

TOWN COUNCIL MEETING NO. 749, JUNE 25, 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, Public Works Director Young, Asst. Town Administrator McDougall, Admin Services Officer Nerdahl, and Town Clerk Hanlon

ORAL COMMUNICATIONS

Bill Lane, Westridge, said the surfacing and striping on Westridge Drive had been handled very well. He was pleased to see that borders had been placed at Alpine Rd. to encourage bicyclists to stay as far over onto the right as possible. Also, he said the Town budget was a terrific document that could be used by the Council in making decisions for the Town.

Chip Norris, Wayside, discussed the importance of integrity. He thanked the Council for their integrity and work.

Mayor Derwin recognized the passing of Hewitt Crane and Hobey DeStaebler. She reviewed the articles in the 6/25/08 issue of *The Almanac*. She extended condolences to the families and gratitude. She also extended condolences to the families of Keith Knudsen and Robert Wetzel who were involved in a tragic automobile accident. She said the issue of racing on Portola Road late at night would be on the Traffic Committee's agenda in July.

CONSENT AGENDA

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

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

- (2) Warrant List of 6/25/08 in the Amount of \$713,287.62.
- (3c) Resolution No. 2402-2008 Approving and Authorizing Execution of Eighth Amendment to Agreement for Plan Review Services Between the Town and Kutzmann and Associates, per Asst. Town Administrator's memo of 6/11/08.
- (3d) Resolution No. 2403-2008 Approving and Authorizing Execution of Eighth Amendment to Agreement Between the Town and Nolte Associates for engineering services, per Asst. Town Administrator's memo of 6/11/08.
- (3f) Resolution No. 2405-2008 Approving and Authorizing Execution of Second Amendment to Agreement Between the Town and CSG Consultants, Inc., for building inspection services, per Asst. Town Administrator's memo of 6/11/08.
- (4) Resolution No. 2406-2008 Adopting Town Investment Policy, per Admin. Services Officer's memo of 6/25/08.

REGULAR AGENDA

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

Councilmember Merk requested the minutes be continued to the next meeting so that he could listen to the tapes.

- (3a) Eighth Amendment to Agreement with Cotton, Shires & Associates for Geological Services
(Removed from Consent Agenda)

Councilmember Toben said there was a high degree of variability between rate increases from the various Town consultants. The geologist was increasing his rates by 13%, the planner by 3%, the plan checker by 0%, Nolte by 6%, CleanStreet by 3% and CSG by 5%. He felt an increase of 13% by the geologist was a fairly significant deviation from the others. The Town might want to consider other sources for geologic services. He assumed that some of the increase had to do with the particular liability that geologists faced. He understood that when there were problems, the geologist was sued first and often most heavily.

Ms. Sloan said several of the senior geologists that worked for the Town had been promoted and had become principals or partners in the firm. Councilmember Toben questioned whether residents would be getting any better service than they had the past year even though the geologists had bumped themselves up by substantial amounts. The Council had the responsibility to at least ask the question. While he would not stand in the way of the contract, he suggested that a message to sent to Cotton Shires that the Council noticed a very substantial increase this year relative to the other professional services and would explore the possibility of shopping around in FY 2010.

Councilmember Wengert said typically if there were promotions of people who had worked on the account, people at a lower level would be brought in so that the billing level didn't reflect those increases. If the Town had a lot of principals working for the account, it could be overkill. She agreed the increase was strikingly large. The question was whether new people shouldn't be assigned to the Town's account at a lower billing rate. Ms. McDougall added that in the past, Cotton Shires had not charged for clerical support, which would now be charged.

Councilmember Merk moved adoption of Resolution No. 2400-2008 Approving and Authorizing Execution of Eighth Amendment to Consulting Agreement Between the Town and Cotton, Shires and Associates, per Asst. Town Administrator's memo of 6/11/08. Councilmember Driscoll seconded, and the motion carried 5-0.

- (3b) Ninth Amendment to Agreement with Spangle Associates for Planning Services (Removed from Consent Agenda)

Councilmember Wengert said Ms. McDougall's memo of 6/11/08 discussed rates for the Planner and Dep. Town Planner. But in Exhibit B-8, the terminology was not consistent. She suggested the exhibit be changed to "Planner" and "Dep. Town Planner." The rates as set forth in the memo should also be consistent on Exhibit B-8. Ms. Sloan noted that both consultants were principal planners.

Councilmember Merk moved adoption of Resolution No. 2401-2008 Approving and Authorizing Execution of Ninth Amendment to Consulting Agreement Between the Town and Spangle Associates, per Asst. Town Administrator's memo of 6/11/08. Councilmember Driscoll seconded, and the motion carried 5-0.

- (3e) First Amendment to Agreement with CleanStreet for Street Sweeping and Clean-up Services
(Removed from Consent Agenda)

Councilmember Merk said this company started before 8 a.m. He had brought this to Mr. Young's attention in the past. There were numerous times when they were working 20-35 minutes before 8 a.m. It was very loud, and he found it extremely annoying. They knew the rules, which were in the contract. They had been told before, and it still happened. He would not support renewing this contract. Mayor Derwin asked that the message be sent to CleanStreet.

