

TOWN COUNCIL MEETING NO. 753, AUGUST 13, 2008

ROLL CALL

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

Present: Councilmembers Driscoll, Merk, Toben and Wengert, and Mayor Derwin  
Absent: None  
Others: Town Administrator Howard, Town Attorney Sloan, Asst. Town Administrator McDougall, Planning Manager Lambert, and Town Clerk Hanlon

ORAL COMMUNICATIONS: None.

CONSENT AGENDA

By motion of Councilmember Driscoll, seconded by Councilmember Toben, the items listed below were approved by a vote of 5-0, with Councilmembers Toben and Wengert abstaining on item #1.

- (1) Minutes of the Town Council Meeting on July 23, 2008.
- (2) Minutes of the Town Council Special Meeting on July 30, 2008.
- (5) Resolution No. 2415-2008 Approving and Authorizing the Disposition of Surplus Property (Modular Building) Through Donation to the Peninsula Boys and Girls Club, per Asst. Town Administrator's memo of 8/13/08.
- (6) Designation of Mayor Derwin as Voting Delegate to 2008 League of California Cities Annual Conference, per Town Clerk's memo of 8/8/08.

REGULAR AGENDA

- (3) Warrant List of August 13, 2008 (Removed from Consent Agenda)

Responding to Councilmember Merk, Ms. Howard said check number 40208 (p. 5) was payment for a consultant to assist with the SuRE Coordinator interviews. Linda Yates had reimbursed the Town for the expense.

Councilmember Wengert said in the future, she would like to see more details about the Spangle & Associates bill and how it correlated with budgeted amounts. For example, a significant amount had to be transferred to offset costs of the biomapping project, as indicated in the year-end 2007-2008 budget memo of 8/13/08 (agenda item #4). Ms. Howard noted that copies of the first few pages of Spangle's July invoice had been distributed. The entire bill was available at Town Hall. Responding to Councilmember Wengert, she said "Special Projects" included anything directed by the Council. The amounts invoiced and authorized were shown in the last column under Special Projects for 2007-08 on the invoice. Councilmember Wengert said she wanted to ensure that everyone was comfortable that the numbers budgeted were in line with expenditures throughout the year.

By motion of Councilmember Wengert, seconded by Councilmember Toben, the Warrant List of August 13, 2008, in the amount of \$2,340,292.69 was approved with the following roll call vote:

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

(4) Annual Report of Fiscal Year Ending June 30, 2008, Budget and Interfund Transfers (Removed from Consent Agenda)

Referring to the staff report of 8/13/08, Councilmember Wengert reiterated that budget transfers to offset the cost of the biomapping consultant amounted to \$40,000 over the budgeted amount. She asked staff to obtain an update on the status of the project and what the anticipated final would be.

By motion of Councilmember Wengert, seconded by Councilmember Driscoll, the annual report of FY ending June 30, 2008, budget and interfund transfers was approved by a vote of 5-0.

(7) Fuel Hazard Assessment Study – Report from Moritz Arboricultural Consulting

Ms. Lambert reviewed the Town Planner's memo of 8/6/08 on the Fuel Management Plan prepared by Moritz Arboricultural Consulting (MAC). She said the first phase of the plan included the fuel hazard map, which she distributed. At the end of July, a meeting was held with the Town Planner's office, Town staff and the Fire Marshal to review the map and assessment plan. It was agreed that the information provided by Mr. Moritz was very informative and that it would need to be incorporated in a format that was more user friendly for property owners so that they would know what they needed to do on their property based on what kind of fire fuels were present. The second phase of the plan would include fire response, evacuation routes and recommendations for fire apparatus clear zones and annual maintenance requirements. Input from Councilmembers on the phase 1 report and map would be provided to the Town Planner's office and Mr. Moritz. Councilmember Wengert said the Council was seeing this before the Planning Commission to ensure that there weren't any surprises down the road relative to the final report.

Responding to Mike Ward, Vista Verde, Mayor Derwin confirmed that the Council wanted to understand how to help residents make their properties more fire safe.

Councilmember Driscoll said the map was so small that it was very difficult to read and interpret. Responding to Councilmember Wengert, Ms. Lambert confirmed that the vast majority of the Town was in the high or highest fire severity category with a few pockets considered moderate. Councilmember Toben noted that the Stanford Wedge was primarily fire-prone oak woodland. He asked what action could be taken to induce response by Stanford to mitigate the situation on that property. He suggested that question be taken up during some future conversation.

Referring to page 7 of the Moritz report, Mayor Derwin said it would be helpful to have examples/names of fire-resistant plants. Ms. Lambert said this had been discussed with the Fire Marshal; pictures could be included. Mayor Derwin noted that residents were encouraged to plant natives, but many of those seemed to be quite flammable. Ms. Lambert said the Conservation Committee was working on a new planting list, which would include fire retardancy of plants. Referring to the report's Strategy to Reduce Fuel Loads section (p. 7), Mayor Derwin asked what the Town could do to help residents to perform the recommended actions. SallyAnn Reiss noted that the chipper program was heavily used by residents.

Referring to the report's discussion of chaparral (p. 4), Councilmember Merk said scrub oak (*Quercus dumosa*) was a southern California species and not so much in Portola Valley. Also, he had never heard of the gold cup oak (*Quercus chrysolepis*). He wanted to know where these names came from. On page 5 under Redwood forest, tanoak was listed twice. On page 6, Flame Length had a parenthesis after the word length. On page 7, it was disturbing to see the statement "Select species with low surface to volume ratios (i.e., southern magnolia...." Southern magnolia was an exotic, which would not be recommended by the Town. He was also surprised to see a statement that all chemise should be removed (p. 7). Chemise was a plant that was part of the ecosystem with bugs and animals depending on it. To call for eradication of the plant was potentially problematic. On page 11, there was inconsistency in capitalizing fir but not bays.

