

TOWN COUNCIL MEETING NO. 777, SEPTEMBER 23, 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, Merk and Toben, and Mayor Wengert  
Absent: None  
Others: Town Manager Howard, Town Attorney Sloan, Asst. Town Manager McDougall and Town Clerk Hanlon

ORAL COMMUNICATIONS

Pierre Fischer said in late August, there was a Ranch agenda item about granting an easement to erect a wireless antenna on Coal Mine Ridge. At the time, he didn't know that a 30' antenna pole was already there. Ms. Lambert and Mr. Vlasic indicated that the Ranch had no authority to allow that and that a building permit was required. There was some confusion at the Ranch over the issue, and he asked that staff hold a meeting with the Ranch Manager or some Board members to let them know what had happened and prevent it in the future.

CONSENT AGENDA [7:35 p.m.]

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

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

- (2) Warrant List of September 23, 2009, in the amount \$155,172.23.
- (3) Rejection of Application of Darcy D. Quam for Leave to Present Late Claim.

REGULAR AGENDA

- (1) Minutes of the Town Council Meeting of 8/9/09 (Removed from Consent Agenda)

Councilmembers Driscoll and Merk and Mayor Wengert submitted changes to the minutes of the 8/9/09 meeting. By motion and second, the minutes were approved as amended by a vote of 5-0.

- (4) Selection of Applicant to Provide Home Energy Assessments for Energy Efficiency and Conservation Block Grant (EECBG)

Ms. Howard said the item needed to be continued until additional information was received from the State.

Councilmember Driscoll said he would have to recuse himself when the item was discussed due to a potential financial interest in companies conducting energy audits and energy efficiency investigations.

- (5) Approve Use of Restricted Library Funds to Provide Additional Hours of Operation for the Portola Valley Library [7:39 p.m.]

Ms. Howard reviewed the staff report of 9/23/09 and proposal from the library JPA to expand the Town's

library hours of operation. In order to buy the additional hours, the Council would need to approve use of library funds in the amount of \$60,000 annually.

Councilmember Derwin moved to approve the use of restricted library funds to increase the hours of operation for the Portola Valley library. Councilmember Driscoll seconded, and the motion carried 5-0.

(6) Adoption of Policy Regarding Distribution of Writings Submitted to Members of the Council [7:40pm]

Ms. Sloan reviewed her memo of 9/17/09 on the amended policy for the distribution of writings submitted to members of the Town Council. Responding to Councilmember Derwin, she said section 3.B of the policy referred to writings for informational or procedural purposes. Those should state, "For Informational Purposes Only—Please do not respond." Responding to Councilmember Derwin, she said all communication written to the Town Attorney (policy section 3.C) was protected by the attorney/client privilege. A Councilmember could choose not to have it be confidential, but the policy was that it be confidential. To be more explicit, she suggested "Any writing sent to the Town Attorney that a staff member or Councilmember wishes to keep confidential about a legal issue should state 'Confidential—Attorney/Client Privilege.'" Responding to Councilmember Toben, she said when the policy was originally written in 2001, it was directed at the Public Records Act requirements. If someone came in and wanted to see all the correspondence/information about an issue, when staff handed her the stack, she could pull out anything that said "confidential" before it was turned over to the public. Her policy was that if any Councilmember asked her a legal question and she wrote back, it went to all Councilmembers. If the Council wanted, that could be inserted in the policy. Responding to Councilmember Derwin, she said the law stated that no writings could be deleted after receipt of a Public Records Act request (section 3.G). Ms. Howard added that staff routinely cleaned out their email every Friday. Ms. Sloan noted that that kind of correspondence wasn't required to be kept and retained. If something was a final report, it would be printed and filed. Responding to Councilmember Driscoll, she said staff was not legally obligated to destroy anything, but certain records had to be kept for certain times. About ten years ago, the Town hired a consultant to organize files, and a retention policy was put in place. If the Town was sued and someone asked for archives, she was not concerned about what people would find.

Councilmember Driscoll said the line between voice and text was going away. There were automatic transcription programs, automatic translation programs, etc. He thought the policy as drafted was fine, but five years from now, he suspected the lines would need to be redrawn. He knew whom he was speaking to when he called on the phone. But with transcription programs, it could be transcribed and sent to a distribution list. The concept of addressing was getting very blurry. Ms. Sloan agreed that the policy should be reviewed at least every five years.