Councilmember Driscoll moved approval of Resolution No. 2404-2008 Approving and Authorizing Execution of First Amendment to Services Agreement Between the Town and CleanStreet, per Asst. Town Administrator's memo of 6/11/08. Councilmember Wengert seconded, and the motion carried 4-1 (Merk).

(5) Public Hearing: Adoption of Fiscal Year 2008-2009 Budget

Ms. Howard said the changes discussed at the last Council meeting had been incorporated into the final version. She reviewed changes to: 1) ASSC budget (p. 36); 2) Planning budget (p. 37); 3) Website consultant (p. 41); 4) emergency preparedness community outreach (p. 41); 5) HEART budget (p. 43); 6) service contracts (p. 52); and 7) liability insurance (p. 51) Changes had also been made to the cover memo as requested. Responding to Councilmember Merk, she said the 2007-2008 Fund Activity Summary (p. 2) had inadvertently been included instead of the 2008-2009 table. The 2008-2009 summary had been distributed as a separate handout.

Mayor Derwin opened the public hearing, there were no comments, and the hearing was closed

Referring to page 56, item #7, Councilmember Merk said there was \$60,000 in the proposed budget for the Kersten/Larry Lane Trail; there was \$10,000 for that trail work in the current budget for the Trails Committee, which would not be used in this fiscal year. Ms. Howard said budgets were not carried over; it had to be re-budgeted. Responding to Councilmember Merk, she confirmed that the digitization of building and planning documents was not 100% complete. A special capital improvement budget was not required to continue the work. The majority of the work had been done. The material that came in that would be digitized would come under the regular operating budget—not a capital improvement budget.

With respect to the extra accounting required for the Hasso Plattner donation, Councilmember Merk said the Town promised the residents that regular general funds would not be used for the Town Center project. Over a 20-year period, the Town would spend about \$500,000 of the \$2 million on accounting. Councilmember Driscoll said it was \$20,000 for the first year or two only; it was expected to be about \$5,000 in subsequent years. Councilmember Merk said those accounting fees should come out of the donations to the Town Center project rather than out of the general fund. Ms. Howard said the Hasso Plattner agreement specifically said that that money could only be spent for very specific things; it did not include the cost of the accounting. Councilmember Merk said some of the money raised should be set aside for the additional accounting required by the Town's accepting that gift with those particular strings attached. Councilmember Driscoll said what the balance in the PVCF account would be would not be known until the final bills were paid on the Town Center. But, he agreed that running tax revenues should not be paying for the accounting required by this donation. If there were extra funds, he did not see any reason not to use them for the extra accounting.

SallyAnn Reiss said this had been brought up when the Town first looked at the agreement. The feeling was that the Town got a building out of this donation that the community could use. Fees would be charged for the use of that building. She hesitated to take money out of the money that had been raised because many people donated their money to pay for the facility and programs/services that would be provided--not accounting fees.

Councilmember Merk said a large donation had been made to pay for the building, but the accounting fees came along with it as dictated by the German government. He thought it would be an appropriate use of the

PVCF funds. Responding to Councilmember Merk, Councilmember Toben said the PVCF had a specific mandate. He did not know whether that mandate could justify a reallocation. He suggested the Town Attorney look into it. Ms. Howard said the money had to be budgeted for as an expenditure. At a later date, the funding for this particular item could be discussed. Councilmember Wengert agreed that the budget should not be held up pending a resolution of this issue. Councilmember Driscoll agreed. With the Town Center project, the Town was taking on maintenance responsibilities for a lot of new landscaping, new buildings, roofing, etc. The accounting costs could be thought of as the same type of expense of operating the building. He felt the budget should move forward.

Under revenues, Councilmember Merk said he did not see anything for the potential sale of the trailer buildings. Ms. Howard said no revenue was anticipated. When it was first brought to the Council, the Council requested staff look at getting a lease to own. At the end of three years, the Town ended up purchasing the trailer for \$1. While staff might be able to find someone to pay the expenses of moving and taking it away, there was limited interest.

Councilmember Toben said he was sorry to see that the Total Revenues Budget Summary (p. 4) had not been changed as he suggested at the last meeting. He did not think the layout was very accessible to the casual reader. Ms. Nerdahl said the format had been decided on by Councilmembers Toben and Davis and Ms. Howard 4-5 years ago. Councilmember Toben said there wasn't any opposition when he requested the format be changed at the last meeting, and yet it came back the same way.

Councilmember Wengert moved to approve Resolution No. 2407-2008 Adopting the Operating and Capital Budgets for Fiscal Year 2008-2009. Councilmember Toben seconded, and the motion carried 5-0.