Councilmember Wengert asked that the schedule and next steps be further outlined. There should be some urgency in getting this out to residents. Councilmember Toben noted that Planning Commissioner Zaffaroni also wanted to see actionable results of the Moritz study in the form of guidelines or regulations.

Councilmember Merk said there was a lot more specificity involved with the individual properties than was shown on the map. Ms. Lambert confirmed that changes to the map would be handled as it was with the Movement Potential and Geologic Map; residents could challenge the map and provide additional data.

Virginia Bacon said she was glad to see the Town taking some steps in this direction. But, what was presented was totally inadequate. As a property owner, she didn't see any practical solutions being presented. She would like to see some kind of overlay with the ecological conditions. Some of the areas were wet and some were very dry. Certain plant materials would grow in one area and not in another. Some of those factors should be taken into account. Additionally, homeowners were being encouraged to plant natives. In the report, the safest thing to have was a thirsty lawn. The objectives needed to be balanced in terms of helping people know what to do. The property owner who redeveloped their property went to the ASCC who told them to plant coffeeberry and oaks for screening. In the report, you weren't supposed to have things that were higher than two feet, which wouldn't allow any privacy. She was mindful of the fire hazard, but the Town had other objectives that needed to be satisfied. Each one of the fuel types should have plant materials specified so the homeowner knew what to do. She was totally confused as to what she was supposed to do.

Fire Marshal Enea said the fuel assessment was very detailed. The specific information would help the Town prioritize where and what kind of fuel mitigation needed to be done by residents and by the Town. It should be a reference and informational tool for the Town to use. Once the guidelines were done, residents could use more of the Town-approved fuel mitigation projects. The guidelines could list what kinds of plants you would like to see people plant, what kinds of plants were hazardous, etc. You could also create a hazardous situation by planting too many plants in a space or planting them in oak woodland. To Councilmember Toben's question, she said Stanford was willing to do some work, but they would want to be held to the same standard that everybody else in the Town was held to. Responding to Councilmember Toben, she described the work Stanford had done. She said there was still room for some discussion.

Pierre Fischer, Valley Oak, suggested putting the map on the Town website in a pdf file. He also shared the concern about people being able to screen their properties. Hundreds of redwoods had been planted for screening. It would be very difficult to convince homeowners not to plant for screening. Additionally, the report said the map was based on aerial photography dated 2005. He thought the latest aerial map was dated 2000.

Mayor Derwin confirmed for Councilmember Driscoll that the report and map would go back to staff and the Planning Commission and return to the Council with recommended actions/guidelines. Councilmember Driscoll agreed that the map should be placed on the website in pdf format.

(8) Request from Los Trancos County Water District (LTCWD) for Letter of Support for Issuance of Encroachment Permit from San Mateo County

Ms. McDougall reviewed the staff report of 8/13/08 on the request for support for issuance of an encroachment permit from the County to allow for improvements in the area surrounding a small reservoir within LTCWD's lands in the vicinity of Lake Road.

Ms. Sloan said LTCWD had asked for an encroachment permit from the County. There was a gate at the end of Lake Road for maintenance purposes, and a truck could drive across Town property. The County had asked for the Council's opinion about that. The Council should stay clear of addressing any issues pertaining to what LTCWD's powers were, any issues of environmental review, whether the lake was an historic lake, etc.

Charles Krenz, LTCWD, said the water district would like to renovate a fence and ensure that LTCWD had access to its lands in the future from the surrounding public lands. He discussed photos and drawings depicting: 1) LTCWD lands and boundaries; 2) service areas; 3) existing trail system; 4) the reservoir; 5) restoration plans; 6) previous plans; 7) accomplishments to date; 8) the viewing and parking areas; 9) remaining work to be done; 10) conservation easements; 11) fence along lake road; 12) access at the extreme end of Lake Road; 13) survey of property lines; 14) encroaching features installed by the previous owner of Harbury property; and 15) proposed replacement fence. He said the LTCWD would like a letter of support to the County supporting the encroachment permit application to allow removal of the encroaching fence and the installation of a split rail fence.

Councilmember Merk said the gate looked like it was 5-10 feet from the right-of-way of Lake Road, which was a 40' right-of-way. Probably half of that was a steep bank down to the lake. He asked if the gate could be moved. Mr. Krenz said as long as LTCWD could get access, that would be acceptable. Responding to Councilmember Merk, David Smernoff, LTCWD, said the existing maintenance access gate prohibited access. If the fence was being renovated, it made sense to put the fence and the gate in a different location and access the property directly. If that was done, Councilmember Merk said the water district would not need an encroachment permit to come into Portola Valley.

Mr. Krenz discussed the preferred access, terrain and drainage pipe. Mr. Smernoff pointed out that the split rail fence design came from the Trails Committee. The district originally envisioned another chain link fence along the County end of the road and the Town property. The district didn't want to add additional wildlife barriers into this area. What was needed was to ensure that there was no vehicular access from the end of Lake Road onto Portola Valley property. Once the encroaching fence was removed, a maintenance gate could be put in without the split rail fence design. The district was trying to be a good neighbor to incorporate that feature to ensure there was no vehicular access except in the rare case when the district needed to go in. The district would also be more than happy to enter into some sort of formal maintenance agreement. Additionally, the district had told the County that they would maintain the fence and gate into the future.