Councilmember Driscoll moved approval of Resolution No. 2466-2009 Adopting a Policy Regarding the Distribution of Writings Submitted to Members of the Town Council. Councilmember Derwin seconded, and the motion carried 5-0.

(7) Review of Town's Proposed Mitigation Strategies in Connection with an Update of the Local Hazard Mitigation Plan [7:52 p.m.]

Ms. McDougall reviewed the staff memo of 9/23/09 on the Town's proposed mitigation strategies in connection with the 5-year update of the Local Hazard Mitigation Plan (LHMP). Responding to Mayor Wengert, she said the matrices were generic to the ABAG effort. The next document the Council would be asked to review was not in this format. It was a narrative of about five pages that discussed how things were identified that were applicable to the Town and major things that the Town needed to focus on. The next update in 5 years would start with the same format the Council was reviewing tonight.

Responding to Councilmember Merk's question on the 6.25% match requirement (staff report, p. 1), Ms.

McDougall said if there was an earthquake and the Town applied to the State for some funding to assist after the disaster, the State required a 6.25% local match. That would be waived if the Town could demonstrate that it had gone through this process and had an approved hazard mitigation plan in place.

Referring to the **Infrastructure Mitigation Strategies** matrix, Ms. McDougall discussed strategy a-20 (p. 4 of 10), noting that the Emergency Preparedness Committee and Mr. Young were working on ways to get fuel to the generator, etc., in an emergency. For strategy a-21 (p. 4), she said a backup EOC was at the Priory, but the Town needed to make sure that communication redundancy was built in. Councilmember Merk suggested adding these comments to the matrix. For strategy b-6 (p. 5), Ms. McDougall said working with Cal Water, 800 feet of hose was stored to use as a bypass in the event pipes ruptured at Town Center. Councilmember Merk said it should be noted that hose was also stored at the Ranch. Referring to strategy g-4 (p. 10 of 10), Councilmember Toben said he never heard of ABAG's Sewer Smart Program and questioned what pre-positioning of provisions/materials existed for repairing a sanitary sewer line break. Responding, Ms. McDougall said the Town did not have responsibility for this. She understood that this issue had been addressed through actions of Cal Water and West Bay. She said she would follow up to see what was in place. Councilmember Toben said public education and the response that would be necessary in the event of a rupture of a sewer main should also be looked into. He was concerned about West Bay's response in the event an earthquake ruptured a sewer main. Councilmember Merk said ABAG paid out the second highest amount of money for problems with sewers. Part of the Sewer Smart Program was to put in back valves to prevent sewage backflow.

For strategy c-2 (p. 6 of 10), Councilmember Merk suggested adding a comment about what the Town was doing with Cal Water and the Fire District. For strategy c-1, he thought that the Fire District should be added as a responsible agency. For strategy c-5, he said this applied to the Town and that there were quite a few provisions about widths of roads, turnouts, etc., in the site development and subdivision rules. Those should be cited. Responding, Ms. McDougall said Ms. Lambert indicated that those provisions would be enforced whenever it was possible. In some areas, it was not possible and "not applicable" was probably the best answer. Councilmember Merk said he was satisfied if that was Ms. Lambert's opinion. For strategy d-11 (p. 8 of 10), he said there were four bridges up Alpine in addition to the Kabcenell bridge that this strategy applied to. "Not applicable" was not appropriate. Responding to Ms. McDougall, he said they were on private easements. Councilmember Driscoll said there were a number of bridges across the creek on Willowbrook where it came from a public right-of-way to a private home. At some point, the line needed to be drawn. Councilmember Merk said the four he was talking about involved multiple homes. He felt it should be looked at. For strategy g-2 (p. 9 of 10), he said he was not aware of any existing program that provided material to the public for evacuation routes when there were delays due to traffic or road closures. The time he had spent with Public Works, Emergency Preparedness and CERPP, it was impossible to get any information about a program, if one existed, from the Sheriff's department and/or Fire Department who would be making those decisions and determining those routes. Ms. McDougall said five years ago, the Town reported that there was a program in place. Mr. Young felt that there was a program and that his department would take action to get the word out. Councilmember Merk said he did not feel the public was being provided any information. For strategy g-6, he was surprised to see it was marked "not yet considered." CERPP provided training. Even if not specifically for the employees of the Town, employees were welcome to participate. Ms. McDougall said staff felt this strategy applied specifically to employees, and it was not happening in Town. Councilmember Merk said the potential was there, and he was sorry to see that it was marked "not yet considered." The program was partially supported by the Town by donations to CERPP. Staff could participate if they had the time to take advantage of it. Ms. McDougall said she would change it to "existing program" and encourage employees to take advantage of that training.

