the fields was arbitrary. Also, the cost was high to maintain the field. For the soccer field at Corte Madera, it cost \$24,600/year to hire an outside maintenance company. For Ormondale soccer field, it was \$16,800/year. Woodside Elementary natural grass soccer field was \$2,880/year. Woodside Elementary baseball field was \$9,576/year. Those costs included fertilizing and fixing the sprinklers as well as the yearly heavy maintenance including seeding and aeration. The leagues were being asked to cover a lot of costs, which were increasing. One thing to look at was knocking some of the costs down so the fees could come down as well. Additionally, the soccer fields were three times as much as a baseball fields. That was also reflected in the watering on Exhibit A of the staff report. Ford Field was \$3,751, Rossotti's Field was \$11,686, and the Town Center was \$17,361. Watering costs and maintenance costs were quite different for the school district, but the fee structure didn't show the wear and tear of soccer versus softball. He thought there should be some way of allocating the maintenance costs differently. In terms of residency, it was clear that some teams were primarily in this area versus some of the soccer leagues. The adult softball league was 52%. Leagues might choose not to add non-residents. He felt the 50% number was arbitrary—especially for a league that was right on the edge. A lot of the expenses were being paid by the leagues, such as lining the field, paying for insurance, paying for the umpires, etc. The roster issue was also overhead, and he did not recommend having to deal with that. He did not see the utility of it, and it would be a burden to prepare and check addresses. Additionally, the co-ed soccer league charged \$425 per team with 6 season games and championship games, which came out to about \$124/game or \$100/hour for the game time. The Parks and Rec Dept. prepared the lines for the fields and provided game balls, umpires, and facility insurance. There were also T-shirts and trophies for the winners. His league had to do their own field preparation, provide game balls and equipment, umpires and insurance. Woodside co-ed softball league used the Woodside Elementary field and paid a field use fee of \$2,375, which came out to about \$45/game with an hour and 15 minutes game time. Redwood City charged \$125 for a game. If he had to add onto his proposed fee the time to prep the field, it would be about \$200 per game. The leagues were lucky to enjoy the facilities and the quality was excellent.

Nancy Ditz, Alpine FC, said she did not have any children playing with the club, as was the case with three Board members. Everyone needed to take a step back and think about the value of recreation, the purpose of government in fostering healthy kids and the responsibility volunteers had to create something great for the kids. She was incredibly appreciative of everything the Town did. She worked with five other field owners. Without the fields, she couldn't run the soccer program and the kids in the community would have to go elsewhere to play soccer. She was excited and willing to help. She assumed that all the other field user fees would go up accordingly. It would end up costing \$300 per player per year just for the field use in the area. It was a burden, but it was valuable to figure out how that could be done for the kids. She believed in all the wonderful things that kids learned in organized sports (e.g., self-reliance, planning, confidence, leadership, health and good body image). When there was a lot of bad stuff going on, it was great to know that they could come to the soccer field and do something valuable. You could not put a dollar figure on the value of youth baseball and soccer and the difference it made in their lives. It was important for this generation. There were other things that they could be doing with their time.

Lindsay Bowen said there was a lot of community support for building the Town Center and re-doing the creek. He suggested asking people to contribute to help pay for the fields. People could get a deduction. The community had stepped up to a lot of things. It would be easier than getting people to jump through a bunch of hoops to try to figure this out.