Responding to Councilmember Wengert, Mr. Krenz said the plan was to replace the dilapidated chain link fence with a similar chain link fence with a black, see-through design further down the bank so it was less visually intrusive. It had been a 2-year process getting to this point, and there had been a lot of discussions with the neighbors. There was a strong sentiment to retain the fence along Lake Road for both personal and vehicular safety. For a number of reasons, the district decided it was better to upgrade the fence and protect it by having enough space for vehicles to turn around at the end of the road.

Pebr Harbury said he represented all the families on Lake Road. Using slides, he discussed: 1) pedestrian access into Portola Valley open space; 2) maintenance/emergency access; 3) the proposed split rail fence with gaps for wildlife; 4) the previous LTCWD proposal for additional trails, picnic tables, and circumnavigation of the lake; 5) comments made by a Board member at a March 2008 meeting about long-term goals for the turnaround, park-like features and a pumping station; and 6) impacts on the wetland/pond and open space if trails and picnic tables are put in. Referring to the staff report, he read staff's recommendations relative to access for maintenance purposes only and a locked wooden gate at the terminus of Lake Road to prevent unauthorized vehicles from entering upon the Town's open space. He said LTCWD's proposal included a 4' fence with big gaps. The neighbors supported a fence/maintenance gate that was designed for maintenance purposes only—not one that was designed for pedestrian access. The gate should be straightened along the border between Portola Valley and the San Mateo County public right-of-way. If that was done, the rear access to the pond would be completely accessible through the San Mateo County public right-of-way. There would be no need to transit through Portola Valley open space to get in and out of the existing gate at the rear of the pond. The neighbors requested that if the Council signed off on a gate/fence structure across the end of Lake Road on the Town's boundary, the Town also indicate to the County that the water district or the residents could build it. If the water district chose not to

do anything, the neighbors wanted to straighten the fence and were willing to pay for and build it--provided that it was for maintenance only. The gate would keep the residential part of Los Trancos Woods residential, protect the open space and not introduce redundant trails that disturbed habitat. It would also eliminate safety liability. With the fence that was proposed, his son could easily get through the fence and walk off into the open space. Another major concern was that the road was only ten feet wide. Introducing additional access points invited people to come and park there and bring a lot of pedestrian traffic along the road. The question before the Council was whether it should sign off on a structure that allowed pedestrian access across Lake Road into Portola Valley open space. Additionally, he said Ms. Sloan was also counsel to the Los Trancos County Water District. He asked if that was a conflict of interest.

As set forth in her memo, Ms. Sloan said there was no conflict of interest under State law, FPPC rules, or common law. She said she would be happy to step down if Council wanted to get advice from someone else.

Curt Parkin, 151 Lake Road said there had been a lot of talk about being able to walk around the lake. In addition, plans called for removal of some portions of the old chain link fence and replacement with split rail fencing. People could walk right through that. It would keep vehicles out but that was all. He definitely supported having a locking gate, as recommended in the staff report, to eliminate pedestrian access. It was only 60 paces from a major trailhead from the end of Lake Road; additional trails were redundant and not needed. Also, the existing trail system did not pass by residences. Lake Road passed in front of several residences and was very close. Additional traffic would negatively impact those residences as well as the Town's open space. These were some of the issues that the neighbors had been concerned about for a number of years. He was also concerned about people having access that were not from the area; they would not have the same concerns about maintaining the area. There would be fire hazards, noise, littering, disruption of the area, erosion, and loss of property value. The residents wanted to have something that would keep a continuous flow of people from going through there. The locked gate should only be opened for maintenance and or emergency equipment.

Edys Quellmalz, 143 Lake Road said the fence at the end of Lake Road should be locked and for maintenance only. Additionally, wildlife access could be made available at other places. It didn't have to be at the end of the road. There had been a lot of discussion about being able to walk around the lake and through the Portola Valley lands to the trailheads. Everyone needed to be honest about this and understand that a break in the fence for wildlife would also be for people. That created potential liability because there was no official trail from the end of the lake on up to the trailhead. For the residents, it created the potential for people seeing it as a destination/fun walk around the lake when there was a beautiful trailhead right up the road. She was completely opposed to any break in the fence. She wanted to see a fence with a lock for maintenance and access for emergency purposes. The water district and other jurisdictions could worry about where the breaks and the wildlife corridors should be. Portola Valley should be concerned with that fence and access to its lands. The Town didn't want the liability any more than anyone else did. If that became a turnaround at the end of that road, it encroached on Mr. Harbury's property and influenced their property value. It would create a problem for whatever fence was there.

Bruce Burroughs, 155 Lake Road, said the area was wonderful, and he was glad that it was being improved. This was an opportunity for a minor compromise. If those wildlife corridors were located somewhere else where it didn't cause problems at the end of Lake Road, everyone would get what they wanted. The area should be closed off except for maintenance access.

Councilmember Driscoll said there were two fences involved: 1) one fence went around the lake, which he understood should have some penetrations for wildlife; and 2) the fence at the end of Lake Road. He did not understand why there was a gap in that fence. Mr. Krenz said the original design was to put in a pedestrian access gate, vehicle access gate and a chain link fence. With that proposal, wildlife barriers in other parts of the fence would be removed. The Trails Committee felt it would be more in keeping with the

neighborhood and the Town to have a split rail fence. The district thought that was an elegant solution and was less expensive. The district was under no obligation to put any fence in. Responding to Councilmember Driscoll, he said the split rail was not contiguous to the end because he wasn't sure there would be another fence on the other end. It was a question of putting it in at the end of the road and making a vehicular barrier. Councilmember Driscoll said the neighbors were concerned about the permeability of that fence. There was a difference between having someone having to climb over a fence and there being a gap in the fence. Mr. Krenz said he wouldn't want to have to hop over a fence to enter open space. Responding to Councilmember Driscoll, he said you could get to that same side of the lake from Old Spanish Trail, but it was a hike.