(6) Town Center Project/Sausal Creek Daylighting Phase 2

Ms. Howard distributed photos of the work to date. Mr. Young reviewed his memo of 6/25/08 on phase 2 of the Sausal Creek daylighting project. Responding to Councilmember Driscoll, he said bids were good for 45 days. If the permits were not received within that time, the costs to the Town would be manpower. The bids could be delayed or rejected because the permits had not been received. He thought the Town would get the permits. The only danger was if the agency had specific recommendations that they wanted done. The bid documents would have to be changed, which would affect the bid. Responding to Councilmember Driscoll, he said change orders could be done. Ms. Sloan confirmed that no work could be done until the permits were received. Ms. Howard said the total Phase 2 budget was \$511,000. Staff did not anticipate that there would be requests for huge changes. Staff had not heard anything negative from the agency. The issue was the timing and whether the permits would be issued in time to get the work done within the period you could work on the creek.

Responding to Councilmember Driscoll, Mr. Young said Fish and Game indicated they had jurisdiction over the habitat in that area. Councilmember Driscoll said as long as the creek was in the pipe, he did not feel that they had jurisdiction. Ms. Sloan said as soon as the pipe was opened, it was their jurisdiction. Councilmember Driscoll said he understood that that was one of the last things that was going to happen. Ms. Sloan said the Town would be given a permit to let the water flow. One of the conditions of the permit might specify a type of landscaping that was different from what the Town had put in. Councilmember Driscoll said it was ironic that there was no creek there now.

Responding to Councilmember Wengert, Mr. Young said no grading could take place between October 15 and April. If it didn't rain before October 15, the work could proceed.

Councilmember Toben pointed out that there were no footnotes for some of the notes indicated in Exhibit B. Mr. Young said the only permanent notes were the ones shown as footnotes. The notes in the table's last column were personal notes by the table's drafter (PWA).

Councilmember Merk questioned why 24" box redwoods were required. You could put in a 5-gallon redwood and wait three years. Redwood trees grew particularly rapidly. That had already been discussed and agreed to. Councilmember Driscoll noted that Mr. Young and Mr. Hogdson were still working on a lot of the details. Mr. Young described some of the cost savings being discussed such as using logs from the old site and using mulch instead of hydro seeding.

Responding to Alex Von Feldt, Mr. Young said use of Acterra and volunteers was not reflected in PWA's Exhibit B, but it was included in his (Young's) package. Responding to Councilmember Merk, he said soft costs for the project included design costs, construction management costs, geotechnical testing costs, permit fees, etc.

Responding to Councilmember Driscoll, Mr. Young said the design cost for the 100% plans was close to \$280,000. Councilmember Driscoll noted that the Town had a lot of creek expertise on the Conservation Committee. He thought the Town could do the construction administration. Mr. Young agreed.

Ms. Von Feldt updated the fundraising numbers. She said some pledges came in last week and receipts now totaled \$880,000. That included the matching grant since May 1. As indicated in her memo of 6/17/08, she did not feel any of the grant opportunities were likely. People generally went out for grants years in advance of when the construction would take place. On the other hand, not getting grants meant the Town would not have to deal with all the reporting requirements that came along with grant funding. She said some of the previously planned landscaping for the Town Center project would not be necessary because of the creek project, and those costs would not be incurred. That number was difficult to figure out, but it would be a credit. Mr. Hodgson quoted \$30,000 and PWA quoted \$100,000. Acterra would be doing the planting, and the whole cost including plants would be about \$14,000. She discussed the cost of professional landscaping and the parts of the landscaping plan that she felt should be done professionally. She noted that a fundraising party was planned for this summer, and larger donors would be targeted. If the matching grant was completely matched, it should be around \$1 million. Danna Breen added that the last party was very successful. She felt the second party this summer would finish up the matching grant. Ms. Von Feldt said she did not want to wait to complete the project until every dollar was raised. It would delay the project a year. The costs would increase and more money would have to be raised to pay for those increased costs.

Ed Wells, Naranja Way, said this was a great project that did something for just about everyone. It was educational and served as the front yard for the Town Center project. It was a good investment for the Town. As an engineer, he thought there was relatively little risk in getting the plans out and the bids in so that some real cash flow analysis could be done to find out where the Town stood and what it needed. There were enough people involved in the fundraising that a couple of more pushes with some private mailings would be enough. He encouraged the Council to keep moving with this project. It would be something that would help everyone. Danna Breen added that Ed Wells was not only a hydrologic engineer, he was also the Town treasurer for thirteen years. He had a history of fiscal responsibility.

SallyAnn Reiss said she really supported what the Friends of Sausal Creek were doing. A lot of the fundraising for the Town Center project had been done very quietly behind the scenes at the beginning to get the momentum going. She had a lot of faith in the Friends of Sausal Creek fundraisers. They weren't giving up, and she thought they should be given credit that they would get this done. There were a lot of people cheering and supporting them. She wanted to see it continue.

Jon Silver, Portola Road, said if the creek project had been a part of the Town Center project from the beginning, it would have been funded through PVCF. The creek fundraising had been particularly impressive given that many people had already given to the Town Center. He urged the Council to go ahead with the project.

