

TOWN COUNCIL SPECIAL MEETING NO. 778, OCTOBER 14, 2009, HANSON HALL, THE SEQUOIAS

ROLL CALL

Mayor Wengert called the meeting to order at 7:05 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 Planner Mader, Town Attorney Sloan, Asst. Town Manager McDougall and Town Clerk Hanlon

ORAL COMMUNICATIONS

Mayor Wengert thanked The Sequoias for hosting the Town meeting. She introduced the new Executive Director of The Sequoias, Ira Kurtz. Mr. Kurtz welcomed the Town Council and said he was looking forward to developing a relationship with the Town.

Sue Chaput, Alamos Rd., said she had some questions about the voter pamphlet. She asked who prepared the measures and why they were put on the ballot during the financial crisis. Residents had been asked to give a tax-deductible donation for open space, and she asked for an accounting from the Open Space Acquisition Committee. Blues & BBQ took place a short time ago, and there was nothing about the money raised, if it went into a separate fund, if there was interest on it, etc. Additionally, there was nothing on the tax bill for the utility tax. Mayor Wengert suggested pairing Ms. Chaput up with one of the members of the committee that prepared the arguments. She noted that because the Council election was uncontested, the League of Women Voters was not interested in commenting on the measures.

(1) PRESENTATION: Recognition of 10-Year Anniversary of Administrative Services Officer

Mayor Wengert said Stacie Nerdahl had 10 years of outstanding service to the Town of Portola Valley and had spearheaded the effort to develop the new website last year. She was able to manage numerous tasks with a terrific outcome. She read the proclamation honoring Ms. Nerdahl. Ms. Nerdahl said she enjoyed working for the Town and with the staff. She thanked everyone for making her work so enjoyable.

CONSENT AGENDA: All items removed.

REGULAR AGENDA

(2) Minutes of the Town Council Meeting of 9/23/09 (Removed from Consent Agenda)

Councilmember Merk submitted changes to the minutes of the 9/23/09 meeting. By motion and second, the minutes were approved as amended by a vote of 5-0.

(3) Warrant List of October 14, 2009 (Removed from Consent Agenda)

Responding to Councilmember Merk, Ms. Howard said for the September 9, 2009, warrant list, some of the Town's checks had been returned as a result of our bank security measure. Because of that, some peoples' personal checks bounced, and the Town reimbursed their fees for the Town's error.

By motion of Councilmember Driscoll, seconded by Councilmember Derwin, the warrant list of 10/14/09 in the amount of \$320,189.20 was approved with the following roll call vote:

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

(4) Presentations on Emergency Preparedness [7:21 p.m.]

Anne Kopf-Sill, Emergency Preparedness Committee, gave a presentation on the Committee's addition to the Town website. She discussed: a) the focus on earthquakes and wildfires; b) key messages (i.e., preparedness and CERPP); c) how links were chosen; d) the preparedness page and links; e) the neighborhood emergency response team page, contacts and links; and f) additional information on preparedness and links. She thanked Committee members and other experts for their efforts in putting the web pages together and ensuring the information was accurate.

John Carnes gave a presentation on CERPP. He discussed: g) the history of CERPP; h) goals of CERPP; i) CERPP territory; j) divisions in Portola Valley; k) communication equipment; l) exercises; m) supply containers; n) medical kits; o) training and participation; p) CERPP sponsored classes; q) community outreach; r) exhibits and newsletter; s) status of CERPP webpage; t) collaboration with Fire District, Sheriff, Office of Emergency Services, and Red Cross; u) Board of Directors and governance; v) CERPP committees; w) animal rescue and micro-chipping; x) medical reserve corps; and y) CERPP needs. Responding to an audience member, he said CERPP was well financed. Funds were received from the Town, Fire District, private donors and federal grant money.

Councilmember Merk thanked Mr. Carnes for his tireless work. He said CERPP was often called out by the Office of Emergency Services at the Emergency Services Council meetings as an exemplary body of neighborhood emergency response teams that was far ahead of any other in the County.

(5) Definition of Open Space Reports from Standing Committees [8:00 p.m.]