Jon Myers, Chair-Parks and Rec, described the leagues he played with and coached along with his kids. Both Menlo Park and Palo Alto had a fee structure identical to what was being proposed in terms of hours and the difference between residency and adult and youth. It might appear complex, but it was standard for the major neighboring communities. It could be explained to people exactly how it would work. In terms of what the dollars per hour were, he said it varied between communities. What was proposed was higher than all the other areas—particularly the adult rates. That was proposed because the Committee didn't want to raise the youth rates more than they were being raised. The goal of achieving 50% of the maintenance cost could not happen by raising the adult fees equivalently. Additionally, the 50% residency level was also used by Menlo Park and Palo Alto. It was a matter of how the leagues reserved the slots. If it was reserved by a league, it was a matter of whether the league was over 50% or less than 50%. If it was reserved by team, it was the same. It would be much more complex to base it on individual players. Secondly, if you were a low-residency team, you were fundamentally inviting others to use the fields. You should pay more for that. Additionally, the co-ed soccer league was a Town-sponsored league, and all of the finances went through the Town—both the revenue coming in and the costs paid by the Town. They did not pay dollars per player like all the other leagues. At \$75 per player, they paid roughly \$30/player to the Town. The costs were roughly \$45/player. It would increase from \$75 to \$125, which raised the fee roughly the same amount as the other adult leagues.

Mayor Wengert closed the public hearing.

Councilmember Driscoll said this was a situation where one of the Town committees had tackled a very difficult and complex problem. Not unlike the solution to the riparian corridor issue, what was proposed for the field user fee seemed to be causing a fair amount of anxiety from those who weren't aware the process was going on. With the riparian corridor issue, the Town paused the process and got all the newly aroused and interested people to join in a second cycle of the process. The Town ended up with a study and plan that seemed to have the endorsement of everybody. The Parks and Rec Committee had done a great job, but he thought a second cycle on this issue might be beneficial. Some people seemed to be surprised that this issue was being discussed or were concerned about what was proposed. He suggested Parks and Rec do some polishing and address some of the issues that had been raised and bring it back to the Council in a couple of months. The Town generally talked an issue to death, and he thought more discussion might help.

Councilmember Derwin agreed. Also, it was August, and she questioned whether the comments were a fair sampling of the people that would be affected. At the very least, she suggested continuing this until September when there was a full Council.

Mayor Wengert said much of the commentary tonight had been from leagues that had a different interest than residents. The impacts on residents of having the increases passed through to them was a separate issue. Parks and Rec had done a terrific job in recommending a solution in which while imperfect is one that went a long way to get the Town on a better path. If the increases were too significant, one option was to bring them down and step them up in a more incremental fashion. The Committee's proposal achieved the objective of wanting to have some significant portion of the costs recovered. Everyone recognized the magnificent condition of the fields, and there was cost associated with that. The Council could consider some interim step that was less onerous but at least started the process. Cost recovery was currently less than 20%, and there might be additional loss of revenues this year. She did not think the Town could afford to take as much time as it wanted. This was a very good first step, and she supported taking some step that would include some increases.

Responding to Councilmember Derwin, Ms. Howard said it was her suggestion to target 50% of the cost to the Town. Mayor Wengert noted that the Council agreed during the last discussion. She encouraged the Council to start with some increases that were reasonable. This would not get easier, and a number of the leagues indicated that they recognized some increase was appropriate. She did not want to lose the opportunity to start this process. If there were specific fees that seemed to be more onerous than others,

those should be looked at. She was sympathetic to the adult leagues having to bear a significant burden. The softball and soccer fees were large increases. The Council should decide whether it wanted to separate it on a basis of residency or adult/youth.

Councilmember Merk said there had been comments that the goals were paid for and maintained by the teams. On warrant lists, he saw costs of nets, welding and repairs. One set of goals was given to Rossotti Field a number of years ago. He was not clear that was an expense that the leagues were picking up. Responding, Mr. Myers said the soccer goals were all contributed by the youth leagues. Mr. Bowen added that a couple of years ago, a child was killed by the steel goals. Since then, the soccer leagues had stepped up and paid for new goals that were safer.