Responding to Mayor Wengert, Ms. McDougall said staff felt "provide material to the public" included notification on the PV forum, posting on the website and mailings such as the defensible space mailing. Any kind of outreach to the community was included.

Referring to the **Health Mitigation Strategies** matrix, Ms. McDougall said for c-1 (p. 2 of 4), the Town had an existing agreement with The Sequoias. But, staff wanted to have some dialogue with The Sequoias to make sure that everything was still in place—particularly in light of the swine flu virus. Councilmember Merk agreed staff should check to ensure the MOU with The Sequoias was up to date. Controlled substances used to be stored there for emergencies. Councilmember Toben said there were predictions on the number of homes that might be lost in Town in the event of a 7.0 earthquake. Similarly, you should be able to make some rough projections on the kind of demand for pain medications, antibiotics, etc., if there was no service from the outside world for two weeks following a major earthquake. Advice from outside experts might be needed. Mr. Fischer added that the emergency storage structures contained drugs and antibiotics, which were kept current. For strategy c-3 (p. 3 of 4), Ms. McDougall said the Town definitely needed to create some contact information for NDMS personnel. For strategies c-2 through c-6 (pp. 3 and 4 of 4), Councilmember Merk said the comments should indicate that the Town was attached to all of these through the County Office of Emergency Services and the JPA with the Emergency Services Council. In a sense, these services were available to the Town.

Referring to the **Housing Mitigation Strategies** matrix, Ms. McDougall said strategy a-1 (p. 1 of 13) was marked “not yet considered” five years ago. The Council had adopted disclosure requirements, and the Town now met that goal. For strategy g-1 (p. 5 of 13), the Council adopted Chapter 7A which had moved the Town significantly forward in terms of mitigation of wildfires and structural fires. For strategy g-9 (p. 7 of 13), progress had been made, and the chipper program was very popular. The broom pull and other weed management efforts should also be highlighted. For strategy k-1 (p. 11 of 13), she said ABAG had created several hazard maps that could be called up for this region that showed dangers of liquefaction, where earthquake fault zones were located, and where wildland fire was of concern. She suggested the Emergency Preparedness Committee put a link to this on the website so that residents could learn more about some of the hazards. For strategy k-14 (p. 12 of 13), she said Mr. Young indicated that between his department and the Public Works Committee, there was an existing program for drain maintenance. Councilmember Merk said historically the Committee did that. He was unaware of any Committee member doing that this year, last year or the year before that. The Committee was underutilized in that sense. For strategy k-17 (p. 13 of 13), Ms. McDougall said the Emergency Preparedness Committee was working on developing information for the website, which would be very important to the community.

Referring to strategies g-20 and g-21 (p. 8 of 13), Councilmember Toben said he never heard of discounts on fire insurance premiums to “Forester Certified” firewise landscaping and fire-resistant building materials. The Town didn’t have a lot of clout with insurance companies. On the other hand, if the Town partnered with the Fire District and Woodside, residents might be able to play offense with insurance companies under this program. Significant premiums were being paid in the community because of the surrounding conditions. If there was a set of standards that was recognized by insurance companies, there were a number of homeowners in Town who were taking very aggressive steps to protect themselves. The Town had adopted Chapter 7A, and this might be an occasion to partner with Woodside and the Fire District and work with insurance companies. That should be explored. Councilmember Merk concurred. Wayside Road had improved dramatically in terms of brush removal, etc. Referring to strategy g-4 (p. 6 of 13), Councilmember Derwin suggested letting residents know which homes had created defensible space and structural survivability. Residents could visit the properties, or there might be pictures on the website.

Mr. Fischer said it was difficult to go through this document sequentially. He was interested in wildfires and earthquakes. It would be nice to have a table of contents listing all the sections and use a different paging system so that things could be found quickly. Wildfires could be found under infrastructure as well as housing. Additionally, the Ranch was working on getting Firewise Community certification. One of the objectives was to reduce insurance premiums.