Ms. Howard reviewed the staff report of 10/14/09 on the definition of open space. Responding to Councilmember Derwin, Ms. Sloan said a portion of the Goodstein property was subject to a conservation easement, which was technically extinguished when the Town took control of the Goodstein property. A property owner couldn't hold an easement to himself/itself. Ms. Lambert had included it in her memo to show that there were additional restrictions at one time on that portion of the property. Right now, those restrictions did not apply.

Jean Eastman, Conservation Committee, said Spring Down triggered the Committee's interest in this issue, but the Committee's interest was broader than that. Open space was a very scarce resource that needed to be protected. Landowners who might want to deed their property by gift or sale to the Town should know in advance how the property might be used. Properties should be treated in a fair and equal manner. In reading about the deed restrictions on Spring Down, she was concerned that how open space was to be used was determined by private deed agreements with the Town rather than by use of the General Plan. That was a dangerous precedent to set. She hoped there would be some kind of policy established that could be applied across the board. That didn't mean there couldn't be categories of use. But, people should know what would happen if land was designated as open space and how it could or could not be used.

Paul Heiple, Conservation Committee, said the Committee also noted that there were pieces of property that were defined partially for recreational use and partially for open space such as Ford Field. There was no line indicating which part was the open space. The Committee was interested in a strong definition for each parcel of land but also to define where the lines were. It would be to the Town's benefit to make it clear.

Councilmember Toben said no member of the Council had a quarrel with the notion that land acquired for

open space should remain essentially unimproved. But, what constituted “essentially unimproved” was subject to interpretation. Part of the beauty of documents like the General Plan was that generality gave you room to flex over time as communities changed and new circumstances were presented. With respect to the Spring Down property, there were six acres. One group of citizens might want to develop an organic community garden on a quarter of an acre that was out of view from Portola Road and had no real scenic or biological value. Some provisions of the General Plan encouraged people to get out and experience this kind of shared bonding in nature. He asked if that use would be acceptable. Responding, Mr. Heiple said that would be a fairly light and acceptable usage for open space. Right now, the General Plan did not say a community garden was an acceptable use of open space. It would need to come before the Town and be put in the General Plan. Councilmember Toben said the General Plan permitted outdoor recreational uses as one use of open space. Some residents might argue that a modest community garden would count as a legitimate outdoor recreational use. Responding, Mr. Heiple said the General Plan listed permitted uses, but it was not clear. It didn’t indicate what kind of recreation. It mentioned hiking, horseback riding, nature observing, etc. It did not say community garden. When the General Plan was written, a community garden wasn’t thought of as something people would want to do. There was another definition of community parks, which might include the garden. Infrastructure such as irrigation would need to be put in and fertilizers would need to be used. Those things could disrupt open space. The Committee wanted to see a tighter definition. If things weren’t currently permitted, there needed to be some sort of change made so that people would know that the whole Town agreed with it.

Marge DeStaebler, Conservation Committee, said she initially brought up this question because people were asked to donate to a fund called the Open Space Acquisition Fund. The General Plan had an overview. The Trails Committee in their definition of open space spoke of unimproved land except for trails. The conservation guidelines that the Conservation Committee produced had a section on open space as “unimproved land.” It was important for someone who donated to that fund to know how that money would be spent and what would become of the land purchased with money they gave to the Town. It was also timely because part of the election was the continuation of the 2% tax that went to open space acquisition. There should be categories of Town-owned open space. That had been done when all of the land the Town owned was inventoried; some of it was prime land to be left alone, some was park land, etc.