Councilmember Driscoll said it was very difficult to put a cost/value on disruption. The Town had tried to maintain a functioning Town Center for the last two years in the midst of chaos at times. He wanted people to think about what it would mean to leave the creek project on hold. He would like to see it finished as quickly as possible and was prepared to allocate funds where necessary to do the project. He was also willing to take the chance and go forward with the bidding process with the notion that the Town would get the permit as Fish and Game indicated in January.

Councilmember Merk said the whole project needed to be finished. If the Town had to go financially out on a limb until the rest of the funds were raised, he did not see that as being an insurmountable issue. The Town had done that in the past and had done it at the beginning of the Town Center project. He wanted it to go out for bid. If the bid opening had to be delayed for two weeks or all the bids had to be rejected, so be it. But first, negotiations should be done for change orders with existing contractors. Where that didn't work, it should go out for bid. When the approval came through, the Town should be ready to go.

Councilmember Wengert said this had been a conundrum from the beginning relative to how it had progressed. She agreed that it was well underway. Logic dictated that that project should continue. She had major concerns about the funding from the beginning, but she had incredible respect for the efforts and results to date of the fundraisers. If there were excess funds from PVCF, she thought those could be potentially used, as opposed to general funds, for any cost gap that might emerge. If the two projects had been paired, the funds would have been raised as a single project. She was looking for other ways to ensure there was funding, outside of using the general fund, if the fundraising didn't meet the target. With those reservations, she could support going forward and continuing the process. It did not make sense to stop it right now. Other than the funding issue, this was a heavily engineered project for the size of that creek. Staff had done a fabulous job in trying to identify where cost savings were possible, and she encouraged that to continue. She thought there had been some over engineering in this project. The creek headwall looked like it would support a much more substantial creek than Sausal Creek even at its peak loads. She wanted to continue but wanted to explore other opportunities for financing should the fundraising not be adequate.

Councilmember Toben said the reason that the creek project had not been integrated in the original plan was that it was controversial. There were lots of residents who questioned the value of the project. Some of those major donors might have been dissuaded from giving as much as they did. There was still a significant amount of question regarding the value of this project given the facts that: a) it would be dry several months of the year; and b) it was extremely expensive at \$1 million plus. He was not sure that had it been wrapped in the Town Center project, the Council wouldn't be having this conversation. He had enormous respect for the work that the fundraising committee had done. He remained quite concerned that the result of the negotiations that produced this plan, which he facilitated, contemplated fundraising that would be in place before this project was undertaken. Instead, the project put at risk several hundred thousand dollars of general fund money. As for the suggestion to consider looking to the balance that may or may not be available at the end of the project from the PVCF, he felt there could be significant sensitivity on the part of PVCF and their relationship with the donors—some of whom had said they were not supportive of this project. Maybe when they saw the project underway, they would see the light. But, because he was so close to the negotiation, he clearly got the message from the stakeholders that this was to be a separate fundraising effort. He would unfortunately have to vote nay on this resolution.

Councilmember Wengert said she also participated in those negotiations. But, what she saw now was a very successful fundraising effort by this group. She thought they would be successful and remained optimistic that they would be able to raise the funds. Hopefully it would be a combination of lower costs through continued efforts to value engineer. In the event that that didn't happen, there might be an opportunity to convince some of the donors—even those who were initially in opposition to it. If there was no money left in PVCF, the general fund would have to be the backstop. Given the progress and what had happened to date, she was willing to proceed at this point rather than stopping the project.

Councilmember Driscoll said every pitch that he listened to was very clear that the creek was not part of the Town Center project. PVCF raised money for the Town Center project--not including the creek. It was also his understanding that there were people who gave money to the Town Center project thinking there was a creek in it. They were surprised to see now that they were being asked to give again for the creek. One of the problems was that the project costs changed all the time. Another problem was that some of the money that was contributed to PVCF was contributed as a form of equity as opposed to cash. As those were turned into cash to pay bills, there was some variation as to what that number would actually be. There were a number of unknowns. However, he was fairly confident that the kind of shortfall the Town might run into with the creek was a lot smaller than the most likely outcome of the PVCF situation. That issue could be confronted at the time. He thought it was a bad idea to start raiding that fund. There was definitely some sensitivity. But, those donors who thought the creek was included had to be respected as well. The decision tonight was whether to let the bids and move forward with the project. It was too early to know exactly where the funding would be coming from. The fundraisers were doing a great job, and it might be a moot issue in a few months. Tonight's decision was a practical one: to leave the site open or finish it.

Councilmember Merk said it could easily come to the point where the fundraisers felt they had reached a saturation point. The creek project would be done, and people would be able to see it. When it was there, it could be another fundraising opportunity.

Ms. Breen said there was another group of people who had no intention of donating to the Town Center project but decided to because of the creek project—especially during the matching donation for the Town Center. The creek project had stimulated fundraising for the Town Center.

Jon Silver said there were a number of people who accepted the creek just being in the culvert. He discussed other controversial issues such as the Town Center project itself and the UUT. He was not sure that the creek per se was any more controversial than rebuilding the Town Center.