Karen Tate said she had been involved as a volunteer with the water district on the improvements for wildlife, where the breaks in the fence would be, etc. There had been at least a dozen times within the last year that she needed to get around the lake in order to figure out what should be done. At one point, you could get through that fence at the end. About six months ago, the fence was locked off. Now, when she brought people to the site, they had to go down a public right-of-way, turn around and come all the way around to the other end. She questioned whether Councilmembers would be willing to encumber their own property unnecessarily. Her job could have been a lot easier.

Councilmember Wengert said when you drove up there, the first thing you saw was a sign that said "private road." You also saw a "no parking" sign. It was very clear that there was an attempt to limit access on the public right-of-way. Mr. Harbury said the previous owner of his property wanted to create the impression that that was a private road. He had been unclear when he purchased the property what was going on. The County could require that the signs be removed. Mr. Krenz noted that the County had posted a notice on one of the signs requesting that it be removed. Responding to Councilmember Driscoll, he confirmed that it was not a private road. A resident said the sign that said "Private property, no parking" was on her property and was not an illegal sign. Councilmember Wengert said it was clear when you drove up there, that it was not a street where there would likely be a high volume of people thinking they could go through. It was an immediate reaction for someone not familiar with the area that you needed a reason to go there as opposed to just exploring.

Responding to Councilmember Toben, Mr. Krenz confirmed that at the present time, pedestrian access at the end of Lake Road was difficult or impossible. Responding to Councilmember Toben, a resident said the district had recently modified the lake to allow public access. Recently, there were people partying until midnight and being very loud. The other issue was that no one had done a study to see what would be the environmental impact of having a pedestrian access there. That was something that should have been done in the planning stage of what was being proposed for a sensitive wetland area. She was surprised that San Mateo County was thinking about granting a permit without even taking that into consideration. Residents were concerned because the district had sold this as a park-like feature and something that would be attractive for people to come to and enjoy as a destination. There had been no environmental impact study to figure out what the impact would be on Portola Valley open space. There was a lot of wildlife there. More access meant less habitat.

Councilmember Toben said the neighbors had expressed concern about the district creating a more park-like atmosphere in this area. His sense was that the amenities of concern, such as trails, all required Town approval since they would exist on Town property. Responding, a resident said people constantly walking down the same path would create a trail. The district said they were not suggesting any trails, but when pressed, they agreed that when people walked along a certain space, it would create a trail. There were many examples of informal trails in the open space. The Portola Valley Trails and Paths Committee always made an effort to try to restore a lot of those grasslands. She didn't understand why this area should be given any less consideration.

Responding to Councilmember Toben, Ms. McDougall said staff envisioned a gate that would prevent

vehicular access and would be locked. It could potentially allow pedestrian access. The district's proposal was for a split rail fence with removable posts. Staff was primarily concerned with vehicular access.

Responding to Councilmember Toben, Mr. Krenz said realignment of the fence to put it on the proper boundary was important. It would also allow a maintenance access gate that would preclude the district from going through Portola Valley in most instances. There was, however, a pipe underneath the lake that a consultant said probably needed some maintenance and further study for protection of the wetlands and habitat. If there was ever a problem on the levee, the district might conceivably need access into that area. Councilmember Toben thought the access could be through the realignment that Councilmember Merk suggested.

Responding to Councilmember Toben, Mr. Smernoff said he did not think a bootleg trail would be established from the area at the end of Lake Road. You would have to hike down a substantial hillside. Mr. Krenz noted that the trailhead had been improved and the parking had been improved. The orientation was towards access from that part.

Responding to Councilmember Toben, Ms. Tate confirmed that there was clear right of access from upper Lake Road directly into the water district property, irrespective of what the Council did tonight.

Councilmember Driscoll suggested: a) the Town write a letter in support of the water district's desire to upgrade their fence around the lake and improve access to the lake; and 2) indicate that the Town was not interested in introducing any further pedestrian traffic besides what was off of Old Spanish Trail to the Town's open space. If the neighbors wanted to put up a fence on their property between the Town's property and their property, he was okay with that. If the water district wanted to put in a fence/maintenance gate, he was okay with that. But, it should be clear that the Town did not want pedestrian access through there. There was sufficient access with Old Spanish Trail to the open space.

Councilmember Wengert agreed Old Spanish Trail was the more desirable entry point with parking, etc. She also felt that the district must have access to their own property. No public right-of-way should prohibit access to lands that were under their control. The question was whether the Town wanted to be in the fence design business. No one wanted to encourage pedestrian access in that area, and she did not think there would be a high volume of pedestrian access based on what was around it. Old Spanish Trail was a very inviting trail, and it was the Town's desire to encourage pedestrian traffic there. She questioned whether the Town wanted to say "no pedestrian access" even though it was not being encouraged. There was public open space on the other side.

Councilmember Merk said if a fence was going to be built that was 50% on Town property, the Town needed to follow its own fence ordinance. What was being proposed fell within the category of perimeter fencing. Wildlife would have no problem with a split rail fence. The first thing the Town should require was that whatever fence was on the Town property be removed. He had no problem with granting an easement to the water district for maintenance and maintenance only—except in cases of an emergency. He didn't see the need for the openings in the fence. He also did not think a split rail fence would keep people out. It just made it clear that this was the end of the road and that this was not a trailhead. From the neighbor's point of view, he thought it was perfectly legitimate to not have the openings but have a fence that Portola Valley would approve in any application that was brought to the Town. If they built a fence on the County side, the Town was out of the picture.