Jon Silver, Portola Road, said the General Plan was open to a certain amount of interpretation. He hoped the Council would take the recommendations in the Conservation Committee’s memo prepared by Jean Eastman. The Open Space Committee also sent a memo to the Council. Both of those memorandums could be refined and adopted as a Council policy to generally interpret what uses could be made of open space lands. Ms. Eastman had pointed out the history of some of the open space. When the Town acquired Rossotti Field, there was already a soccer field there. The Town could learn something from what other government agencies had done. The Open Space District defined open space as: *“land or water area that either remains in its natural state or is used for agriculture or otherwise essentially undeveloped. Open space provides protection for areas of particular scenic beauty and enhances the survival prospects for endangered plant and animal species. It enhances public safety through the minimization of flood erosion, landslide, earthquake, and fire hazards. It provides room for production of food. It can help shape urban growth and thus provide a more livable and efficient urban environment. In short, open space means ‘room to breathe.’”* POST’s website said: *“The mission of the Peninsula Open Space Trust (POST) is to give permanent protection to the beauty, character and diversity of the San Francisco Peninsula and Santa Cruz Mountain range. POST encourages the use of these lands for natural resource protection, wildlife habitat, low-intensity public recreation and agriculture for people here now and for future generations.”* A community garden could be considered agriculture and was probably more consistent with open space than the current roadside spraying policies. He hoped the Council wouldn’t follow staff’s recommendation and not do anything. There was excellent feedback from the Conservation Committee and Open Space Acquisition Committee. A policy should give the current and future Councils further guidance on how to interpret the General Plan with respect to open space. Referring to Ms. Sloan’s memo of 8/19/09, he said it indicated that acceptable recreation activities were “conducted

predominantly in the open;” that could mean a football stadium. Obviously, no one would think that was applicable. But, further guidance was necessary. The Council need not tinker with the General Plan, but it was time to establish policy for how the General Plan should be interpreted.

Pierre Fischer, Valley Oak, said Mr. Vlastic indicated that anything that required a fenced area was not compatible with open space. He thought that was a very good point. A garden would need a fence.

Councilmember Toben said the Town Attorney had been asked to consider the suitability of a community garden and a dog park for the Spring Down parcel. Both of those would require some fencing. The Town Attorney’s conclusion was that those two particular uses would not be incompatible with either the deed restrictions or the General Plan as currently written. The question before the Council was whether some refinement of the General Plan provisions and policies was necessary to accomplish some uses desired.

Ms. Sloan said both she and Town Planner Mader felt that amending the General Plan would be a long-term and fairly complex task that would involve a lot of committee work and thought. Ms. Lambert indicated in her memo that the Open Space Element had four different categories of open space. In the short term, she recommended the Council set up a procedure for what to do with the Spring Down property. Ms. Howard added that at the next Council meeting, the staff would bring forward a proposal from the Open Space Acquisition Committee recommending that the Council appoint an ad hoc committee to come up with a master plan for the six acres at Spring Down. The committee would focus only on Spring Down. Ms. Sloan noted that she and former Councilmember Craig Brown negotiated the acquisition of the Goodstein property. Both of them wanted to make sure that the purchase agreement and the deed itself didn’t restrict the land any more than it had to. It was not the intent that in accepting that property that there be any particular use. The intent was to have a certain amount of flexibility.

Mr. Heiple said the General Plan indicated that when Spring Down was acquired, it would be open space. With respect to POST and MROSD, “agriculture” meant the way it was when acquired rather than converting land and changing it to agriculture. With Spring Down, there was an orchard there, so it would not be converting to an agriculture use.

Referring to the staff report (p. 4), Councilmember Merk said the refreshment stand at Ford Park was added in 1980 at the request of a Councilmember. The scoreboard, storage shed, batting cage and portable toilets were added later. There had been a continual increase in the intensity of use over the period of time since this land was originally acquired by the Town when there was simply and only a baseball field and backstop there. That should be pointed out in the memo. Additionally, the Council could not accept or apply policy consistent with any of the Committees’ recommendations without looking at the General Plan. In terms of residents voting on a tax to purchase open space, the question was about the definition of open space for lands that were purchased by the Town—not lands obtained through subdivision, etc. The Conservation Committee went through the General Plan very thoroughly. The words “natural” and “undisturbed” were repeated again and again in the same sentence as open space. The problem was with the word “recreational”—not the term “open space.” There were different kinds of recreation. The impact of particular kinds of recreational uses was not being recognized. A trail was a recreational use. Walking across a grassy field and smelling the flowers and watching the bees and butterflies was also a recreational use. So was a soccer field or baseball diamond. The definition of recreational uses within open space needed to be addressed more than the definition of open space itself. It needed to be made clear that when people gave their money and the Council used that money to purchase open space, that open space was in perpetuity. No future Council would have the authority to say things had changed and a more intensive use was needed. It had been said that with conservation/preservation, when you won a battle, it was only temporary; when you lost, it was forever. The message of those words was very important. When the Council took an action that used money that people had given in good faith, that action needed to be permanent. He also had a problem with the use of agriculture in open space. When these words were written in 1964 and subsequent years, there were

cattle on Windy Hill. George Jelich

harvested hay in the meadow every year. Joan Targ had hay in the Hayfields that was harvested. No one was doing that now. The only agricultural use going on right now was vineyards. He would feel uncomfortable seeing an open space become a vineyard because it qualified as an agricultural use. Like recreation, that needed to be clearly defined.

