

TOWN COUNCIL MEETING NO. 750, JULY 9, 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 Merk, Toben and Wengert, and Mayor Derwin
Absent: Councilmember Driscoll
Others: Town Planner Mader, Dep. Town Planner Vlastic, Town Administrator Howard, Town Attorney Sloan, Planning Manager Lambert, Asst. Town Administrator McDougall, and Town Clerk Hanlon

ORAL COMMUNICATIONS

Councilmember Toben said Bill Lane was unable to attend the meeting tonight but wanted to offer some comments. With respect to the article in *The Almanac* about creating an endowment to fund Town Center activities, he [*Lane*] supported the creation of an endowment if there was money left over from the Town Center project. But, the uses of capital from that endowment needed to be appropriate and consistent with what the donors to the Town Center project had in mind when they made their contributions. The endowment also needed to be properly administered.

CONSENT AGENDA

By motion of Councilmember Wengert, seconded by Councilmember Toben, the items listed below were approved by a vote of 4-0

- (4) Rate modification to Greenwaste Recovery, Inc., Agreement, per Asst. Town Administrator's memo of 7/9/08.
- (5) Resolution No. 2411-2008 Determining and Establishing the Appropriations Limit for 2008-2009, per Admin. Services Officer's memo of 7/9/08.

REGULAR AGENDA

- (1) Minutes of the Town Council Meeting of June 11, 2008 (Removed from consent agenda)

Councilmember Merk submitted changes to the minutes of the 6/11/08 meeting. By motion and second, the minutes were approved as amended by a vote of 4-0.

- (2) Minutes of the Town Council Meeting of June 25, 2008 (Removed from consent agenda)

Councilmember Toben submitted changes to the minutes of the 6/25/08 meeting. By motion and second, the minutes were approved as amended by a vote of 4-0.

- (3) Warrant List of July 9, 2008 (Removed from consent agenda)

Referring to Check No. 40073, Councilmember Merk said this was the first time a Committee member was reimbursed for education/training. Ms. Howard said Ms. Hughes asked if it would be possible for the Town to pay for the fee to attend a conference; Ms. Hughes paid all of the other expenses. The budget for this type of expense was normally for Councilmembers and Commissioners, but she felt this was an appropriate

expense and understood that it had been a very useful conference. Ms. Hughes had made an informal report back to the Committee. In the budget this year, that item now read "Education/Training for Council, Commissions, and Committees."

By motion of Councilmember Merk, seconded by Councilmember Toben, the Warrant List of 7/9/08 in the amount of \$486,209.89 was approved with the following roll call vote:

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

(6) PUBLIC HEARING: Consideration of Granting Exception to Deviation Policy Contained in Town Council Resolution 2279-2006 ("Amended Resolution 500") for 16 and 42 Santa Maria Ave., Lands of Hibbard and Lee

Councilmember Toben said he was an affected property owner and stepped down from the dais.

Mr. Vlasic reviewed the staff report of 6/30/08. Since the report was completed, he said the applicants submitted additional information on costs associated with the project and what it would take in their estimation to obtain a loan for the slide repair and re-building the houses. Staff had not researched the economics of the project and had focused on the merits of the application relative to Town policies and regulations. Additionally, there was a letter dated 7/7/08 from Mr. and Mrs. Singleton of 40 Santa Maria Ave.; they expressed concerns about the scope and timing of the repair effort as well as what kind of development should be permitted on the property. He said the site development permit component and grading application for the landslide repair was close to being completed, with key conditions identified and signed off by staff, the Town Geologist, the Town Engineer, and Planning Commission. The CEQA work might take a little longer. Additionally, the bank indicated that it would hold onto the funds and release the money to the contractors. The acceptability of that would need to be discussed with the Town Attorney. With respect to oversight, he said the applicants had submitted a very detailed program from their geotechnical consultants. The Town would need to ensure that there was a mechanism in place for inspections to make sure everything was happening as it should. There had been a huge amount of effort over the last several months to bring this together with plans being revised and clarified. With respect to the floor area issue, he reviewed the background set forth in the staff report of 6/30/08 and recommendation from the Planning Commission.