Councilmember Merk said there was a statement made about maintaining the current level of the fields but finding ways of reducing the costs. He asked if the leagues were willing to accept things like mud in front of the goals or patches of grass that were lighter green than the rest of the grass in exchange for a slightly lower level of maintenance. Keeping a field pristine was a lot more expensive than keeping a field nice. He tended to agree with Councilmember Driscoll's suggestion--partly because it was clear that it would be impossible for the Council to address all the leagues and all their differences equally. There were so many different ways of using the fields. It put the Council in a very difficult position. He suspected in the end it would not be exactly equal for each team. He was very much in favor of charging more for the adults than youth. But, the Town needed to recover more of its costs. He suggested phasing in these increases over a year or two. If a team had already billed its members and the Town adopted a price increase, that put them in a difficult position. What the Parks and Rec Committee did was great. With the comments and questions, it might be beneficial to go through a second round similar to the creek setbacks solution, which came out very well. He suggested putting together an ad hoc committee of members of Parks and Rec and some of the league representatives to see if there wasn't a way to iron out some of these differences such as: a) paying for field time for lining a field as opposed to someone else who was actually playing on the field; b) refunds for rainouts, etc. He would like to see this rehashed a little bit and brought back to the Council in a more refined proposal. People felt the proposal was complicated, but he thought it was relatively simple. If there was a residency requirement, there should be a box you could check that indicated someone was a Portola Valley resident or a resident of the Portola Valley school district at least 50% of the year. In the past, there were six people at one address who didn't live there.

Given the clear financial deficit position, Mayor Wengert thought it made sense to have some sort of minimal increase today. It had been offered by the various leagues to have some kind of an increase. While she understood the need to have another set of solutions considered by a slightly larger group, there was an opportunity to move forward in some meaningful way tonight. She did not want to start completely over given all the work that had gone into this. The difference between the fees and costs would only increase.

Councilmember Driscoll said there were some practical issues that should be discussed such as a process where increases could be implemented gradually or at what point it should start. He did not want to go through another 1-year process but wanted to refer it back to Parks and Rec and then come back to the Council in October. Mayor Wengert said it should be made clear what the Committee was being asked to do. Councilmember Driscoll said the communications received indicated that some people were somewhat surprised by this in spite of the Town's attempt to do this in the public eye. Everyone needed a chance to be heard again and resolve some of the implementation issues.

Councilmember Merk said the Town needed to reach these levels relatively soon—maybe 75% the first year and 25% the second year of the current goal. There were details that needed to be worked out such as what to do about cancellations, time needed for prepping the field, etc. Those were legitimate concerns that Parks and Rec could probably address relatively easily. He did not expect to see a big change in how much more the children's leagues were paying and how much more the adult leagues were paying.

Mayor Wengert said it appeared the Council was comfortable with recharging Parks and Rec to address

this. The question was timing and what they would be asked to do. Councilmember Merk suggested they be asked to get to 75% of the 50% cost recovery goal.

Mr. Myers said the fall season would be missed, so it would have to be spring unless something very simple was done like raising dollars per player from \$15 to \$20. Responding to Councilmember Derwin, Mr. Myers said the fall season was predominately soccer. AYSO anticipated a much smaller increase.

Councilmember Merk suggested instituting a 50% increase and come back with harder numbers after the questions were answered. Responding to Councilmember Derwin, he said one league representative said that they had budgeted for an increase of about 50%. That was the league that the Town was most concerned about. Mayor Wengert said one option was to increase all the current fees 50%. Increases had been anticipated, and the concern was about some of the larger increases. Responding to Councilmember Derwin, she said a series of issues had been raised by the users; there were different issues for different leagues. It was complicated, and discussions about the issues should and could go on. She did not want to lose the opportunity for an increase of some magnitude and fall further behind.

Councilmember Driscoll said he was not opposed to doing some kind of stopgap increase right now, but reiterated that it would be beneficial for Parks and Rec to review this one more time. That final number could be adopted at the end of the year.

Councilmember Derwin said she would like to see this on another agenda, even if a phased increase was agreed to. More people needed to weigh in. She was open to doing a 50% increase, but wanted it to go through Parks and Rec again.