Ms. Tate used the map to point out where a break in the fence would be on the boundary with water district land. Councilmember Driscoll said if there had to be a hole in the fence because of the nature of the property lines, he would want to take a stronger position to emphasize that it was not the Town's desire to encourage a new pedestrian access route to the trail system. Responding to Councilmember Wengert, Ms. Tate said the break in the fence from the Town's property line would be about 4-5 feet. Mr. Krenz verified

that the fence would go in just across the end of the public right-of-way. Councilmember Merk said if the district wanted to connect it to the other fence, that was the district's choice. Councilmember Driscoll said he would prefer that it be connected.

After discussion, Councilmember Driscoll moved to: a) send a letter to whoever owned the fence on the Town's property to immediately remove it; b) send a letter to the County supporting the water district's plans for a split rail fence with no openings for pedestrians but with a locked, removable section for emergency and maintenance access; c) create an easement with the water district for access for emergency and maintenance only; and d) indicate that the Town discouraged pedestrian access. Councilmember Merk seconded the motion. Ms. Tate suggested clarifying that the fence would be at the road end where the County's right-of-way intersected with Portola Valley. Councilmember Driscoll concurred. Mr. Harbury requested that the letter also indicate Council's support--regardless of who actually built the fence. Councilmember Driscoll said he did not feel the need to include that point. Mayor Derwin called for a vote, and the motion carried 5-0.

(9) Recommended Revision to Current Town Policies for Use of Town Facilities Including Proposed Prohibition of Consumption of Alcohol on Town's Athletic Fields

Ms. McDougall reviewed the staff report dated 8/13/08 on the revision to current Town policies for use of Town facilities. She distributed copies of a survey of other cities' rules and regulations regarding alcohol use at athletic facilities.

Referring to the policy for use of the community hall and activity rooms (p. 3, item I), Councilmember Toben questioned whether users should be expected to climb up and change the light bulbs in the exit signs. Ms. McDougall said the staff would take care of that as a normal maintenance function. But, if something burned out on weekends when there was no staff available, the exit signs still had to be lit. Councilmember Toben said the Town would have a hard time escaping liability if staff neglected to check the operability of these signs. Bulbs should be changed on a regular basis to minimize the possibility of them going out during the weekend. Councilmember Merk agreed. He also questioned how a user would find a 12' ladder to put up and change a light bulb. The Town should set up a regular schedule for changing/replacing the light bulbs. Mayor Derwin agreed and questioned whether the Town would want users on ladders. Ms. Sloan agreed there could be increased liability. Councilmember Merk suggested asking the users to report to the staff if any of the bulbs were out. After discussion, Council agreed to delete the bullet.

Referring to section 4.f (p. 6), Ms. McDougall recommended removal of the dollar amount for the custodial services because it could change. Ms. Sloan suggested moving it to the fee section of the application. Ms. McDougall suggested revising 4.f. to read "If custodial/litter pick-up services are required after an event, the renter shall be charged the cost of cleanup in accordance with the Town's fee schedule."

Referring to Insurance, item d. (p. 6), Ms. Howard confirmed that private individuals using the Community Hall and activity rooms would need to have special event insurance. The Town paid the fee and charged it back to the party renting the room. ABAG covered the Town's events. Responding to Councilmember Toben, she said most organizations had insurance. If they didn't, special event liability insurance was available through the Town. Ms. Sloan suggested, "Private individuals using the Community Hall and activity rooms are provided insurance by the Town, the cost of which is factored into the fee."

Referring to Deposit Refunds, item d (p. 7), Ms. McDougall said the dollar amount should be moved to the fee section. Referring to Use Restrictions, item h (p. 2), Ms. Sloan said "no loitering" was old fashioned and not enforceable.

Referring to Exhibit B, Ms. McDougall said "other" should be removed from the title. Ford Field, for example, was handled through recreational policies. Under Use Restrictions, she said "Events are limited to

private social events (weddings, birthday celebrations, etc.)” was already stated in the policy and should be removed. Ms. Sloan said the statement about loitering should also be removed from the last line.

Referring to Exhibit C, Ms. McDougall said there had been some discussion about combining Community Sponsored (local); and Local Non-profit, and Local Religious Political, Social Philosophical, Neighborhood Associations and Clubs. Ms. Howard said one of the reasons it had been broken out years ago was because staff didn’t want to charge people like the local PTA, the local Little League, or the scouts in the community. If the Boy Scouts of America wanted to come, then there would be a fee. There were also a number of social-type groups that were very hard to categorize. She liked the distinction of people who were from the community being able to use the facilities for free. Responding to Ms. Sloan, she said that included a local church. Councilmember Wengert suggested local non-profits, neighborhood associations and clubs all be free. If it was a fundraiser, they should pay 50% of the fee. Councilmember Driscoll supported no fee if the event was free, and 50% if it was a fundraiser—even if it was a local group. Ms. Howard said there could be groups that were made up of local residents that supported causes like a political campaign.

Ms. Sloan said the issues were local versus non-local and fundraiser versus not a fundraiser. She suggested “Local groups that serve the community and benefit Portola Valley.” She was concerned about the scouts being free but the church having to pay the fee. Ms. Howard said there was also the issue of how to define a church. She suggested “church with facilities in Town.” Councilmember Wengert suggested getting rid of “church.” Councilmember Driscoll said the General Plan had a clear focus of benefiting the Town as opposed to an unusual religious sect from San Jose that wanted some place to chant. Ms. Sloan suggested “local non-profit” and delete “religious, political, social, philosophical...” Councilmember Driscoll suggested using the General Plan language that the majority benefited local. Councilmember Wengert agreed and said for non-local, it should be full fee. Ms. Sloan said the changes would be made to the application document and brought back.