Councilmember Derwin concurred. She would like to see the short-term concept that Ms. Sloan presented pursued. But, that didn't get to the broader issue of the need to clarify and define open space in the General Plan. If that meant coming up with a policy, that should be done. She agreed recreational uses within open space also needed to be defined. Additionally, donations of residents needed to be honored by being good stewards of the land and making sure that donations for open space were kept as open space for as long as the earth was here. She felt the Conservation Committee's document was very good. She also agreed with the suggestion to look at other descriptions of open space. They were good and could be edited down.

Councilmember Driscoll said the purpose of the General Plan was to be general. He was concerned about tying the hands of future Councils by trying to make the Plan be very specific in some areas. He was absolutely in favor of respecting the right of people who contributed money for open space. He also agreed that whatever open space the Town had should not be used for active recreation.

Councilmember Toben said he shared the Town Attorney's concern about undergoing a General Plan amendment process. He was also concerned about tampering with the General Plan. He wanted to explore the suggestion to come up with a policy with a focus on defining recreational uses—not open space. The zoning regulations provided permitted and excluded uses. Similarly, a particular parcel of open space could be available for outdoor recreational purposes, such as a community garden, dog run, etc. At the same time, recreational uses should be defined and be specific about the level of intensity. Athletic facilities, such as the conventional soccer field facility, were not consistent with "unimproved land." When you took on the task of constructing an athletic field, you crossed the line. He felt there should be examples of permitted and not permitted recreational uses. There might be examples of light intensity uses that hadn't been thought of yet but might very well be suitable proportionate to the extent of the parcel, fragility of the parcel, etc. There were a lot of complexities. Having a first go at some kind of policy was something he was willing to entertain.

Mayor Wengert said this issue arose as the result of a very specific parcel. There was a very specific recommendation from the Open Space Acquisition Committee, which would be heavily discussed with a great deal of input. Whatever happened at Spring Down would be a terrific solution for the community and would fit within the definition of open space defined in the General Plan. In looking to the broader issue, she shared the concern about tinkering with a defining document that provided general guidelines and created the community that residents enjoyed today. That said, she agreed that the donors who provided funds for open space acquisition and/or deeded lands had the right to a clear understanding about the future use that would be permitted on those parcels. That need not be in the General Plan, but could be a procedure/process established and refined by the Council. She did not want to try to include all the possibilities in the General Plan. There were things that the Council could not envision today that might be appropriate 20 years from now. There was some interest in looking at ways recreational uses could be defined and potentially applied. She agreed with a policy approach rather than a General Plan amendment.

Ms. Sloan clarified that her earlier comments were intended to indicate that a General Plan amendment was a long process. The General Plan served a lot of purposes. The focus here tonight had been on the funds that came in for open space acquisition. Responding to Councilmember Derwin, she said a new policy regarding open space could be attached to the Open Space Acquisition Committee charter. Or, it

could be in the form of an ordinance that was part of the Utility Users Tax ordinance that said the 2% was for open space. Or, it could just be a policy.

Town Planner Mader said the Open Space Element and Recreation Element worked together very carefully. There were very specific definitions in those documents. If one was going to use side notes as to what those meant, people could be confused as to where to look for direction. Taking a short-range view relative to Spring Down was one question. But, if elaboration was going to be done on the General Plan in some other place, he was concerned. It was better to have things in the General Plan that everyone could get to and know what they meant. Additionally, he said “open space preserve” had not been mentioned. The General Plan had community preserves and neighborhood preserves, which were areas to be kept essentially undeveloped. The specific preserves were shown on the General Plan and there was a definition of “preserve.” Relative to specific parcels, some particular parcels were discussed, and nothing prevented the Council from doing that, but you didn’t want to over-regulate. There might be a better way to designate lands as open space, but he felt the term “preserve” related quite well. He also thought that when people voted for something, they needed to know what they were voting for. Not having a definition of open space led to a lot of concerns. Time spent discussing the Open Space Element and Recreation Element was well spent. If the Council wanted to work on definitions and intensions, at some point the Planning Commission should be consulted. He reiterated that he would be worried about elaborating on what the General Plan meant in other documents. It could be included in an ordinance, which was quite clear. Any changes to the General Plan should be done with great care.