John Hibbard, applicant, introduced his banker, Lloyd Coleman, and Robert Atkinson, a professional appraiser. Mr. Hibbard said he had been to a number of the meetings when the project was discussed and had spent about \$500,000 to date trying to get this problem solved. It was his strong belief that this problem was caused by improper drainage from properties above. That drainage was approved by the city over the objections of his real estate agent, Jean Isaacson. In terms of setting a precedent, he hoped that the Council would take into consideration the unusual circumstances and that the city bore some responsibility. The man who lived in the house below gave him his house for \$100,000 after his [Hibbard's] driveway slid into that house. If the houses could be built at an average of 3,000 sf, the project was viable. If the homes were 2,300-2,500 sf, he would not build anything. He distributed a chart that showed the feasibility of constructing homes of various sizes on 16 and 42 Santa Maria. He discussed site values (row #10) for homes from 600 sf to 3,300 sf, and the corresponding maximum loans (row #12). He proposed one home on the smaller site of 2,800 sf and a home on the larger site of \$3,200 sf. He understood how inconsistent that was with Resolution 500 and how inconsistent his situation was with the normal situation where applicants wanted the city to help them do something. The Council needed to consider how much he was helping the city. This was a problem that no one else wanted to deal with. He was told when he came to the city five years ago that the Town would not help him. He appreciated the efforts of Tom Vlasic who had been very meticulous about the way he had looked at the project. But, it had been an uphill fight. He was about to quit. He still had concerns about the water coming down. He couldn't find out what the Hayfields

property had done to mitigate the amount of water that came down. There were 6-12 inches of water flowing across the surface of the lot for a period of 3-4 days. He was prepared to take the profit that would accrue to him from the purchase of the lower lot for \$100,000 and put that right back into the mitigation of the slide. He did not think the Town could find anyone else who would do that. The numbers he proposed were driven by the economics of doing the development. Mr. Coleman's bank would have to give him \$411,000 to fix each lot. If the project wasn't viable, they wouldn't do it, and he wouldn't want them to do it. That was why he had been adamant about the size of the houses. The engineers had suggesting keeping the footprint small by building a two-story house with a footprint of about 50' x 32' in the best place the engineers had indicated. Mr. Vlasic had confirmed that this was not an engineered solution, but it was a solution that had no limitations on what he was willing to spend. Whatever recommendations the engineers had made, he had followed. The reason it didn't qualify as an engineered solution was that below 30 feet, there was nothing that could be done in terms of stabilization. This problem didn't arise from Pd; it arose from water. What he was trying to do was put these lots back in a condition that was far better than when he started and far better than any of the neighbors. He didn't want to build anything that was dangerous. When he sold these properties, he would give the new owners a stack of documents that illustrated everything that had happened. He did not want them to sue him or the city. They needed to understand what had been done. His reading from other people in the grading and real estate industries was that after the properly engineered repairs were done and inspected, there wouldn't be any stigma attached to these lots. People would think they were safe or safer than the surrounding lots because what was going on down to 30 feet would be known.

Robert Atkinson, appraiser, said he looked at the two properties and provided an independent appraisal of the feasibility of developing the two sites. Feasibility was measured in dollars and cents, and the returns had to be greater than what you put out. It also dealt with the quality, design and size of the house, and acceptance of the market place. It was pretty clear that you had to have somewhere in the neighborhood of 3,000 sf to make this a financially feasible project. If you couldn't submit a package that was financially feasible, you would not be able to borrow money to fix the lots in the first place--let alone build the houses. Whether it was Mr. Hibbard or the next property owner, they would have the same problem.

Lloyd Coleman stated he was vice president of construction lending with Valley Community Bank. He discussed his professional background in construction. He said the bank looked at every construction loan from a very cold-hearted position. The bank didn't care if Mr. Hibbard made a dime. All the bank cared about was that the loan was paid. The house just had to be sold for enough money for the bank to get its money. When the bank looked at a project, the analysis looked at what houses in the area sold for. A 5,000 sf house would not be built in a 1,000 sf house neighborhood. On the other hand, the bank looked at what it took to make the project financially viable. The models that he worked up for this project showed that according to federal lending guidelines, Mr. Hibbard would lose about \$140,000 on a 2,000 sf house. No bank would lend on it. The federal lending guidelines said you could lend so much of the completed value and land value. There were also allowances for what it would cost to sell, contingencies, etc. A lot of safety factors were put in. But, the bank's job was to protect the bank first. The bank also had a role in protecting Mr. Hibbard and the Town in that the bank controlled the disbursement of funds. As the work was done, the bank paid for it. The bank guaranteed the Town that the house would be completed. When the loan was made, there was a piece of dirt of questionable value and a plan for how to turn that dirt into real collateral that someone would pay money for. The only way the bank got its money back was for that collateral to be perfected and the house finished. The property owner or contractor could get hit by a bus, but the house would still be completed because there was enough money in the budget. That part of the analysis was what protected both the local community and the borrower in that the house did get finished. Because that safety was built in, it put a strain on which projects were viable and which ones weren't. The bank very carefully bracketed those values. At 3,000 sf, the property owner could make a little money. But, he had already spent a lot over the years. They had to make enough money so that the bank was paid back with certainty and two houses were built. The other thing that it did for the community was to take a piece of dirt with very low value that produced very little tax revenue and turn it into two nice houses that