Ms. McDougall reviewed the survey of neighboring cities on alcohol at athletic facilities. Responding to Councilmember Toben, Councilmember Wengert said she did not think the County permitted alcohol in their parks. Ms. Howard said there were areas within parks where alcohol was permitted.

Councilmember Toben said he had been playing softball for the past ten years on Town fields. He felt temperate imbibing of wine and beer was part of the experience of being together with friends and neighbors. He did not want to put an end to that practice. The Town would never think of prohibiting wine and beer at the holiday party for volunteers. This had become an aspect of city culture, which he did not feel was damaging. If there were problems, it could be addressed. He was vigorously opposed to prohibiting alcohol. He was not as hard line with respect to hard spirits and could support Menlo Park’s approach of beer and wine only. He also thought there needed to be consistency with respect to Blues and BBQ and athletic facilities. Parks and Rec was very clear about its opposition to a prohibition of alcohol. Ms. Howard noted that staff’s recommendation pertained only to athletic fields.

Councilmember Wengert said their was also the policy issue of mixing alcohol and sports—not including social events sanctioned by the Town, such as Blues and BBQ or the holiday party. Those were like private parties in a public space. When there were Town sponsored athletic events on the fields, it was a different issue. There would likely be children and towns should discourage underage drinking by setting an example and not mixing alcohol and sports. She understood why other communities were prohibiting alcohol at athletic facilities. A ban was a shift and counter to what the Town had done historically, and she respected staff’s recommendation.

Mayor Derwin agreed with Councilmember Wengert. She described the prevalence of alcohol on high school campuses. She did not think the Town should allow alcohol while playing sports. Responding to Councilmember Toben, she said she was not in favor of drinking at public events.

Councilmember Merk said he was not aware of any problem and was surprised to see it come up. He had been approached by a member of the softball league and a member of one of the committees. The individual described what he considered tailgating where there was a social event associated with the game where beer and wine were consumed. Children were there, but there were no reports of any excess. What had been described to him was a very normal, social interaction of people. Adults drank at home in the presence of their children, and it didn't necessarily mean that their children were going to have a problem. That applied to this situation as well. It was not appropriate to have alcohol consumed during the events, but he did not think that was what was going on. He did not see that there was a problem in Town.

Councilmember Driscoll concurred with Councilmember Toben. He played with teams over the years, and there was never enough beer for everyone to have more than 1 or maybe 2. He also felt it was an important part of a social event. For adult softball, you had to be over 30 in any case. He would support a prohibition of alcohol other than beer or wine. Additionally, he never saw anyone drink a beer during a game.

Councilmember Toben said there were not that many forums in Town that were just easy social settings. He appreciated the fact that he was able to meet people on terms that were very different than at Town Hall or in the Schoolhouse. He thought it was part of the behavior of responsible adults.

SallyAnn Reiss said Huddart Park permitted alcohol. If you reserved a space, you typically had to keep the alcohol within that contained area. For all youth sports, there were strict rules prohibiting alcohol within a certain distance of the benches. After the event when the game was over, they often served wine during a barbeque. It had never been a problem. Additionally, she played in the adult leagues, and it was just part of the culture. After playing for years and years, she had never seen an incident. Leaving glass beer bottles around could be a danger, but there were enough recycle bins around. She said she was also speaking for others who felt very strongly that a prohibition wasn't necessary because there hadn't been any problems.

Responding to Mayor Derwin, Ms. Howard said she did not believe that alcohol belonged on athletic fields and that that was the norm. There were also liability concerns. Responding to Councilmember Driscoll, she confirmed that you could drink alcohol on some of Palo Alto's property but not on any of their athletic fields. Responding to Beth Rabuczewski, she said if the Town's facilities were rented for a private party, alcohol consumption had to be kept in the room or immediate area outside. People should not be drinking in the parking lots. If it was a Town function, the Town could do whatever it wanted.

Councilmember Driscoll suggested a prohibition on alcohol at athletic fields be taken out of the policy but ask the leagues that used the Town's fields to include in their applications a reminder that: a) they could not drink during the game; and b) beer or wine would only be allowed after the game and off the field.

Referring to the staff report cover memo on the revised policy for use of Town facilities, Councilmember Merk said he did not feel amplified sound should be allowed outside. Ms. McDougall noted that what was proposed were modifications to the previous policy for renting the MUR. Parks and Rec Committee felt that amplified sound should only be permitted if there was expressed written consent by the Town Administrator. Councilmember Merk said it should say that amplified sound was not permitted and then provide the exception. After discussion, Councilmembers agreed that the section (item j, page 5 of 7) should read "Amplified sound equipment may not be used at recreational facilities."

Referring to page 2 of 7 and parking, Councilmember Merk said he felt there should be no parking off of the pavement. That would keep cars out of the oak meadow. Councilmember Driscoll noted that there were a couple of places where overage parking could be permitted on the grass. Councilmember Merk suggested saying something that protected the oak woodland. Ms. Howard noted that the application stated that parking was specifically prohibited under the oaks. Councilmember Merk felt it should be added to the policy as well.

On page 4 of 7 and parking lots, Councilmember Merk suggested, "b. No alcohol is to be served or consumed in Town-owned parking lots." Councilmember Driscoll said he was okay with prohibiting alcohol in parking lots.

On page 5 of 7, item 3c, Councilmember Merk said it was confusing; users might think they were each allowed 24 events/year. He suggested "...a total of 24 events per year."