SallyAnn Reiss said it was important to understand the mechanics when funds were redirected. Basically, donations would have to be given back, and the donors would have to redo their taxes. It was not a small issue, which was why PVCF hadn't gotten into it. Responding to Councilmember Merk, she said donors gave to the PVCF, which was a specific fund for a specific cause as defined by the original project. Some donated for very specific parts of the project. Those were being honored as were those that donated to the project as defined in the original application given to the Silicon Valley Community Foundation to set up the Town's fund. The project was defined so that the Town didn't go off and create something completely different. When the cost of the Town Project skyrocketed from \$6 million to \$20 million, people looked for things to cut. One was the creek, and another was the soccer field. The creek fundraisers were doing a great job, and she thought they would be successful. But, the steering committee for the PVCF had to honor what the fund was designated for at the very beginning.

Bill Lane said he had his fingers on the pulse of a good number of donors who met matching dollars and who were aware that those matching dollars were consistent with the donors that put up the money to match. If they didn't specify what their gift was to go for, that did not imply that they didn't feel it was definitely going for the new Town Center. There was some controversy over the soccer field and the creek. He would be concerned if the Town began to blend the projects together. He did not think the Silicon Valley Community Foundation would look very favorably on taking money away from the Town Center project for the creek project.

Councilmember Merk moved adoption of Resolution No. 2408-2008 Authorizing the Town Administrator to Obtain Proposals and/or Competitive Bids to Complete Phase 2 of the Sausal Creek Daylighting Project. Councilmember Driscoll seconded the motion.

Responding to Councilmember Toben, Ms. Howard said a meeting was set up with Fish and Game to get

input on the permit. If it was positive, the Town would issue the bid packages before the permit was received. Responding to Councilmember Toben, Mayor Derwin said the Council conceptually approved the creek project in October. The project did not get going until September of the following year. Ms. Von Feldt wanted to start the fundraising much earlier than October of last year. They had raised a lot of money in a short period of time. Additionally, in the last week, there had been a substantial increase in fundraising. She had complete faith that they would get this done. She wanted to get it done as soon as possible.

Mayor Derwin called for a vote, and the motion carried 3-1 (Toben), with Councilmember Wengert abstaining.

(7) Set Salary Schedule

Ms. Howard reviewed her memo of 6/25/08 on the salary range adjustments. Councilmember Toben moved adoption of Resolution No. 2409-2008 Modifying the Salary Schedule for Fiscal Year 2008-2009. Councilmember Wengert seconded, and the motion carried 5-0.

(8) Agreement with Pivot Interiors, Inc., for Town Hall Office Furnishings

Ms. McDougall reviewed her memo of 6/25/08 on the purchase and installation of Town Hall furnishings at a cost not to exceed \$74,560.02.

Councilmember Driscoll moved adoption of Resolution No. 2410-2008 Approving and Authorizing Execution of an Agreement Between the Town and Pivot Interiors, Inc. Councilmember Merk seconded, and the motion carried 5-0.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(9) Status Report and Request for Authorization for Staff to Obtain Bids to Complete Trail Work on the Herb Dengler Preserve

Ms. McDougall reviewed her memo of 6/25/08 on the proposed Herb Dengler Preserve trail alignment.

Craig Taylor, Trails Committee, reviewed his memo dated 5/15/2008 on the Dengler/Targ Trail proposal. Using overheads, he discussed: 1) property donated by the Kerstens; 2) existing Larry Lane Trail; 3) Hayforks Trail; 4) proposed trail and construction; 5) existing Woodside Trail Club Trail; 6) Joan Targ Trail; 7) Herb Dengler Trail; 8) trail signs; 9) proposed picnic table and plaque; 10) bench; and 11) donations. Responding to Mayor Derwin, he pointed out available parking in the area and trail connections. Responding to Councilmember Merk, he discussed grades and switchbacks on the Herb Dengler Preserve. Councilmember Merk said Mr. Dengler did not want trail grades to exceed 6%. If this was the Herb Dengler Preserve, the trail should honor his wise outlook on the steepness of trails. He noted that the Larry Lane Trail was a condition of the Hayfields subdivision; it was not a voluntary gift of the subdivider. Mr. Taylor said he could not find any legal record for that trail.

Susan Gold, Trails Committee, said she was on Toyon Trail very frequently. She felt most of the grades on Toyon Trail exceeded what this trail would have. There was nothing steeper on this trail than on Toyon Trail. Mary Hufty, Trails Committee, said the Town specifications for trails required that trails have a grade less than 5%.

Councilmember Driscoll moved to approve the revised conceptual trail alignment and connection as depicted in attachment 2 to Craig Taylor's memo and direct the Public Works Director to obtain bids and construct the new trail and connections. Councilmember Merk seconded, and the motion carried 5-0.

Councilmember Toben moved to authorize the Town Administrator to execute the License Agreement with the property owners, Russell Targ and Nancy Kiesling, to allow for a right-of-entry onto their property for the purpose of constructing the improvements. Councilmember Wengert seconded, and the motion carried 5-0.