Referring to the **Economy Mitigation Strategies** matrix, strategy e-2 (p. 4 of 10), Ms. McDougall said staff felt that the Town should work cooperatively with Woodside Fire to encourage residents to create defensible

space. Both the Emergency Preparedness Committee and the Conservation Committee could be instrumental in helping get the word out. For strategy j-8 (p. 9 of 10), Councilmember Merk said "maintain-a-drain" came up again and should have the same comment as the earlier reference.

Referring to the **Government Mitigation Strategies** matrix and strategy a-7 (p. 1 of 7), Ms. McDougall said the new Town Center had significantly improved the security of critical facilities. Similarly for strategy a-12 (p. 2 of 7), the new Town Center had greatly reduced hazards associated with the site. For strategy b-2 and b-5, staff felt time should be spent on preparing a recovery plan. If something happened and the buildings were rendered unusable, government operations needed to be quickly restored in a different location. For strategy c-1 (p. 3 of 7), staff also felt there needed to be a plan for sheltering employees. Councilmember Toben said that could be worked out without too much effort. Councilmember Merk said staff members might also consider having a backpack with necessities. Referring to strategy c-3 (p. 3 of 7), he reiterated that training was available for employees. For strategy c-10 (p. 4 of 7), he said the Town Center had been opened a year, and the EOC was not fully functional. It didn't have wiring for proper communications or television screens. The Town had received a \$100,000 donation to make it function efficiently. Responding to Councilmember Derwin's comment on strategy d-9, Ms. Howard agreed that staff had the opportunity to attend regional emergency preparedness events. After discussion, Ms. McDougall suggested moving the "x" to "Existing program underfunded." There was a desire to attend, but the budget had been cut. Councilmember Merk described a workshop he attended that was totally related to big companies and hazardous materials they had; there was almost nothing pertinent to the Town.

Referring to the **Education Mitigation Strategies** matrix, Ms. McDougall said for strategy d-2 (p. 3 of 3), the comment indicated that the Town should encourage the School District to provide a link to the Town's website because there would be some good emergency preparedness information on the new website. It was one more way to get residents hooked into what they needed to do.

Referring to the **Environment Mitigation Strategies** matrix, Ms. McDougall said the new Town Center eliminated the concern identified in strategy a-11 (p. 2 of 4). For strategy b-3 (p. 3 of 4), the Town had been a leader in land use policies that reduced sprawl and preserved open space. For strategy b-13 (p. 3 of 4), the Town demonstrated leadership through its sustainability efforts in educating the public and schools about reducing global warming. Responding to Mayor Wengert's question on strategy b-4 (p. 3 of 4), Ms. Howard said there was a \$25,000 grant for promoting transportation options such as Safe Routes to School. Mayor Wengert suggested clarifying the comment. Responding to Councilmember Derwin, Ms. McDougall said she would find out what the \$100,000 covered for strategy b-2 (p. 2 of 4).

Referring to the **Land Use Mitigation Strategies** matrix, Ms. McDougal said strategy b-1 and b-2 (p. 2 of 4) were addressed through the recent adoption of Chapter 7A as well as other programs that were in effect. Mayor Wengert said it was striking how many things the Town had in place for the strategies in this section. Councilmembers thanked staff for the research on the matrices.

#### COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(8) Request to Remove Bay Trees from Town-owned Properties [9:20 p.m.]

Ms. Howard reviewed the Conservation Committee's memo of 9/15/09 and request to remove bay trees on Town-owned properties to reduce the spread of SOD. Responding to Mayor Wengert, she said there was a landscape budget of \$30,000, which was used for removing trees, and a right-of-way budget for maintaining trees in the right-of-way. The Shelterbelt contract (\$12,000) for the Town Center would be taken out of the landscape budget. She noted that staff had not gone out to see what these areas would look like with this many trees removed. Councilmember Derwin said she attended the Committee meeting last night when this was discussed. The estimates in the memo were from Davey Tree; the work would need to go out for bid. As indicated in the memo, Ford Field trees were the highest priority, then Rossotti Park trees; the

Shady Trail trees might not need to be done.