produced some tax revenue. His job was to look at it economically. He could not make a loan at 2,000 sf per house. At 2,400-2,500 sf, the property owner would have to choose to be donors to the city. It didn't work financially within lending guidelines. If your business was baking cookies and it cost you \$1 per cookie. If someone told you you could only sell the cookies for 80 cents, you wouldn't want to bake very many. There had to be enough money in it to make it financially viable. Mr. Atkinson added that Mr. Coleman's analysis was done independently from his.

Responding to Councilmember Wengert, Mr. Vlasic confirmed that the carport for the upper property was included in the staff's proposed 4,960 sf. He said he did not know if the applicant's proposal included the parking. If it was 2,800 sf and 3,200 sf plus square footage for covered parking, it could total 6,800-7,000 sf, which could be approaching 86% of the existing floor area.

Responding to Councilmember Merk, Ted Sayre (Town Geologist's office), said a Pd slide was defined as a landslide with the potential for movement at greater than 10' in depth. In this case, a number of borings had been drilled through the landslide that was active in 1998. The active landslide was as deep as 25' and possibly 30.' It was known that there was a piece of terrain at that depth that moved down the hill several feet. When that mass moved downhill, it removed support from upslope materials and loaded ground further down the slope. It upset an equilibrium condition. Support had been removed from above and load added to slopes below. Both of those were an adverse situation to be in in upcoming winters. The benefit of doing the grading/repair was to put that mass back up on the slope, drain and compact it, and take away the weak surface that failed down to 25-30 feet. It would be much improved from when it initially slid in 1998. Down below 30' there could be deeper, older landslides that didn't move in 1998. The potential for those deeper masses to move in the future was not known. That was the situation that much of this neighborhood shared. Mr. Hibbard added that the mitigation of that condition was \$622,000. That was one of the things that drove the big budget for the project.

Responding to Councilmember Merk, Ms. Sloan said Resolution 500 was a policy—not an ordinance. The Council could make a decision to vary from that policy without changing any code or granting a variance. Resolution 500 set forth the qualifications for deviations. When the Council made land use decisions, those decisions should be based on land use reasons. She did not think it was appropriate for the Council to be weighing economics. Every applicant that built a house or a commercial building always talked about economics. But, it was not that relevant to the Council's decision. People were free to make that presentation and it filtered in, but land use decisions should be based on other things. Responding, Mr. Hibbard said he didn't understand that. If this problem wasn't fixed, he questioned what the effect would be. This was a land use issue. Leaving it the way it was meant that it would not stay where it was. Ms. Sloan said things could be looked at globally. This was a problem, and the Council might want to think about how it could be solved. She restated that it was a land use issue.

Responding to Mayor Derwin, Mr. Sayre said the movement of the ground was movement caused by water infiltration and saturation of the ground due to very strong precipitation and the overflow of water onto the property. The water circulated into the ground and saturated it to a significant depth. The earth materials began to slide. Water was a very integral part in that process, but it was not only water. It was the actual ground moving as a result of saturation and loading. Responding to Mayor Derwin, Ms. Sloan said the Hayfields project was approved long ago, and she was not familiar with the details of that. Basically, a town's responsibility was to use reasonable judgment in their approval of subdivisions, which she assumed happened. If there was some drainage that was inappropriately coming across Mr. Hibbard's property, you might want to look at the property owners uphill to see if they were doing something inappropriate. She had no reason to believe the Town had any responsibility for this.

Mayor Derwin opened the public hearing.

Jean Isaacson, Santa Maria, said she wrote to the Town in 1984-85 about water being directed onto the Hibbard property, and those letters were in the file. She also met with the Town Engineer at that time.

John Berry, applicant's civil engineer, said Mr. Hibbard installed two pipes in a temporary fashion to handle runoff from the Hayfields. As part of the fix, that would be formalized structurally so that if it happened again, there were measures to take care of it. Those pipes were 14" in diameter. Nolte had looked at that and concurred that they were sufficient to handle that runoff.