Councilmember Toben moved to approve naming of the new trail and connection as the "Joan Targ Trail" and naming of the Old Woodside Trails Club path the "Herb Dengler Trail" consistent with the map depicting the alignment on attachment 2 and in accordance with the recommendation of the Trails Committee. Councilmember Driscoll seconded. Councilmember Merk said as a Planning Commissioner and Councilmember, he had many interactions with both of the people these trails were named after. They were completely different people. He had a problem with the largest section of trail in the Herb Dengler Preserve being named after someone else. He suggested the section of the trail in The Hayfields be named in honor of Joan Targ. He was very uncomfortable putting those two names together in the same parcel named after Herb Dengler.

Mr. Taylor said this had been discussed at the Trails Committee. The consensus was that the idea of a trail that just stopped seemed odd. The signage had been designed with that in mind indicating where the Joan Targ Trail and Herb Dengler Preserve were. He thought the Targs could perceive this as a slight. Having a trail change names mid-way was physically odd. He added that he also knew Herb Dengler and thought he would view this as a tempest in a teapot. The Committee had tried to put together the best proposal possible.

Jon Silver said he knew both Herb Dengler and Joan Targ. He agreed with Mr. Taylor and would not want the suggested change perceived as a slight.

Mary Hufty said Joan Targ's legacy was still there, and there was a sense of hurt about this trail. She thought what was proposed was lovely and a good healing thing for the trail system and the Targs. She also thought Mr. Dengler would celebrate it. It was also an opportunity to celebrate Joan Targ in her characteristic way.

Councilmember Wengert said she heavily weighed the Trails Committee's proposal and all those who had worked on it for a long time. She felt the Joan Targ Trail was logical. Not knowing either of the individuals, there was a sense that both had a very different legacy and personality. She supported the logic of what was proposed by the Trails Committee. She could also see the possibility for offense being taken by the family if the name was changed now. That would be a mistake to send that signal when they had been so generous.

Councilmember Toben agreed. The Trails Committee had done a tremendous job in producing this result. The segment outside the Kersten boundary that might be renamed was only about .2 mile and was essentially a trail fragment. From the standpoint of the Town's trail maps, demarcating a .2 mile trail segment for Joan Targ followed immediately by the rest of the Herb Dengler Trail did not make sense. There was also the prospect that the Herb Dengler Trail could continue up the hill. The preserve itself was named after Herb Dengler. He appreciated Ms. Hufty's comment that this was an opportunity for reconciling diverse viewpoints. He supported the Trails Committee's proposal.

Mayor Derwin called for the question, and the motion carried 4-0, with Councilmember Merk abstaining.

With regard to the bronze plaque, Councilmember Merk said he felt the plaque was grandfathered in by the fact that it was decided well before the Town's new policy was adopted. Councilmember Toben moved approval of the placement of a bronze plaque on a picnic table as described in the staff memo of 6/25/08. Councilmember Merk seconded, and the motion carried 5-0.

(10) Portola Valley Community Fund (PVCF) Request for an Endowment Fund

SallyAnn Reiss reviewed her memo and request to establish an endowment fund to support programs and activities at the new Town Center facility. Even if there was no money left in the PVCF when the project was complete, she thought an endowment fund should be created. She said Parks and Rec, the Friends of the Library, and Community Events all had plans for activities at the new Town Center. The endowment would be a pot of money that could be used for all kinds of events.

Responding to Councilmember Merk, she said programs and services for the Town Center facility was written into the original documentation establishing the PVCF. Responding to Councilmember Wengert, she said there was some sense of how much money would be left in the fund, and she felt it was time for the Council to consider an endowment. She was also concerned that if there was money left over, people would come up with their own suggestions on what to do with it. With an endowment, it would be clear what that money was originally intended for and what any surplus should be used for. Responding to Councilmember Wengert, she said there was nothing in the documentation indicating that unused donations should be returned to the donors. Responding to Mayor Derwin, she said the committee was more of a "sign off" committee on spending the money. People could apply to the Town on what they wanted to do. It could go to the staff or to the endowment committee to be sifted through.

Responding to Mr. Silver, Ms. Reiss said the documents for the fund were on file at the Silicon Valley Community Foundation. Mr. Silver suggested the Town obtain copies as it was affecting Town policy. He thought the idea of having an endowment to pay for on-going programs was great. But, a lot of the services/programs suggested in the memo might be handled by the Parks and Rec Committee. At one time, the Committee dealt with much more than just the playing fields. He also thought that the Town Administrator, Town Council and Town Finance Committee should have a role in the administration of an endowment fund as they did with the Open Space Fund and the Open Space Acquisition Committee.

Bill Lane said gifts that were given to the PVCF were for the creation of new facilities and landscaping that went with it. If there were excess funds, there should be limits on doing anything that would interfere with the Town picnic and Blues and BBQ, which were very important.

Craig Breon, Bonita, said if there were excess funds, it was a blessing. He agreed that the language should be reviewed. Having run a non-profit, you had to pay close attention to the wishes of those who built it. It sounded like some of the things being proposed would fit into the overall concept. You could have a new committee or draw people from existing committees to make some recommendations to the Council.