Jean Eastman, Conservation Committee, said about a year ago, the Council approved the use of funds to have oak trees in these areas examined and treated for SOD. Two sprayings had been done. About a month ago, a sub-committee went out with a Davey representative to see what they recommended. The bay trees that he suggested be removed were very small/sprouts. For the larger bay trees, he suggested cutting them back to increase the distance from the oaks. There were some big oaks at Ford Field that did not appear to be infected. It appeared that this was a relatively small job that could make a big difference in preserving the oaks.

Pierre Fischer said a similar proposal was made at the Ranch. With respect to the claim that removing bay trees would decrease the infection of oaks, he said the California Mortality Task Force did not have any evidence that that was true. It was suspected that that might happen, but the transmission was not understood, and they did not recommend any large-scale removal of host trees. It was scientifically correct that spraying protected oaks. Spraying and then removing bay trees was highly questionable. Getting rid of overgrown trees or trees that were poorly structured was fine. But, removing bay trees should not be presented as a way of reducing SOD infection. Responding to Councilmember Driscoll, he confirmed that he made similar comments at the Conservation Committee meeting.

Ms. Eastman said the representative from Davey Tree indicated that the dangerous time for spread of SOD was when the rain came and the temperatures went down. A month ago, he felt this should be done in the next thirty days.

Councilmember Merk agreed staff needed to look into this. He felt a volunteer or a few hours of staff time could take out the sprouts. That could result in a much lower cost.

Councilmember Toben concurred that staff and volunteers could handle a significant portion of this task. He felt the staff was on top of this issue and understood that there were a number of vulnerable trees on Town property. Two years ago, Mr. Young took action to protect the oak trees at the foot of Woodside Highlands. Those oak trees were holding up the hill on which the road was located. Mr. Young felt the bay trees in that area needed to come out before the bay trees at Rossotti's. He would defer to his judgment and wanted staff involved in this request.

After discussion, Council agreed to continue the item to the next meeting.

(9) Reports from Commission and Committee Liaisons [9:35 p.m.]

(a) ASCC

Councilmember Derwin said the ASCC held a preliminary review of a house at Stonegate. There were concerns about the second story, the size of the lawn, existing oaks, etc. The Commission also approved a remodel/addition on Quail. The Neely CUP was being revised, and another site meeting would take place in late October/early November. Mr. Vlasic would be meeting with The Sequoias to go over the sound mitigation plan and the design solution for the new chillers. An application had been received for a T-Mobile antenna at the top of the peak by the water tower. The next meeting would be October 26.

(b) Conservation Committee

Councilmember Derwin said the Committee discussed comments made by other Committees on the definition of open space. There would be a 1-year anniversary party to celebrate the Sausal Creek project on November 1 at 10:00 a.m. to noon. Acterra would attend, and donors would be recognized. The Committee also discussed the proposed plan to remove bay trees to reduce the spread of SOD. Three

conceptual plans for Ford Field were reviewed. Sue Driscoll was resigning from the Committee, and there would be a party at the next meeting.

(c) Library

Councilmember Derwin said the new Director of Library Services was Anne-Marie Despain. The Library JPA approved the fiscal year 2010 budget of \$29 million, which was down from the recommended budget. Reserves would be used to offset a one-time purchase and one-time revenue loss. The investment policy was also approved; funds would remain invested in the County pool with a portion invested with the local agency investment fund. The Foster City library remodel would begin soon, and a PV library staff member had been transferred to Foster City to assist. Atherton was working on a needs assessment for their new library, and Woodside was interested in doing a remodel. The One Book One Community selection was The Mistress of Spices by Chitra Banerjee Divakaruni. There were now small MP3 players that contained the entire contents of an audio book. You could also rent kilowatt meters and get passes to the Asian Art Museum.

(d) C/CAG meeting

Councilmember Derwin said the meetings would start at 6:30 p.m. The San Mateo County Smart Corridors Program might be extended down here in phase 3 of the project.

(e) Emergency Preparedness Committee

Councilmember Driscoll said Sheriff deputies and the Fire Chief attended the Committee meeting. They reviewed what they thought their responsibilities were in an emergency and where the Town could be most helpful. It would help the Committee prioritize what they needed to focus on.

(f) Traffic Committee

Councilmember Driscoll said the Committee discussed meeting on an "as needed" basis and would be making a recommendation to the Council.