Councilmember Merk said Councilmembers seemed to agree to a 50% increase on the current fees and send it back to Parks and Rec and ask for it to come back in October with a plan that would go into effect for the subsequent season.

Jon Myers said he thought Parks and Rec had most of the answers to the questions raised. Throwing in every question and variable would just make it more complex. A number of things had been purposefully excluded assuming they were things that could be worked out with the leagues.

Referring to Exhibit D of the staff report, Mayor Wengert suggested amending the resolution by deleting statements 1 and 2 of the NOW, THEREFORE paragraph and replacing it with: "All current fees shall be increased by 50%." Ms. Howard suggested directing Parks and Rec to address implementation and bring it back to the Council in October. Responding to Councilmember Merk, Councilmember Driscoll said residency requirements were not being addressed at this point. The only action being taken was to increase the fees by 50% and give direction to Parks and Rec to address implementation.

Council agreed to the target goal of 50% cost recovery. Councilmember Driscoll said it might take a couple of years, which was okay. Parks and Rec could make a recommendation.

Councilmember Driscoll moved approval of Resolution No. 2463-2009 Approving Athletic Field User Fees as amended to indicate a 50% increase across the board. Councilmember Merk seconded, and the motion carried 4-0. Councilmember Driscoll encouraged league representatives to attend the Parks and Rec meetings.

(7) Resolution in Support of the Children's Bill of Rights [9:30 p.m.]

Councilmember Derwin reviewed her memo of 8/6/09 on the Children's Bill of Rights.

Supervisor Carole Groom thanked the Council for agendizing the matter. She described the Peninsula Partnership Leadership Council (PPLC). She said decision makers sometimes forgot the voice of children, who were the least represented.

Councilmember Merk said traditionally the Town did not adopt these kinds of resolutions. In this case, it was a little different because it really affected the Town. Councilmember Driscoll agreed noting that this was obviously of interest to the Town. Mayor Wengert said she was very impressed by all the people and communities that endorsed the resolution.

Councilmember Driscoll moved approval of Resolution No.2464-2009 Adopting the Peninsula Partnership Leadership Council's Bill of Rights for the Children and Youth of San Mateo County. Councilmember Derwin seconded, and the motion carried 4-0.

- (8) Introduction and First Reading of Title of Ordinance Amending Chapter 2.28 [City Holidays] of Title 2 [Administration and Personnel] of the Portola Valley Municipal Code. [9:35 p.m.]

Ms. Sloan reviewed her memo of 8/6/09 on the revised ordinance regarding holidays.

Councilmember Derwin moved first reading by title, waive further reading, and introduction of an Ordinance Amending Chapter 2.28 [City Holidays] of Title 2 [Administration and Personnel] of the Portola Valley Municipal Code. Councilmember Driscoll seconded, and the motion carried 4-0.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

- (9) Appointment to Cable & Utilities Undergrounding Committee [9:38 p.m.]

Referring to Paul Melnychuck's e-mail of 7/9/09, Councilmember Merk said he was not sure Mr. Melnychuck understood what the Committee did. In his e-mail, he talked a lot about TV, phone, and internet services in Town. Those had been pre-empted and were almost entirely controlled by the State. The Committee now worked on undergrounding. But, Mr. Melnychuck had attended a Committee meeting, and he would not object to his appointment.

Mayor Wengert appointed Paul Melnychuck to the Cable and Utilities Undergrounding Committee. By motion and second, Council unanimously concurred.

- (10) Appointments to Community Events Committee [9:39 p.m.]

Referring to the memo from the Chair-Community Events Committee, Mayor Wengert appointed Jason Schmidt, Ruth Taylor and Cynthia Hamilton to the Committee. By motion and second, Council unanimously concurred.

- (11) Proposed Alpine Road C-1 Trail Project [9:40 p.m.]

Mr. Young reviewed the staff report of 8/12/09 on the status of the C-1 trail and next steps.