Councilmember Driscoll said if there was a feeling in the Town that the General Plan needed to adapt to modern pressures or changing mores of the Town, there was a process—even though it was a very vigorous process. Responding to Councilmember Driscoll, Town Planner Mader said the Town was wise to keep the Plan up to date. The State Attorney General sent out notes if something hadn’t been revised/reviewed in five years. If the Plan was not revised and someone attacked the Town on some matter, the Town would have a hard time defending some actions. The Town had just revised the Noise Element. The Safety Element would be coming to the Council shortly for complete revision. They were being updated because they were very out of date.

Mayor Wengert said she was very hesitant to jump into the process of revising the General Plan. The issue was very specific in terms of what donors could expect when they gave money to this fund, what the potential uses would be, and what the funds could be spent on. The Spring Down process would be a very interesting test case and would inform how the issue could be approached. Everybody was amenable to the idea that there needed to be specificity and clarity. If it was “recreational use,” that was the problem because it was not clear and could allow uses that went against the traditional open space definition; those could be identified quickly. That could serve as the blueprint going forward.

Councilmember Merk moved to direct staff to develop a policy based on the conclusions in the Conservation Committee memo and the Open Space Committee memo for inclusion in an ordinance to be reviewed and considered by the Council at a subsequent meeting. Additionally, comments about the General Plan should be preserved for the next time this part of the General Plan was reviewed. Councilmember Derwin seconded the motion. Councilmember Merk said this was the best thing the Council could do right now to assure people that the intent of the Council was to honor the definition of open space as it was found throughout the General Plan and to give people security that the Council would use these lands as open space and not for some other use that might technically fall under the definition but would not be considered open space in the minds of most people.

Councilmember Toben said he could not support the motion. It was draconian in its direction to staff and put everyone on a death march to arrive at some fixed idea of what open space was between now and November 3. He felt the Council should move towards articulating a policy. It might or might not ripen to a document that would be suitable to enact as an ordinance. He had a lot of confidence in the ability of

the community to arrive at a shared sense of what was appropriate for a given open space parcel. Everyone shared a fundamental commitment to this ethos of openness in the Town. He did not have a fear that between now and three weeks from now, something had to be put in place in ordinance form.

Councilmember Merk said there was nothing in his motion that indicated this had to be done before 11/3/09.

Councilmember Derwin said she was concerned that there was a measure on the ballot asking people to tax themselves for open space without a clear definition of open space. If the motion was approved, at least people would understand where the Council was coming from and where the Council was going to.

Councilmember Driscoll said he favored a policy and was not in favor of a General Plan amendment. The policy should clarify for the public what their donations would be used for. He was not sure that it needed to be in an ordinance. He could support a motion to craft a policy, but not one that had to be included in an ordinance. He understood the value of clarifying for the public what their donations would be used for. At some point, the General Plan should be amended via the community-wide process. But, he felt the General Plan should be general.

Mayor Wengert shared Councilmember Toben's concern about rushing an ordinance. The process followed for many years in terms of amending the General Plan had worked well. While she recognized the need to provide some additional clarity, she was not sure what the best form of that clarity would be. She reiterated that the very specific situation relative to Spring Down would inform the Council a lot more robustly than a general discussion of what the proper avenue should be for dealing with this going forward. The consensus was that there should be certainty for anyone donating money to the open space fund as to what they could expect. She did not want to move forward too quickly on an ordinance without having done the research. This was an area that had some sensitivity and delicate aspects, and she wanted to make sure those were understood before rushing into a policy or ordinance.