(g) Cable and Undergrounding Committee

Councilmember Merk said the Committee was not getting any feedback from Comcast, and reports weren't coming in. A Committee member was working on a write-up about undergrounding for the newsletter. The Committee also discussed Rule 20B funds and how they might be used for undergrounding sections in Town. It took 2-3 years to get a project going under a "B" fund programs.

(h) Teen Committee

Councilmember Merk said Steve Mara provided training on videotaping to assist with Committee members' interviews of seniors in Town. They discussed the past and upcoming dance.

(i) Emergency Services Council

Councilmember Merk said the group discussed the H1N1 virus, which was spreading in the County. There had been seven deaths in the County. The delivery of the vaccine was delayed. The County was relying on a decentralized network using clinics put on by pharmacies. The Office of Emergency Services was working on a plan that would indicate who would replace whom after the first 12 hours of an emergency had passed. There was a 55% chance of an El Niño this year. Cities and towns were being asked to have links on their websites to the Emergency Services Council and the Office of Emergency Services. He discussed

bomb squads that had been dispatched to Hillsdale High during a recent incident.

(j) Parks and Rec Committee

Councilmember Merk said the three options presented for Ford Field were very good and well thought out. Mayor Wengert said the Committee continued its discussion of the field use fees. There was also a report on the use of the tennis courts, and the Committee would be referring the issue to the Council. Additionally, there was some discussion of removing some trees due to the incident at the softball field when a player ran into a tree. She recommended the Conservation Committee be part of that discussion.

(k) ASCC

Councilmember Toben said he attended a field trip to the Leteroff project. The extent of grading far exceeded what had been anticipated, and there was alarm about the treatment of the trees, which were critical for screening.

(l) Community Events

Mayor Wengert said the Committee discussed the Blues and BBQ event and a celebration for Bill Lane's birthday. Councilmember Driscoll noted that Sue Crane suggested there might be something for him at the Christmas party. Councilmembers discussed potential honorees for the Christmas party.

Councilmember Merk said there were about 45 cars parked under the oak trees adjacent to Portola Road during Blues and BBQ. This was very bad for the trees, and a way of keeping cars out of the area needed to be found.

(q) League of California Cities

Mayor Wengert said the 3-day annual conference last week was terrific. The League had taken the lead in a 2010 ballot initiative to amend the State constitution to prohibit State from taking local funds. There was a website, and a lot of information was available. There were also discussions about the State budget, real estate market, etc.

WRITTEN COMMUNICATIONS [10:00 p.m.]

(10) Town Council 9/11/09 Weekly Digest: None.

(11) Town Council 9/18/09 Weekly Digest

(a) Request to Waive Fee for Use of Community Center [Item taken up earlier on agenda]

Referring to the letter of 9/10/09 from the Team in Training, Leukemia & Lymphoma Society, Ms. Howard reviewed the current policy, noting that fees were waived for local organizations such as 4-H and AYSO. In addition, local non-profit organizations, such as the Windmill School or the churches, could use the facilities for free unless it was a specific fundraiser where there were fees involved in coming to the event. She noted that Christine Sheehy was a resident of the Town, and the fee would be \$600 as opposed to \$750. The group also asked that if the fee could not be waived that it be lowered to \$300.

Responding to Mayor Wengert, Ms. Sheehy said the event was a Halloween Party and a fundraiser. There would be a small charge for people to come. There would be food, a live band, raffle items and a silent auction. The size would be about 100 people. Responding to Councilmember Derwin, Ms. Howard said most people who asked for the facility fell into the category the policy addressed and could use the



facility for free. Mayor Wengert suggested having a category for larger organizations that were not local.

Responding to Councilmember Driscoll, Ms. Sheehy estimated that 20% of the attendees would be local. Anyone who lived in Portola Valley was welcome to come, but advertising the event was not allowed. Responding to Mayor Wengert, Ms. Howard said this event would count under the Hasso Plattner agreement if the Town collected the fee. Ms. McDougall said the Town was close to reaching the allowed 24 events under the agreement for the year. There would probably be more requests during the holiday season.

Councilmember Driscoll said this was a good organization and he supported waiving the fee. Councilmember Derwin said she had participated in the organization and supported waiving the fee.