Planning Commissioner Elkind said the Town Attorney had advised that land use decisions should not be based on the economic objectives of a project and should reflect the Town's land use plans, objectives, policies and regulations. That was extremely critical—especially in a situation where the Council was being asked to make an exception under a situation affecting policy. This was not only a policy situation but an interpretation of a very recently approved amendment to Resolution 500. Secondly, it was her experience that one of the biggest problems facing land use deliberating bodies was how to deal with the immediate problem without trapping the community into a series of decisions because of precedent. This was the first example under the newly amended Resolution 500 of allowable additions from 10% to 25%. She had supported staff's proposal for this case because it seemed reasonable and consistent with policies.

Planning Commissioner Gilbert said one of the difficulties in living within the confines of Resolution 500 for this property was the small size of the house on the upper lot. If you looked just at the lower lot, the Commission would have been able to grant an increase in floor area up to 25%. For the upper lot, the house was less than 900 sf; 25% would mean a 1,100 or 1,200 sf house. That would be hard to justify given the magnitude of this project. Staff's suggestion was to try to merge the two properties, in terms of house square footages, and allow the property owner to divide that between the two houses. Two of the Commissioners were okay with that; the other two felt qualitatively that more could be given but didn't have a basis to decide on a number.

Steve Toben, Santa Maria, said he was strongly supportive of everything John Hibbard was trying to do to repair a large problem. In response to Commissioner Elkind's comments, he had great reverence for the concern over precedent. But, there was a qualitative difference in the scale in this case. The total amount of terrain involved was 15,000 cubic yards, which was the largest grading project ever undertaken in Town. It concerned the mediation of a hazard that affected not only the Hibbard/Lee property but surrounding properties as well. He appreciated the Town Attorney's perspective that economics should have no bearing on the Council's decision. However, given the larger-than-private nature of this problem and the magnitude, he was sympathetic to the notion that some additional consideration should be given. He was uncomfortable with the quality of the evidence that had been presented with respect to going beyond what amended Resolution 500 might allow. Up until this evening, the only evidence he had been presented with was a single letter from one lending institution. Mr. Coleman had presented his qualifications tonight, and he had a little better idea of where he was coming from in terms of a possible solution. But, for the Council to undertake a decision of this magnitude, a richer body of evidence should have been presented early on in the process. This was the first night he had seen this analysis, and he didn't know what it was based on. He was struggling with how much the Council could hang on the body of evidence that had been presented. This was a larger-than-single-property matter, and some exception to the Town's policy might be acceptable. But, the Council should be sure that: a) the quality of the evidence was strong enough to support that; and b) the distinctions with respect to this project could be articulated sufficiently to make that determination. The problem was that the applicant indicated that it was now or never, that the Council had to approve this exception to the policy tonight, that the Planning Commission had to approve the site development permit next week, and that the work had to begin immediately in order to beat the rains. That was a difficult position to be placed in when the quality of the evidence was not overwhelming. He reiterated that he was very much behind the Hibbard/Lee efforts to make this happen. He also appreciated the thoughtfulness of the Singleton letter, which raised some issues/questions the Council should consider.

On the necessity of having this done this year before the next rainy season, Craig Reid, UGI Technology, said it all depended on how much rain there was. If it was big, it would occur. It would definitely occur unless something was done. It was a matter of whether the Council and everyone else wanted to take the risk to put that time off.

In terms of the site development permit, Mr. Vlastic said he was hoping that everything would come together with a package of conditions. Because of CEQA, he did not think the Planning Commission would be able to take final action next week. Based on what he heard today, staff should be in a position by the end of the week to have all of the issues conditionally acceptable. There were some fine details with the drainage plan that Nolte and the Town Geologist were waiting for. Matters that had been raised during the public process-- including Mr. Singleton's issues relative to management--were all conditions that had to be worked out with the Town Attorney. Staff was waiting for all these bits and pieces to come together. Relative to the uphill matter and drainage, the record showed that there were clearly technical differences of opinion on that history. If all of those had to be resolved, there would probably never be a solution in terms of this project. Everyone had agreed to move ahead, but that didn't mean there weren't differences of opinion in terms of responsibility.

John Boyce asked how much square footage people were quibbling about. If it was safe to build on this site, what was the big deal about adding a few more square feet. Mr. Vlastic said if a 25% increase was allowed, it would mean about 1,000 square feet. The applicant was proposing an additional 2,300-2400 sf, pending clarification of the garage space. It was 1,300-1,400 sf over what amended Resolution 500 allowed. Resolution 500 also required that all the history relative to the improvements on those properties showed that everything was done with permits and was consistent with Town regulations. There were other issues that might come up. The approach was to accept what was there as a base to work from within the concept of the planning regulations and give some flexibility to get a repair done sooner rather than later.