Ms. Reiss said she wanted to create an endowment even if there was no excess money. The schools funded their endowment through on-going fundraising. She felt it would be great to have a lot of community events at the new facility. Funding the Town picnic could be one of those things. Additionally, she was on the Community Events Committee, and there was no budget to do some of the things people wanted to do.

Councilmember Toben said he strongly supported the notion of a restricted fund or endowment that would be consistent with the purposes for which the donors made their gifts to fund programs, services and facilities of the Town Center. How best to operationalize that fund was the question. It could be through the existing committee process rather than a new process. There were already committees in Town or committees that could be revived when the new facility came on line. Community Events, the Friends of the Library, Parks and Rec and others might, through a budget process, propose an allocation from this restricted fund for activities at the Town Center. That would result in a decision making process that was familiar to everyone. It would also get the Town out of the tricky territory of having a separate committee of residents making decisions about specific grants. It might work for the school foundation, but it could be problematic for a host of reasons here. He felt any excess from the PVCF should be put in a restricted fund of some sort with purposes to be fleshed out and with the governance modeled after what was already in place in the existing budget process. It was also an opportunity to give more energy to the committees.

Ms. Reiss said the endowment committee would only make recommendations to the Council. The most important thing was to ensure that the endowment was set up so the steering committee for the PVCF could end its operation. If an endowment was set up, responsibility could be transferred over to the Town and a Town committee.

Councilmember Wengert said having extra money was a great issue to have to deal with. She did not want to create a parallel process to what had been done so effectively with all the committees over the years. She wanted to look at it within the existing framework as opposed to a new framework. However it was administered, it would be a fabulous opportunity for the Town Center.

Mary Hufty said one of the commitments of the Town was to natural resources. In every one of the charrettes, the creek was discussed. It had come up over and over again, and it was a much beloved component of the Town Center by many people. There were other things on the plan that were less well loved. If there was excess, some of it should be used to complete the creek project. It was part of the Town Center even though people were trying to draw the line.

Councilmember Driscoll said the request was for the Town to ultimately deal with these funds as a segregated fund as opposed to putting the money in the general fund. That was a good idea. The second issue was how to administer it. Because it was not known at this point whether there would be any excess funds, it was premature to decide that. He suggested getting some input from Parks and Rec and Community Events and see whether they were up to administering it.

Councilmember Merk agreed it should be a separate fund. He was concerned about the idea of a Town committee reviewing community applications for events. Currently the Town staff did that, and the staff was neutral. Committees had a tendency to get off on their own agendas and not be neutral. It was safer to have Town staff take care of that kind of thing. There were a number of committees that were ready and willing to provide the Council with suggestions on programs and activities. In terms of a fund, he thought it should simply be a restricted fund within the current accounting system like the Open Space Acquisition Fund. The Council would be making the decision in the end.

Mayor Derwin said she supported Councilmember Toben's suggestion. She had feedback from Susan Thomas who would love to revive the Cultural Arts Committee. She had also heard from the library. She thought it was best to keep this within the structure that already existed and to administer it through the committees. She supported a restricted fund.

Ms. Reiss said Ladera Rec had a part-time activities coordinator who created community programs, figured out what people wanted, administered it and worked on communication. A Town position like that could help administer the services and programs at the Town Center. She reiterated that if there was no money left over, she still wanted to create an endowment.

Councilmember Toben said some care would be needed when writing the terms of this restricted fund/endowment. It resembled an endowment if the intention was to create a pool of capital on which one drew income as opposed to a restricted fund, which could be spent 100% in a given year. What the permitted and non-permitted uses were would also need to be established. It might be tempting to spend the money during lean years on things the money was not intended for. Councilmember Driscoll reiterated that there were a lot of project closure issues to deal with; what the excess might be was unknown.

(11) Parks and Rec Committee Charter and New Members

Mayor Derwin said at the last Council meeting, the Council chose to continue the agenda item of appointing the four candidates until the Parks and Rec Committee met. The Committee now proposed to change their charter to increase the membership to thirteen to allow a fifth interested applicant to apply. There were now

five openings and five candidates. Ms. Howard noted that Erica Hughes, Committee Chair, had submitted a memo expressing her concerns about expanding the membership. Lindsey Bowen, Portola Road, said the Committee voted to expand the membership. The number necessary for a quorum was the same, and 13 would allow for one extra person to take notes, etc.

Councilmember Driscoll said one of the people who was most concerned about losing a tennis court was Kathy Feldman. She wanted to get involved. He suspected the new tennis courts would require a sign-up list, and Ms. Feldman could be the tennis coordinator. Councilmember Merk said historically that was a staff job, and there were keys to the courts. That was a lot of work for the staff and didn't raise a great deal of money.