Responding to Mayor Wengert, Councilmember Merk said key Trails Committee and Conservation Committee members participated in the review of the design and were quite satisfied.

Mayor Wengert said the Town would not risk building the trail if the money was not certain. However it was ultimately constructed, the Town would not be in a position of being: 1) out of pocket for dollars; and 2) left with a half completed trail if suddenly construction stopped. If the Town proceeded with Stanford, it had to be on a basis that the relationship would work for the Town and there was certainty that it would be paid for.

Responding to Councilmember Derwin, Mr. Young said Stanford was going to give the Town a certain amount of money to maintain the plants. Councilmember Driscoll recalled it was a two-year warranty. Mr. Young recalled a \$100,000 fund would be established.

Responding to Councilmember Merk, Mr. Young said staff time was included in the estimated soft cost. He confirmed for Councilmember Driscoll that a 10% contingency was built into the estimates.

Mayor Wengert asked for public comment.

Virginia Bacon said she had some questions about the section opposite Westridge Drive where it jutted out. It was pavement on pavement and not really a trail. It was a place where people parked. That section was too close to the road. A couple of members on the Parks and Rec Committee also favored getting the trail away from the road. Using the map, she pointed out an alignment she would prefer which would make it safer for pedestrians and also have the potential for a wheel chair to move around. It would be a benefit to not have it in the line of traffic and get it closer to the creek. That would add some footage, but it would be more attractive and in line with what Tom Ford said about the walks his mother used to take in the area.

Councilmember Merk said he felt the Town should take advantage of this from Stanford. It gave a lot of enhancement to the trail—particularly the addition of the areas that went back into the areas along the creek. It would also enhance the look of Alpine Road and the scenic corridor. He recalled that there was some concern about a trail that went out of sight of the road. The suggestion was to leave some of the old trail in place where you could take the old trail in sections. The disadvantage was that you got a little less planting on Alpine Road. Additionally, it was advantageous to the Town to have the trail put in even though the Town would lose 6-8 heritage trees. The creek would undermine the road sooner or later. The Town would either be doing this now on Stanford's dime or doing it later on the Town's dime. He wanted the trail to be put in and let Stanford stabilize the creek areas. In the section by the horse farm, that was old roadbed from the old Alpine Road before 1954. When they dug holes for the plants, they would have to be big and relatively deep to penetrate through the old roadbed. Otherwise, the plants would flourish for 3-4 years and then become root bound. The guaranty would be gone along with the \$100,000, and the plants would die. Given the number of field trips and the interest in the community in this trail, he did not think the Council needed to go back through the committees. He thought it was an excellent design. He supported it, assuming Stanford paid for it.

Councilmember Driscoll said in the early stages of this, there was discussion of the more remote sections of the trail back from the road being unpaved and more pedestrian friendly. Now, it seemed to be entirely paved, including stretches away from the road. Responding, Mr. Young said it was a use issue. A path did not allow for equestrians. It was an issue between Stanford and Santa Clara County. The trail on the other side of the street maintained by the Town provided for equestrians. Councilmember Driscoll said he didn't expect the C-1 trail to be all paved, but he was in support of the general concept. He strongly agreed that there would be emerging public works problems here that should be fixed now on Stanford's dollar.

Responding to Councilmember Derwin, Ms. Howard said the agreement with Stanford would have to be brought back to the Council. Ms. Sloan said Larry Horton had put the brakes on everything when the lawsuit was filed. Now, the idea was to get the agreement, drawings and CEQA analysis all ready so that the trail could be built if Stanford prevailed in the lawsuit. Councilmember Derwin *[inaudible]* said she thought the design was appropriate, and she liked the native planting, as did Paul Heiple. The creek bank stabilization was a wonderful advantage for the Town.