Mr. Hibbard said this had been going on for 4-5 years. He wanted to go ahead and avoid the dangers of next winter. He also wanted to avoid the expense that would be incurred if the project was delayed another year. Those expenses would probably sink the project for him personally. The economics of what was wrong would continue. It was costing around \$10,000/month. As far as Mr. Toben's comments, the first row of his chart represented six appraisals, which could all be documented. He had all the material in his files. He had not written a formal letter. The property could be appraised under each of those scenarios and use different sales comparables. This would be the 993rd thing that he had been asked to do that would cost thousands of dollars in order to satisfy someone else's concerns about what should be looked at. When he was asked to drill holes down 30 feet, that was done. Then he had been asked to monitor those over a couple of winters. He had done that because he was willing to do a serious repair. The city had never joined in trying to solve this problem. Instead, it was barrier after barrier after barrier. A defeat for him would be painful; a defeat for the city would turn out to be very painful too. He could envision a lawsuit with Mr. Toben because his property could slide into his. The city was being very irresponsible about this. If the city wanted to join in a solution, he wanted to hear the city's solution. If no houses were built, he asked what the city would do. This wasn't about Resolution 500. When he came to the city, he said he wanted to fix the water problem. There was a river up on that hill. He believed that the Hayfields had moved the pipes around, and that might mitigate it. But, it was unknown if they had a city permit, etc. If the purpose of the meeting was to look at how many square feet was appropriate, he was happy that it had come to that point. But, the whole context of this needed to be understood. There would be water, and there would be lawsuits. These were geotechnical issues—not money issues. What kind of land use planning was it to say, "Let's wait for more slides."

Mayor Derwin closed the public hearing.

Councilmember Merk said he wanted a solution to come out of this. From reading the material and hearing the Planning Commission deliberations two weeks ago, his initial gut level feeling was the staff report was

right on. It said here are the rules, this is what could be done, this was a special circumstance, and the recommendation was to go beyond the rules to reach 4,960 sf. He said he would like to get an answer about the parking. Responding, Mr. Hibbard said his proposal included just living area. Councilmember Merk said a 2-car garage would be an additional 440 sf. He said he reread all the material. This problem was larger than this applicant's problem and affected other people in the Town. He would like to find a way to feel comfortable making the exception that was a little bigger than what staff was recommending. The Council had information from one lending institution. While he wasn't supposed to be looking at the financing, the financing was the key to whether or not a solution could be found. Whether the financing worked for the applicant or not was not as important as getting the landslide fixed. That was the land use decision that he wanted to find an answer to. He felt somewhat insecure because he didn't know that these numbers were really true numbers. They were some person's numbers, but they might not be what some other person believed. While he sympathized with what Mr. Hibbard had been through, this was how the system worked. Now, he only had one banker's opinion on whether this was feasible. He wanted to see it done but didn't know if he had enough information to feel comfortable. He didn't want to deviate any more than absolutely necessary.

Councilmember Wengert said it was an extraordinary set of circumstances. She was in complete agreement with the Town Attorney's recommendation and the approach that the Council should not and could not consider economics in any land use and policy decision. Seeing more numbers would not solve the issue in her mind. Additionally, this moving landslide occurred ten years ago when the old Resolution 500 was in place. That allowed only the replacement of the existing sites as they were. There was no activity on this parcel during those years. The amendment to Resolution 500 had been recently and very meticulously crafted. It was a major loosening of the restrictions to allow expansion in an area of geologic concern. The Town had worked with the neighbors to ensure that it was a very fair piece of legislation and addressed all the issues. The thing that informed her decision the most was the part of the analysis that Cotton Shire prepared in terms of protecting public safety in the long run, which was an engineered design solution. That engineered solution was not possible on this site and was a huge determinant in terms of what the Town should allow. The Planning Commission had done a terrific job in allowing as much as they potentially allowed. She could not support any incremental square footage above and beyond that which was currently proposed by the Planning Commission and staff, which she supported.

Mayor Derwin said she appreciated the intent of the applicant. But, she didn't appreciate feeling like she was being bullied to come to a decision. Mr. Toben's words resonated with her, and she also didn't feel that the body of evidence worked. The Town Attorney's advice was critical when the Council was being asked to make an exception under a policy interpretation of an amendment to Resolution 500, which was groundbreaking; it was a solution by a number of people on opposite sides who came together to come up with something that was fair for everyone. She sat through those meetings. Commissioner Elkind made the point of trying to deal with the immediate problem without trapping the community into a series of decisions that created precedent. She supported staff's recommendation and not any square footage beyond that. Councilmember Merk said he agreed with Councilmember Wengert and Mayor Derwin.