Referring to the application for use of Town Center buildings (Exhibit C, p. 2), Councilmember Merk questioned why there was no difference between residents and non-residents for use of the Town Center parking lot for special events. Ms. Howard said she did not recall ever having a non-resident ask to use the Town Center parking lot to shuttle people to their house. It was always residents having a big party without enough parking on their property.

Responding to Councilmember Toben, Ms. Howard confirmed that the Community Hall and activity rooms would be available on Saturdays unless there was special event booked that required all the rooms. On reserving the Community Hall, Councilmember Toben said staff appeared to favor booking for a full day. He asked why several blocks couldn't be booked during the day. Responding, Ms. McDougall said when the hall was rented out for a wedding or a day-long event, they would want to get in there early to decorate, etc. For shorter duration events, there was no Town staff to clean up and make sure the room was ready for the next group. Councilmember Toben said set up and clean up was the responsibility of the user. Ms. Howard said you could rent activity rooms by the hour. The Community Hall was for big events, and most people didn't want to rent it by the hour. Ms. Sloan suggested the Community Hall could be rented for a half day. Councilmember Toben said Parks and Rec had discussed three separate blocks: morning, afternoon and evening. He did not think it should be necessary to rent the Community Hall for 16 hours. Ms. Howard said people could rent the Community Hall for, for example, four hours. For \$1,000, users needed to know that the room was theirs for set up, decorating and clean up. Responding to Councilmember Merk, she said the 24 special events was limited to private social events. If you wanted to do a children's birthday party for 3 hours, that would be one of the 24 special events. If a teacher came in and qualified under the agreement, they could hold their classes. There was a third type of event that wasn't included in the 24 events where the Town would hire someone, for example, for a puppet show. There couldn't be any fee, but the Town could pay someone to do that. Councilmember Merk said if it was a private renter of the Community Hall, it should be for the whole day at the full fee. If 24 people wanted to rent it for two hours, that was all the Town could do. Ms. Howard said any time money changed hands, it was considered one of the 24 social events allowed. Councilmembers agreed it should be rented for the full day.

Councilmember Toben said he was less than excited about allowing weddings and retirement parties. While \$36,000 potential income was nothing to sneeze at, this was a public space that shouldn't be used for truly private parties. Referring to page 2 of 7, item 2.e, Ms. Howard confirmed for Councilmember Toben that the prohibition against advertising was to prevent people from putting up fliers/banners for their parties.

On page 5 of 7, item g, Mayor Derwin noted that no dogs were allowed on the fields. Ms. Howard said people were not picking up after their dogs.

Responding to Ms. Reiss, Ms. Howard confirmed that you could reserve the baseball field for a private function. Ms. Reiss said she was involved with a group that decided to meet at the Town Center every Wednesday at 10:00 a.m. to let the kids play on the fields. They were told that was an organized group and that they needed to fill out the form. She said this was a public facility. Ms. Howard said one person took care of all the athletic fields. Sometimes there was a conflict when mowing needed to be done. Occasionally, people were asked to move. Responding to Ms. Reiss, she said if a group wanted to reserve space everyday for a few hours, they would need to fill out the papers. The Town would try to work out a schedule or indicate that it could not be reserved everyday for a certain time.

Ms. Howard said a clean version of the policy would be presented at the September 10 meeting.

(11) Amendment to Joint Exercise of Powers Agreement Between Housing Endowment and Regional Trust (HEART) of San Mateo County

Ms. McDougall reviewed the staff report of 8/8/08 on the first amendment to the JPA agreement with HEART.

Chris Mohr, HEART, noted that a Homebuyers Assistance Program was available and was targeted towards people who made a little bit more money than traditional affordable housing programs served.

By motion of Councilmember Toben, seconded by Councilmember Driscoll, Council adopted Resolution No. 2416-2008 Approving and Authorizing Execution of First Amended Joint Exercise of Powers Agreement for Housing Endowment and Regional Trust of San Mateo County by a vote of 5-0.

(10) FY 2008-2009 Street Resurfacing Project

Ms. Howard reviewed Mr. Young's staff report of 8/13/08 on the engineering for the annual street resurfacing program.

By motion and second, Council adopted Resolution No. 2417-2008 Authorizing the Town Administrator to Enter into a Professional Services Agreement with Nichols Consulting, Chtd. and Authorizing Approval of the Scope of Work for the FY 2008/2009 Street Resurfacing Design by a vote of 5-0.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(12) Portola Valley Community Fund (PVCF) Request for Approval of 3<sup>rd</sup> Quarter Budget for 2008

Beth Rabuczewski, PVCF Treasurer, reviewed her memo on the 3<sup>rd</sup> quarter budget.

Mayor Derwin asked if political dignitaries (e.g., County Board of Supervisors, Mayors, etc.) would be invited to the ribbon cutting ceremony. Councilmember Driscoll said he hoped it would be a local event. Councilmember Merk said that was a concern of the Community Events Committee. Mayor Derwin pointed out that the County had given the Town a line of credit for the project. Councilmember Driscoll suggested there be a separate event. Ms. Reiss said the hope was to keep the ribbon cutting low key. Blues and BBQ people were a little sensitive to the fact that this was their event. The Community Events Committee did not want a media circus. Dignitaries were welcome, but they would just be coming as spectators. Responding to Mayor Derwin, Ms. Reiss said a separate table for Siegel & Strain and TBI had not been planned. Ms. Howard suggested the Town buy a table for them. Ms. Rabuczewski said one table was budgeted that could be used if the Board of Supervisors were not invited. The Committee would defer to the Council as to who they wanted to included.