Ms. Howard recapped: the Council was in favor of moving forward with an agreement with Stanford, the alignment was acceptable, and no additional public outreach was necessary before moving ahead--other than the public meeting for the agreement. Mr. Young pointed out that the final plans would require a site development permit, which would go through ASCC and Planning Commission public hearings. Councilmember Merk reiterated his suggestion to leave some of the existing trail to alleviate concerns about a trail that was out of sight from the road. Mr. Young said the costs to do that should be added to the estimate. Councilmember Driscoll suggested that when everything was negotiated with Stanford, all the numbers should be rechecked.

(12) Reports from Commission and Committee Liaisons [10:10 p.m.]

(a) Nature and Science Committee

Councilmember Derwin said the Committee was very involved in the October 17 earthquake program. They were working with Sheldon Breiner. Nancy Lund would have the history room open, etc. The Committee also discussed doing a Lyme disease presentation next spring like the one in Woodside. They were planning another Star Party in early November. They also discussed having a creek anniversary party. The Committee discussed a number of ideas for other events like radio-controlled airplanes on a Saturday morning at the Town Center to explain about flying and bringing back kite flying at Windy Hill. Additionally, the frozen specimens were now in a freezer at Corte Madera School. Responding to Councilmember Derwin, Ms. Howard confirmed that for any Town functions/meetings, committee members could use the Town's projector.

(b) Trails and Paths Committee

Councilmember Derwin said Mr. Young discussed the C-1 trail. The Committee also discussed the definition of open space, which was similar to what the Conservation Committee came up with. The Committee wanted to know what process should be used to convert existing open space to other uses. Two members would be resigning at the end of the year, but the slots could probably be filled.

(c) Open Space Acquisition Advisory Committee

Councilmember Driscoll said the Committee had \$3,000 in their budget to do a mailing, which would consist of a map of the Town showing the parcels of open space the Town currently owned and what the uses were. It was meant to be a guide to what the Town was trying to do with open space and the benefits. They thought that the Committee's activities were not that visible and that the timing might coincide with the UUT election. They were looking for some direction. After discussion, Council agreed to hold the mailing until after the election.

Councilmember Driscoll said the Committee submitted a proposal for a Spring Down open space master plan. He suggested the Council discuss it in the fall.

(d) Planning Commission

Councilmember Merk said the Commission discussed the proposal for potential development on the property at 555 Portola Road. Four out of five Commissioners and a MROSD representative expressed concern about the lack of specificity in the plan for two 4,000 sf structures in terms of location and uses. MROSD also felt the Negative Declaration had serious lack of detail. There were no objections to the cabana and entertainment building, which were clearly defined in the plans. There were also questions about defining 4,000 sf as a "small structure" and alluding to the Williamson Act.

WRITTEN COMMUNICATIONS

(13) Town Council 7/24/09 Weekly Digest [10:20 p.m.]

(a) August 26 Town Council Meeting

After discussion, Council asked Ms. Howard to determine whether the 8/26/09 meeting was necessary.

(b) Postcard entitled "Town Council Adopts Balanced 2009-2010 Budget"

Referring to the postcard, Councilmember Merk said a postcard about the changes to the Noise Ordinance

had been sent out after Council approved it. The budget postcard was sent out without Council review. There was the potential for people to think that this might have been done for some other reason. It was at best bad timing and at worst, someone might think it was a misuse of public funds. The Town had never sent something like this out before. *The Almanac* indicated that the Town had received some phone calls. Staff should field the phone calls rather than send something out to every household in the Town.

Councilmember Derwin said she would have preferred the Council talk about it before it went out. Councilmember Driscoll said newspapers had a number of articles about the State budget crisis and the impacts on local jurisdictions. He thought the postcard made it specific what it meant to the Town. It might be advisable to send it out every year when the Town adopted its budget. Had the postcard been sent to him for approval--given what he was reading at the time about the State--he probably would have said "yes."