Councilmember Wengert said one of her trepidations was that Mr. Hibbard would decide to sell the property after some of the work was underway. If the work began, she encouraged the Planning Commission to consider ways to protect against that possibility. She moved to allow an exception to Resolution 500 to allow a total pool of floor area of 4,960 sf, subject to the Planning Commission's final review and approval of the site development permit and the Commission's determination of the mixture of square footage for the two homes. Responding to Councilmember Merk, Mr. Vlasic confirmed that the Commission felt the mixture of the floor area of the houses could be left to the property owner but subject to the normal review process, which would include septic systems, setbacks, etc. Councilmember Wengert amended her motion. Mayor Derwin seconded, and the motion carried 3-0.

Councilmember Toben returned to the dais.

(7) Installation of Wood Flooring for Town Center Community Hall

Ms. Howard reviewed the staff report of 7/9/08 on the installation of wood flooring for the new Community Hall. She said Mr. Young felt the cost for the floor material was a bit high, but it was vertical grain, local eucalyptus and under the total budget for the flooring.

Councilmember Merk said he spoke with Mr. Young about this. He was very comfortable with the low bidder who had a lot of experience putting in floors. But, they probably didn't have experience putting in eucalyptus floors. He [Merk] had done cupping, splitting and sanding tests with the wood, and it performed very well in the short term. It might have to be sanded down over time and refinished. The wood was beautiful and very hard. He thought it would make a really good floor and supported moving ahead.

By motion of Councilmember Merk, seconded by Councilmember Wengert, Resolution No. 2412-2008 Authorizing Execution of an Agreement Between the Town and Merit Floor Care for Installation of Flooring Material and Entry into an Agreement with Summit Springs Design to Obtain Eucalyptus Flooring was adopted by a vote of 4-0.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(8) Fire Prevention/Preparedness Resident Awareness Campaign

Ms. McDougall reviewed the staff report of 7/9/08 on the fire prevention and preparedness awareness campaign. She noted that a draft flier had been distributed.

Councilmember Wengert said the Town had the responsibility to make sure all the efforts of the various committees and neighborhood associations were coordinated. Both Westridge and the Ranch had meetings and separate mailings. This would be a phased approach where the Town first communicated with residents about preparation and prevention. Given the urgency of the issue, she felt the Town should make the initial contact with the residents. Ms. McDougall added that when the flier was finalized, staff would work with Woodside Fire Prevention District to ensure it was consistent with their message. Ms. Howard noted that WFPD was very supportive of the Town's efforts. The initial mailing would have a cover letter signed by both the Mayor and WFPD to let people know it was a joint effort and a united resource for residents. Councilmember Wengert added that future plans included having more on the website in terms of resources for residents.

Mayor Derwin discussed what the Ranch and Westridge had mailed out. There was also a PV forum post with some good suggestions. She noted that she went on a fire ecology walk on Sunday. Defensible space was not clear-cutting. It was better to create islands of plants so that there was habitat for the animals, etc. She would like that conveyed in the flier. Councilmember Merk noted that the Conservation Committee was working on a list of native plants that were more fire resistant. Additionally, people needed to have information on how they could make their space safer—such as removing dead wood—in cases where they had less than 100' feet from property lines.

Responding to Mayor Derwin, Councilmember Wengert said the flier was intended to inform people of what they could do now as opposed to things they could do when renovating. Councilmember Merk said there would need to be subsequent mailings.

Councilmembers and Chief Romero (WFPD) discussed fire retardant gels, fires in southern California, ingress/egress issues, etc. Responding to Councilmember Toben, Chief Romero said a 3- or 4-day fire was the worst-case scenario. At the Summit Fire, a lot of people had defensible space but they did not have good ingress to their houses. People needed to ensure that a fire engine could get in their driveway.

Additionally, the coastal range here made it unique. Most likely, the fires would go from east to west. He added that the Town's timing on the fire prevention campaign was very good.