While sympathetic to the organization and cause, Councilmember Toben said he did not want to waive the fee. In the absence of some clear criteria that could be applied moving forward, this was a difficult case. This organization raised \$270 million in the year that ended June '08 and spent \$43 million on fundraising expenses. This organization understood that in order to make money, you had to spend money. Charitable foundations came in all shapes and sizes—some were very poor and some were very rich. This organization got 3 out of 4 stars on one of the charity rating services in terms of cost effectiveness. He did not want in any way to disparage the fine efforts of individual participants on a local level. While he could live with a waiver, he felt the decision should be made pursuant to a thoughtful policy that used a need-based test for charities of this kind. This was a very large enterprise that could afford a \$600 fee. The Town was far less wealthy than this organization with a substantial cost for the upkeep of the Town Center. The Town was under a lot of pressure to maintain a certain level of service. He did not support waiving the standard fee.

Councilmember Merk said his concern was the precedent-setting nature of this. If every good organization like this came in and requested a fee waiver, the policy would need to be changed. The policy had been given a lot of discussion and thought when it was implemented. He did not support the fee waiver.

Ms. Sheehy said the fee was not coming from the Leukemia & Lymphoma Society. If the fee was not waived, it would come out of her and JoAnn Heberer's need to raise funds in order to participate in the Team in Training. Each participant had to raise several thousand dollars. Seventy-five percent of the funds she raised went towards finding a cure for blood cancer or for patient services. Since she drafted the letter, she learned that five families within Portola Valley within the last three years had received services from the local chapter, which was the Silicon Valley Chapter.

Mayor Wengert said as much as she respected the work of the Leukemia & Lymphoma Society, it was a policy issue. There were many incredible charities, and she had a lot of personal empathy for this one. But at this juncture, she felt it was appropriate to stay with the existing policy and charge the resident fee of \$600.

Ms. Sheehy discussed fees for facilities in other jurisdictions, noting that if the fee could not be waived, she would like it to be lowered to match other fees of \$300.

Councilmember Driscoll said he felt the Town should decide these issues on a case-by-case basis. In this case, there were some local participants, and a local hospital would benefit. He thought they should receive a break. If it could not be waived, he suggested \$300.

Councilmember Merk said he was a little uncomfortable but could support \$300—especially since there were five families in Town who received the services. Responding to Councilmember Derwin, Ms. Sheehy said in the last 4 years, 71 Portola Valley residents participated in the Team in Training program,

and 165 from the Town's zip code had requested written information about the program.

Councilmember Toben said he would not stand in the way of offering a fee discount in this case with the condition that the Council reflect thoughtfully on how this kind of request should be treated moving forward. He did not want to put the staff through another labored process on the criteria, but a policy needed to be formalized so there could be some consistency and objectivity. Councilmember Merk said the Town also needed to consider and understand the costs to the Town. Mayor Wengert suggested that the definition of local charity might need review

Responding to Councilmember Driscoll, Ms. Sheehy said Stanford received a lot of research dollars from her group and Lucille Packard received a lot of patient services. The teams often visited patients who were at the Lucille Packard hospital.

Mayor Wengert said she would like to have a clearer way for making the decision. In this situation, she was okay with some ambiguity while recognizing that it should be avoided as much as possible going forward. She supported a \$300 charge as opposed to the \$600 charge.

Responding to Councilmember Driscoll, Ms. McDougall said the Town had just issued an RFP for janitorial service to see what it would cost to have someone come in on weekends. That should help to estimate costs to the Town. Ms. Sheehy added that she planned to pack up the trash and leave the facility clean and neat.

Council directed staff to charge \$300. Ms. Sheehy invited Councilmembers to attend the event.

(b) Local Property Tax

Referring to her memo of 9/18/09, Ms. Howard confirmed that the amount the State would be "borrowing" from the Town was estimated at \$137,168.

CLOSED SESSION [10:02 p.m.]

- (12) CONFERENCE WITH REAL PROPERTY NEGOTIATOR  
Government Code § 54956.8  
Property: Parcel #076-261-010, 900 Portola Road  
Town Negotiators: Town Attorney and Mayor
- (13) PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Government Code § 54957  
Title: Town Attorney

REPORT OUT OF CLOSED SESSION: None to Report

ADJOURNMENT: 10:40 p.m.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Town Clerk