Councilmember Derwin suggested the motion be amended to delete the requirement for an ordinance. Councilmember Toben said he still could not support the motion. Staff was being directed to draft a policy based on the conclusions of the Conservation Committee and the Open Space Committee. That was unacceptably narrowing. The discussion tonight went beyond what the Conservation Committee and Open Space Committee proposed. He had suggested a catalog of permitted and non-permitted uses. None of that appeared in the writings from the committees. He preferred staff be given the ability to apply its own intelligence to figure out what other input might be solicited in terms of permitted and not permitted recreational uses.

Councilmember Driscoll hoped to come to an agreement that the Council could be unanimous on. He agreed the Town should clarify the general guidelines on what were permitted and not permitted uses for open space. He thought the planning staff could come up with a memo for Council's review. He suggested amending the motion to direct the planning staff to draft a policy for permitted and not permitted uses on lands designated as open space for review by the Council. Councilmember Derwin agreed provided that staff also consider the Open Space Committee and Conservation Committee memos on the subject. She wanted the basic idea that open space was land left in its natural state included.

After discussion, Councilmembers agreed to withdraw any amendments to Councilmember Merk's original motion. Mayor Wengert called for a vote on the original motion, which included drafting an ordinance, and the motion failed 2-3 (Toben, Driscoll, and Wengert opposed).

Councilmember Driscoll moved to direct the planning staff to draft a policy for Council's review that took into account the Conservation Committee and Open Space Acquisition Committee summary comments on open space, and that more clearly defined permitted and non-permitted uses within the definition of open space in

the General Plan. Councilmember Toben seconded the motion. Responding to Councilmember Derwin, Councilmember Driscoll said the time limit would be when practical.

Town Planner Mader said there were open space easements in the Town now. This policy might constrain

those easements. If the Council wanted a policy for lands acquired with the Utility Users Tax, that was another question. He felt the lack of clarity for people was what they were voting for on the tax. Councilmember Driscoll said he did not want to change the restrictions on previously acquired open space easements. He wanted to define going forward what was meant by open space. Responding to Town Planner Mader, he confirmed that it should apply to future uses of open space—not current uses.

Councilmember Toben said a light intensity use (e.g., a trail) might be suitable for one open space parcel but not suitable for another open space parcel. Therefore, the guidelines needed to address the issue of the context in which the use was proposed. That included issues of biological value, size and topography of the parcel, etc. Councilmember Driscoll concurred. Responding to Councilmember Merk, he said the policy should be a guideline for interpretation of the meaning of open space for all future uses. There might be other situations. He wanted the planning staff to help crystallize the definition of open space in 2009.

Councilmember Toben reiterated that he supported Councilmember Merk's proposal to define recreation uses—not open space. Councilmember Driscoll said an important part of this document would be the guidelines on permitted and not permitted uses—recreational or otherwise. He did not want to tie the Council's hands with changes to the General Plan.

Councilmember Derwin said she was still concerned whether this would help someone decide to vote for or against the UUT for open space. She questioned whether staff could come up with something before the election. Councilmember Merk said he had discomfort as well. The emphasis was now on staff making these decisions rather than basing it on the recommendations put forward by the two committees who were by far the most experienced and specialized in dealing with this issue. This had moved from being committee-driven to staff-driven, and he was not comfortable with that.

Councilmember Driscoll said it was Council's decision whether to adopt the policy or not. Staff was being asked to synthesize all the input that had been received. His motion encouraged specifically the recommendations in the two Committees' memos. As far as getting it done by the election, he had already voted by absentee ballot. He did not think it was practical to get it done by the election. The Town would need to trust the fact that this was not a Council that would start building public stadiums in the open space. Mayor Wengert concurred, noting that this was not a Town that misused the land. Councilmember Derwin said there were a lot of people who did not want to vote on the UUT for open space.

Mayor Wengert called for the question, and the motion carried 3-2 (Merk and Derwin opposed). Responding to Town Planner Mader, Councilmember Driscoll said staff included the Town Attorney staff. Councilmember Toben said he did not expect this to be a costly exercise vis-à-vis the involvement of the Town Planner and Town Attorney.