Pierre Fischer, Valley Oak, said in addition to residents, gardeners and arborists also needed to be educated on fire safety. Secondly, he hoped the Town didn't have too high expectations on the education program. At the Ranch, every newsletter that went out had an article on defensible space, SOD, etc. He did a survey at the Ranch. Of the six homes that needed clearing, only three homeowners had done something. The cost ranged from \$800 to \$4,000. Additionally, Fire Marshal Enea said the new building codes and promoting non-combustible roofing and siding would be more important. These were things where the Town could really make a difference. Also, people were being encouraged to subscribe to SMCALERT. So far, the messages consisted of mostly tests. Ms. Howard said you could be quite specific on what alerts you wanted to receive. She was also working with the County to see if the Town could post its own alerts.

To Mr. Fischer's comments about expectations, Councilmember Toben said other media--like telephone calls--should be considered in addition to mailings. He said some of the content in the draft flier was very good.

Councilmember Wengert suggested Councilmembers review the draft flier and submit comments to Ms. McDougall by Monday.

(9) Planning Department Activity Report

Ms. Lambert reviewed her memo of 7/9/08 on Planning Department employees, special projects, permit activity, and projects completed in the last fiscal year. Responding to Councilmember Merk, she discussed photovoltaic permit activity of this and the last fiscal year. She added that everyone was looking forward to moving into the new Town Hall. She thanked the Council, Town Administrator, Town Attorney and Town Planner's office for their continued support and guidance. Councilmembers extended their thanks to the planning staff.

Pierre Fischer said the Town's GIS maps were extremely helpful in determining property lines, sewer lines, vegetation, etc. He hoped that a new aerial map could be done in the next year or two.

(10) Approval of 2008-2009 Planning Program

Ms. Howard reviewed her memo of 7/9/08 on the 2008-2009 planning program and budgeted items.

Town Planner Mader reviewed the status of the FY 07/08 planning program items set forth in his memo of 5/8/08 (pp. 3-5) and the 2008-2009 items (pp. 6-8).

Councilmember Toben noted that a resident had asked the Town to consider a view ordinance. He wanted the record to reflect that the Town was aware of the inquiry. While the other issues mentioned were clearly more important, this issue had been in the pipeline for awhile. A number of residents might have some interest in this issue. Town Planner Mader said if the Town was interested, \$5,000 from the special projects budget could be devoted to an initial look at the view ordinance question. He discussed view ordinances in Los Altos Hills and Tiburon. With the long list of pending items on the planning program for future years (memo, pp. 9-10), Councilmember Wengert questioned whether it should be included. Other than an ordinance, the Town's role might be to suggest alternatives such the Peninsula Conflict Resolution group. Responding to Councilmember Toben, Ms. Sloan said there was some common law about protection of solar, but not view.

Responding to Mayor Derwin, Ms. Lambert said fire safe guidelines for roofing, siding, etc., were addressed

in the building code. Mr. Vlasic said the Safety Element would also address this issue. He thought Chapter 7A of the building code could be applied Town-wide irrespective of trying to rate areas in terms of fire risk. A lot of materials were being developed to specifically meet Chapter 7A. Responding to Councilmember Wengert, Town Planner Mader said the fire consultant should have the fire hazard map ready for the next Council meeting.

Responding to Mayor Derwin, Town Planner Mader said all of the communities in the County had joined together on a countywide effort to make the Housing Elements have a consistent format. A lot of the common data such as census would be generated for the jurisdictions. The biggest challenge for the Town was to come up with strategies for new affordable housing. The major approach for the Town was second units. An inventory would need to be done to get better data. The group was working on a questionnaire that the State would accept. There was also a provision in the State law that essentially said you did not have to destroy your community's character for the sake of getting affordable housing. A good showing would have to be made. Responding to Councilmember Merk, he said the State's attitude for communities that were built out was to zone for higher density in some areas. The probability of development was the question. Councilmember Toben added that Assemblymember Ira Ruskin indicated there would be hearings in Sacramento to talk about build out because there had been complaints. Town Planner Mader noted that a regional approach to the allocation of housing units was also being discussed. With the current green building and energy shortage, concentrating development around transportation corridors, etc., made a lot more sense.

By motion of Councilmember Toben, seconded by Councilmember Merk, Council approved the FY 2008-2009 planning program by a vote of 4-0.

(11) Appointment to Open Space Acquisition Advisory Committee

Gary Nielsen, Chair, reviewed his memo of 6/18/08. Mayor Derwin appointed Ron Walter and Karin Wick to the Open Space Acquisition Advisory Committee. By motion and second, the Council unanimously concurred.

(12) Status of Town Center Project

Ms. Howard described work on the Town Hall, library, community hall and maintenance building. The sod had not been put on the field because of the heat, but the fence posts for the soccer field were installed. She described work completed on the creek and concrete work on the site.