Mayor Wengert said the Town had stepped up its use of postcards. None of them other than the Noise Ordinance went through Council review. She did not want to have to review 13 postcards with factual information; staff should be empowered with that decision-making. In this case, she understood the plan was to send this out every year because it was a major event the Council and staff went through. In a big recession and the State budget crisis, it was important to communicate what the impact was on the Town. She did not think there was much understanding of the Town's budget process and balance sheet. Councilmember Derwin concurred but noted that the UUT was up this fall. Even if there was no UUT tax, she would still like to have seen it. Responding to Councilmember Derwin, Mayor Wengert said there was no way to stop ascribing intent and motive to some factual information. Councilmember Derwin reiterated that a sensitive document such as this at this time should have been reviewed by the whole Council. Councilmember Merk concurred. It was a sensitive document. If it was going to be sent out, it should be done with full thought. Councilmember Derwin said the Councilmembers were the elected officials and the front line. She had been blindsided by the post card, which she had not seen.

Jon Silver said whoever made the decision to send it out did so in good faith. But, in his time on the Council, nothing went out in the mail that didn't come to the full Council. In the future, he suggested it come through the Council. Any time facts were pulled together, particularly for something as brief as a postcard, there was an editing process that took place which involved discretion. When something could be controversial, it should come to the full Council to see if there was something that could be sensitive.

(14) Town Council 7/31/09 Weekly Digest [10:35 p.m.]

(a) Letter to Craig Hughes

Ms. Sloan noted that she subsequently realized she had welcomed Mr. Hughes to the wrong Town body and sent an e-mail.

(15) Town Council 8/7/09 Weekly Digest [10:36 p.m.]

(a) Report on Town Center Softball Field Incident

Responding to Councilmember Derwin, Ms. McDougall said she was still waiting on comments from the field designer, Carducci & Associates. Responding to Councilmember Driscoll, she said one of the recommendations in the report was to flip the field in the opposite direction. They recognized that that was radical and not likely. Responding to Mayor Wengert, Ms. McDougall confirmed that the leagues signed liability waivers and insurance coverage was required.

(b) Memo from Councilmember Merk on Flow of Information to Councilmembers

Referring to Councilmember Merk's memo of 8/5/09 and correspondence received from Mr. Silver, Ms. Sloan said the suggestion in her memo was that the Council discuss the flow of information to

Councilmembers. Her recommendation was that the Council think about amending the e-mail policy to specify that all e-mails and written correspondence sent to the Town Council should be forwarded to all Councilmembers within a specified amount of time. She did not recommend any particular amount of time.

Councilmember Merk said his memo contained a direct quote from Ms. Sloan's memo. It did not reflect what the Town Attorney just said. The sentence at the end put the issue right back where it was when the concern was raised. Public information was being withheld from the Council, which was wrong.

Ms. Sloan said the Council should make a policy decision about that. She had not specified the amount of time; "such as" was followed by examples. It was completely up to the Council if it should be forwarded within 24 hours, a week, or a longer amount of time. Since the issue had been raised, she suggested Council discuss whether it should be within a specified amount of time. Councilmember Derwin suggested agendizing the issue. Ms. Sloan said if Council wanted to make a decision tonight, she would bring back the policy for discussion. Councilmember Driscoll wanted it agendized.

Councilmembers discussed: a) committee memos not shared with the full Council; b) process being followed regarding communication from committees; c) timing requirements; d) intents and motives; e) democratic process, etc. Council agreed to agendize the issue of how to handle documentation addressed to the Town Council

(c) Proposal for Spring Down Open Space Master Plan

Referring to Gary Nielsen's e-mail, Councilmember Merk said the Open Space Committee had done an excellent job on the Spring Down Open Space Master Plan proposal. It was well thought out and very well written.

(d) E-mail to Craig Hughes

Referring to Ms. Sloan's e-mail of 8/6/09, Councilmember Merk said Mr. Craig had been welcomed to a committee; the ASCC was a commission.

ADJOURNMENT: 10:45 p.m.

Mayor

Town Clerk