Responding to Sue Chaput, Ms. Sloan confirmed that donors could still designate donated land for a specific purpose. If the Town accepted it, there could be restrictions added. Responding to Ms. Chaput, Ms. Howard said all monies collected from the UUT (2%) went into the open space acquisition fund. Any money donated directly to the Town would also go into the same fund. The question was whether the definition of open space needed to be tightened up because the definition of that fund was money used to acquire or maintain open space. The Council had asked staff to further define that so that there would be a certain expectation for donors when monies were spent from the fund. That was different from a donor who gave land for a specific reason.



Jon Silver said he had complete faith that the Town of Portola Valley would be completely faithful in preserving open space. Councilmember Driscoll had asked for a unanimous vote so that no one could possibly misunderstand a 3-2 vote. He suggested the motion say something more than refer to the Committees' memos; it should say "consistent with the philosophies expressed in those memos." That

would give people the assurance while accepting that the details still needed to be worked out. Councilmember Driscoll said the motion that passed was to direct staff to produce this policy. The planning staff and staff attending the meeting recognized the fact that this Council was very much supportive of the spirit of what was written in the Conservation Committee and Open Space Committee memos. He did not think there was any question of that. It did not have to be adopted word for word.

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

(6) Follow up on Request to Remove Bay Trees from Town-owned Properties [9:30 p.m.]

Ms. Howard reviewed the staff report of 10/14/09 on the Conservation Committee's request to remove bay trees on Town-owned property in order to help reduce the spread of SOD. Responding to Councilmember Derwin, she said she understood that the Chair of the Committee was comfortable with staff's recommendation not to remove the trees.

Paul Heiple, Chair-Conservation Committee, said most of the larger trees in the riparian corridor that had been looked at during the field inspection would require permits for removal. Some of the smaller bay trees were growing around the large heritage oaks in that area. They were likely to be a source of SOD. Currently, they were not infected, but there was infection upstream and downstream. He wanted to clear the small sprouts back and away. It was not certain what was causing the SOD. But, since the oaks were along trails, it seemed important to try to keep those healthy. Ms. Howard noted that criteria #4 in the staff report addressed removal of small bay trees.

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

Councilmember Merk supported staff's criteria but was concerned about #8 that addressed areas outside parks and scenic corridors and rights-of-way. There needed to be some kind of qualifier so that if a bay tree was in the way of a trail or road, it could be removed. Otherwise, bay trees would come up immediately adjacent to the pavement. They grew very fast and would obstruct the right-of-way. Responding to Mayor Wengert, Ms. Howard said brushing was done along the right-of-way to 10 feet. She thought that process would remove the little bay trees. Councilmember Merk said "brushing" or something should be included in the criteria. It should not say, "no bay trees shall be removed." Councilmember Driscoll suggested, "No bay trees shall be removed except where they obstruct the right-of-way."

Councilmember Toben moved approval of the criteria established by staff, as amended, with respect to the removal of bay trees and other species within the Town's park areas, trail easements and scenic corridors. Councilmember Merk seconded, and the motion passed 5-0.

(7) Proposed Change to Cable and Undergrounding Committee Charter [9:40 p.m.]

Mayor Wengert reviewed the memo from the Committee Chair and recommendation to hold meetings on the second Thursday of odd numbered months at 8:15 a.m. Councilmember Merk said the State law changes with respect to cable gave the Committee little to do on that issue. Until they got going on undergrounding, they did not need to meet monthly. He moved approval of the requested change. Councilmember Toben seconded, and the motion carried 5-0.

(8) Appointment to Cultural Arts Committee [9:41 p.m.]

Referring to the Cultural Arts Committee Co-chair's e-mail of 9/24/09, Mayor Wengert appointed Jeannie Goldman to the Committee. By motion and second, Council unanimously concurred.

(9) Appointment of Councilmembers to Ad-hoc Fire Wise Committee [9:42 p.m.]

Ms. Howard reviewed her memo of 10/14/09 on the formation and appointment to the Fire Wise Committee. She noted that Councilmember Toben had already agreed to serve on the Committee and that a second Councilmember was needed. After discussion, Councilmember Derwin volunteered to serve on the committee.

(10) Reports from Commission and Committee Liaisons [9:43 p.m.]

(a) Council of Cities Dinner

Councilmember Derwin said she and Mayor Wengert attended the meeting where Paul Saffo spoke on what the future held for the Bay Area. She reviewed his forecasts related to State and regional governance and opportunities for change.