(13) Reports from Commission and Committee Liaisons

(a) Planning Commission

Councilmember Toben said the Commission discussed the Hibbard/Lee project. There was also a discussion of a proposal to renovate the property that used to house the veterinary clinic for office space for Red Hawk Realty and the State Farm Insurance agency. The Commission also continued its discussion of the Sustainability Element, which would be submitted for preliminary review by the Council shortly.

(b) Airport Roundtable

Councilmember Toben said he hosted a meeting of the Airport Roundtable south County representatives to follow up on a presentation at a Roundtable meeting in April. The data presented at the April meeting was very poor and did not hold up. NASA apparently did not have the money to do the kind of analysis that should be done in order to make a reasoned judgment on whether oceanic tailored arrivals was worse, better or a wash with respect to noise impacts.

(c) Nature and Science Committee

Councilmember Toben said there would be a walkthrough of the classroom tomorrow.

(d) Community Events Committee

Councilmember Merk said there had not been a quorum for the last two meetings. Committee members were working on the Blues and BBQ. There was some concern about the grass being ready on the soccer field.

(e) Trails and Paths

Councilmember Merk said the Committee discussed the scoring of driveways where there were trails. The Town could do it if the homeowner didn't, but collecting the money from the homeowner was an issue. The Committee wanted to know what the policy was, how the Council wanted to handle the cost, and what could be done to ensure that homeowners did the scoring. There were also questions about liability. The Committee also discussed the Town property at the top of Coal Mine Trail next to Los Trancos Woods. The Los Trancos Water District wanted to make the lakes that they still owned into park-like areas. A property owner put a fence on Town land that went across the end of Lake Road. Neighbors were concerned, and it would be coming to the Council.

(f) Website

Councilmember Wengert discussed bids received for the website development and the potential role of Two Fish West. She noted that the Town's standard contract agreement had been questioned by one of the bidders.

(g) Council of Cities Meeting

Mayor Derwin said the topic discussed at the last meeting was how to get people out of their cars. A lot of information was presented. Speakers included Mark Simon and a representative from the Peninsula Traffic Congestion Relief Alliance. In Town, she suggested there might be a traffic shuttle to/from the Menlo Park train station with stops at Ladera, the Town Center and Woodside. She noted that the next Council of Cities meeting would be in Daly City, July 25. The topic would be "Winds of Change."

(h) Farm Tour of Santa Clara Valley

Mayor Derwin discussed the 2008 farm tour on 6/28/08 sponsored by Committee for Green Foothills. She said she learned a tremendous amount about the plight of the small farmer and how environmentalists were working with farmers and ranchers to try to preserve land. Preservation of open space could be saving a heritage farm or cattle ranch, or obtaining a small piece of land for a city park. Councilmember Toben suggested giving some of the materials to the Open Space Acquisition Committee.

(i) Fire Ecology Walk

Mayor Derwin reiterated that she attended a walk at the Arastradero Preserve sponsored by Acterra. She learned that fires had real benefits. The goal was not so much to suppress fire as to manage it so that it didn't destroy buildings. Fire hazard could be reduced without clear cutting, which created maintenance issues. Creating islands was preferred. The Park Ranger indicated that three things residents could do to improve fire safety was: (a) create islands of irrigated vegetation around the house; (b) live in a non-wood house; and (c) have a metal roof.

WRITTEN COMMUNICATIONS

(14) Town Council 6/27/08 Weekly Digest

(a) Greenwaste

Referring to Ms. McDougall's email about the Greenwaste rate change, Councilmember Merk said Greenwaste sent out a flyer indicating that you could call if you wanted smaller bins. There were two smaller sizes, which the flyer did not indicate the choices that are available. Older people would have difficulty moving the 95-gallon bins. In his case, he had no place to put such a large bin. He was concerned that the word wasn't getting out to residents. He suggested an insert be included in the next mailing. Ms. McDougall said Greenwaste had agreed that mailings to Town residents would be reviewed by Town staff before they were sent out.

(15) Town Council 7/3/08 Weekly Digest

(a) Wood Shake Roofs

Referring to the e-mail from Denis Enea about wood shake roofs, Councilmember Merk said national and state standards said that a shake roof that was treated was as good as some other kind of roof. The Fire Marshal disagreed, and it was difficult to know who to believe.

(b) July 30th Emergency Preparedness Training for Council

Councilmember Merk said he invited Woodside councilmembers to attend the emergency preparedness training meeting on July 30.

ADJOURNMENT

The meeting adjourned at 11:09 p.m.

Mayor

Town Clerk