Councilmember Toben said the Board of Supervisors had taken special action in offering the Town a line of credit for the project. He felt they should be invited. Councilmember Driscoll questioned whether that should extend to the legislature, State senators, etc. Ms. Rabuczewski said she felt 1-2 representatives from the Silicon Valley Community Foundation should be invited.

Referring to the budget, Councilmember Merk said he was absolutely shocked to see a major donor dinner of \$179 per person. If he had donated \$500 or \$1,000 to the Town Center project, he would have been appalled to think that each person was going to get \$179 worth of service. If any elected official or Planning Commissioner had to file a form 700, he hoped that that amount of money was declared as a gift. He strongly questioned the sustainability and carbon footprint of an event for a building in a Town Center that

was trying to get platinum LEED certification. He felt it was absolutely contradictory, and he was shocked to see \$13,154 was being proposed for a fancy dinner for people who gave a lot of money. Responding, Ms. Rabuczewski said the major donors had collectively given between \$13-14 million of the \$17 million raised. The steering committee wanted to make them truly feel that everyone was grateful for what they had done. The decision was to put on a nice event. Having said that, the majority of the money was for food and beverage. The invitations had been hand assembled by her family. She and Ms. Reiss were doing the centerpieces. The gift boxes would also be hand assembled. In trying to make things in keeping with the style of the project, it was not cheap to do things green. The invitations were all printed on recycled paper, which cost more money. The centerpieces were being made out of branches off of Ms. Reiss's property. The theme of the Town Center and the values of Portola Valley had been kept in mind but done in a way that still expressed gratitude to these people who went to these dinners all the time. Hamburgers and hotdogs could be served on the patio if that's what the Council wanted. Councilmember Merk said this was over the top hypocrisy. Ms. Reiss noted that the volunteer appreciation party cost about \$12,000 for about 200 people.

Councilmember Driscoll moved approval of the PVCF 3<sup>rd</sup> quarter budget. Councilmember Toben seconded, and the motion carried 4-1 (Merk).

(13) Status of Town Center Project

Ms. Howard described work done and problems encountered during the week. The central pathway was now completed but could not be used for 7 days. The paving would be done tomorrow. The water storage tank was in. Councilmember Driscoll described the water tank system. Ms. Howard said there had been some issues with PG&E about starting their work. The pipe under the bridge where the utilities would go had an obstruction. There was enormous pressure to get everything working for the 13<sup>th</sup> and 14<sup>th</sup>.

Councilmember Driscoll noted that he and Councilmember Merk had been given authorization at the last Council meeting to approve change orders up to \$50,000. That had been utilized in order to have the paving done on schedule. There was also an issue about the entrance road that crossed the bridge over the creek to the right. On the plans, the road was shown as only 18' wide, which was substantially below the appropriate standard. It would be widened to 22 feet. With respect to the creek, he suggested the part that had been excavated be ribboned off for the event on the 14<sup>th</sup> instead of a construction fence, which would create a visual barrier. After discussion, Council concurred.

(14) Reports from Commission and Committee Liaisons

(a) Planning Commission

Councilmember Toben said the Hibbard site development permit was approved with conditions. Hibbard indicated that he would not do the project because he could not get financing; he intended to sell the property with the permit. With regard to the Douglas sewer hook up, the Commission set a deadline of October 1 to complete that condition of the CUP. The Sustainability Element should be before the Council early in the fall. Additionally, the Climate Protection Task Force would be meeting on September 16.

(b) The Sequoias

Councilmember Toben said The Sequoias held a big ribbon cutting ceremony for its new health services complex, which was very impressive.

(c) Parks and Rec

Councilmember Toben said the Committee reviewed the policy for use of the Town Center facilities. With

respect to the renovation of Ford Field, there was some concern about whether it was doable in this fiscal year. There was some interest in exploring the possibility that at least the infield might be constructed; the turf would be discussed further with input from the community.

(d) Community Events Committee

Councilmember Merk said there had been a lot of discussion about a farmer's market; a subcommittee, including Bill Conner, was being formed to look into it. He discussed types of farmer's markets, organizations that ran or sponsored farmer's markets, and what it would take to have a viable market. He said he brought up the issues of CUPs and the Town's policies about not attracting people from outside the spheres of influence. He said the Committee also discussed Blues and BBQ and the volunteer appreciation party.

Mayor Derwin said Carolyn Rogers asked that the Council work on recruiting people for Blues and BBQ. If there were more people, more would be raised for open space.

(e) ASCC

Councilmember Wengert discussed projects reviewed by the ASCC on Westridge, Golden Oak, Grove Drive and a Blue Oaks lot.

(f) Mayor's Events

Mayor Derwin discussed a town hall meeting with Anna Eshoo and a tour of the new Humane Society Silicon Valley green facility in Milpitas.

WRITTEN COMMUNICATIONS

(15) Town Council 7/25/08 Weekly Digest: None

(16) Town Council 8/1/08 Weekly Digest

(a) Letter from Spring Down

Referring to the letter dated 7/17/08 notifying the Town that Spring Down would be terminating its lease for the two front parcels, Ms. Sloan said she would write a memo on what the property could be used for. The deed was very specific about what uses were allowed. Councilmember Driscoll and staff discussed excess fill and restoration of the property.

(17) Town Council 8/8/08 Weekly Digest

(a) New Moving Day

Ms. Howard confirmed that Town Hall would be closed from 1:00 pm on Thursday, September 4 through Monday, September 8 to allow for the move to the new Town Center. Town Hall would reopen at 8:30 am on Tuesday, September 9.

CLOSED SESSION

(18) PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Government Code §54957  
Title: Town Administrator

REPORT OUT OF CLOSED SESSION: Nothing to report

ADJOURNMENT

The meeting adjourned at 12:03 a.m.

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Mayor

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