(b) C/CAG

Councilmember Derwin said there was concern about how long improvements associated with the San Mateo County-wide Transportation Plan were taking. Additionally, there was a resolution for the County to support County-wide climate change related programs.

(c) Nature and Science Committee

Councilmember Derwin said the Chair discussed her classes. They also debriefed the October 10 earthquake day. The Committee was planning a Lyme disease presentation in the spring and a star party in the winter. Sheldon Breiner would be speaking about geomagnetism in January. They would still like to have their artifacts out for people to see and discussed opening up the activity room one afternoon a month so that people could come and look at the various items. They also discussed locations for a nature center and reworked the language for the Committee charter.

(d) Emergency Preparedness

Councilmember Driscoll said the Great Shakeout State-wide earthquake drill would be held 10/15/09.

(e) Geologic Safety Committee

Councilmember Driscoll said the Committee would be holding two sessions on 10/31/09 for those potentially impacted by changes/updates to the Town's Geologic and Movement Potential Maps.

(f) Teen Committee

Councilmember Merk said the Committee continued work on their filming.

(g) Cultural Arts Committee

Councilmember Toben said the Committee had lots of good ideas. There were some questions about

income-generating activities at the Town Center related to cultural arts and restrictions that applied to use of the Community Hall.

(h) Airport Roundtable

Councilmember Toben said he was discouraged about the prospects that any meaningful attention would be given to the procedure/protocol that Anna Eshoo negotiated with the FAA ten years ago. The latest explanations were: 1) newer planes had to arrive at lower levels than the 747s; and 2) OTA technology was

being implemented. He did not feel that appropriate analysis had been done to support the decrease in altitude level. He was also concerned about the increase in traffic from the Far East.

(i) Community Events Committee

Mayor Wengert said the Committee was moving forward with the Holiday Party. They also discussed scheduling Town events in advance to avoid conflicts with other users. There was also a plan for a birthday celebration for Bill Lane on 11/1/09.

WRITTEN COMMUNICATIONS [9:50 p.m.]

(11) Town Council 9/25/09 Weekly Digest: None

(12) Town Council 10/2/09 Weekly Digest

(a) Request to Display Ceramic Plaques

Susan Thomas, Co-chair Cultural Arts Committee, reviewed the Committee's memo of 9/28/09 and request that the decorative, historic tiles made by schoolchildren at Corte Madera School be used to enhance the Town Center. The Committee felt art that was done by people/children in Town was important to give a sense of value to the buildings. The budget that the Council approved for the Committee showed the Town's respect for people who wanted to do appropriate things for the community. The money would be well spent by experts in cultural arts. She described the tiles and discussed potential locations. Responding to Mayor Wengert, Ms. Thomas said some of the tiles had been on the outside of the buildings at the school for many years.

Councilmember Driscoll asked that the Committee make a specific recommendation as to placement. He thought the playground might be an appropriate place because of the childlike aspect of the tiles.

Councilmember Merk said it was a great idea but had some concerns about protecting the tiles from vandals. Ms. Thomas said they were never touched at the school. Councilmember Toben noted that there had been vandalism at the playground. There had also been an incident at Corte Madera. The Committee needed to understand that there was some risk involved.

(b) Dogs and Cats

Referring to the e-mail about dogs barking and being off leash and feral cats, Councilmember Merk said he would like to see this addressed. Councilmember Toben noted that the residents who drafted the email offered to fund the cost of a flyer sent out to residents. Councilmember Driscoll suggested putting an insert in the next Newsletter. After discussion, Ms. Howard said staff would follow up.

(13) Town Council 10/9/09 Weekly Digest

(a) Phillips Brooks School Update

Referring to Ms. Lambert's memo of 10/8/09, Councilmember Toben suggested a better contact for the School be found; the Development Office was geared towards fundraising.

(b) Renewable Energy Survey

Referring to Ms. Lambert's memo of 10/8/09, Councilmember Merk said he thought the survey was a good idea. But, the correct phrase in the first paragraph was "install photovoltaics" versus "install solar systems."

ADJOURNMENT: 10:15 p.m.

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Mayor

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