Councilmember Toben said at the 6/16/08 Parks and Rec meeting, those who supported increasing the membership felt going from 12-13 was not a bad idea and could be a good idea--particularly in view of the energy the applicant would bring to the job. Everyone understood that it was a peculiar situation and that there might have been some lack of clarity or communication. The proper solution for bad communication was not particularly to amend the committee charter, as Ms. Hughes indicated. On the other hand, the applicant had been impressive in her recitation of qualifications and her expression of interest. Based on her presentation, he felt she made a good case. If the Council chose not to approve the recommendation for expansion from 12 to 13 members, the Council would be obliged to re-open the process and consider all five candidates for the four available slots. Starting over and receiving applications from the five applicants for the four vacancies would draw this out longer. He was prepared to support going to 13 members. Membership could drop down to 12 in the upcoming months, and the Committee could elect not to fill 1-2 seats. For those reasons, he was prepared to go with the Committee's majority recommendation to expand to 13. Councilmember Wengert concurred.

Councilmember Driscoll said this was not the kind of town to push volunteers away. Ms. Feldman was actively interested in participating, and he could support the increase in membership.

Councilmember Merk said he was still uncomfortable with this. If the process was started over, there might not be five applicants. He was convinced by Ms. Hughes argument, and he would vote "no" on expanding the charter.

Mayor Derwin said she sympathized with Ms. Hughes concerns about running a meeting with 13 but felt she could do it. She supported expanding the membership.

By motion of Councilmember Toben, seconded by Councilmember Driscoll, Council amended the Parks and Rec Committee's charter to change the membership from 12 to 13 by a vote of 4-1 (Merk).

Mayor Derwin appointed Chip Norris, Jane Wilson, Julia Shephardson, Sally Aalfs, and Kathy Feldman to the Parks and Rec Committee. Councilmember Driscoll moved concurrence, and Councilmember Toben seconded.

Councilmember Merk said he could not support appointing someone to a committee who stood in this room two weeks ago and said they didn't feel welcomed when they: 1) 10-15 years ago, ran people off a legal Town trail dedicated by the subdivider before they bought their property; 2) put in an invisible fence and got two Alsatian dogs that terrorized children; 3) called police when people walked on the trail; and 4) built a 6' fence along the trail. He held a grudge.

Mayor Derwin said people could change. She called for a vote, and the motion carried 4-1 (Merk).

(12) Selection of Honoree to be Recognized at the 2008 Annual Volunteer Party

Ms. McDougall reviewed her memo of 6/25/08 and asked Council to decide on the 2008 honoree. Mayor Derwin suggested having two councilmembers work with staff and the Chair of the Community Events Committee to come up with a name or two. Councilmember Wengert and Toben volunteered.

(13) Status of Town Center Project

Councilmember Driscoll reviewed his e-mail of 6/18/08 and background for the new Town Center Green List. He said it was meant to be a summary of the green and sustainable things done on the project.

Councilmember Merk recommended deleting item #39 because the transplant of the intertwined trees had not been a success. Mayor Derwin said it showed that the Town was trying to preserve trees. She found the list very readable and excellent.

Councilmember Merk said item #37 on the cisterns had not been decided. Councilmember Driscoll said he used words like "aiming to use." He added that a resident had a very large lake on his property that he drained every year. It was in a concrete container and was approximately 400,000 gallons of water. That could potentially be used to refill the Town's cistern. Councilmember Wengert suggested "Rainwater will likely be collected...."

Councilmember Toben said the list was very impressive. He noted that for the TOSA tour, Councilmember Driscoll had recited every one of the items without having a cheat sheet. Councilmember Driscoll discussed potential awards for the project. He said he would make the suggested modifications so the list could be distributed.

Ms. Howard described construction activities for the Town Hall, library, community hall and maintenance building. All the irrigation was in for the soccer field, and the sod would go in next week. The plan was to re-open the field for the fall season. The creek work was on schedule.

Councilmember Driscoll said the baseball season started last week with adult softball. One player claimed he hit a ball into the playground near the play structure. Parents were nervous that their child would be hit by a ball. Additionally, the sun was very hot on the sandbox. Ms. Howard said staff was working with Peter Garrett to: 1) create some shade; and 2) keep the balls out. Councilmember Driscoll noted that any fence would need to be very high to keep balls out. What was proposed would provide both shade and protection.

(14) Reports from Commission and Committee Liaisons

(a) Trails Committee

Councilmember Driscoll said the Trails Committee was concerned about an issue on Lake Road in Los Trancos Woods. The Committee liked the Los Trancos Water District's plan to put a fence up and improve the entrance to the trail that became Old Spanish Trail. At the same time, the Committee thought the Town should be paying attention to what a private landowner was doing with Town land on the other side of the lake. He had apparently chosen to fence off Lake Road as if it was a private road. Across the Town boundary into the Town, he was dumping his chipping and waste materials. It was becoming a fire and fire access issue. Ms. Howard said staff would investigate and agendaize it for the Council.

(b) Conservation Committee

Councilmember Merk said the Committee spent a lot of time talking about fire prevention. One of the recommendations was to send out some kind of notice to homeowners about eucalyptus trees, Monterey

pinus and ladder fuels. They were also working on a new native plant list that would include flammability. They would be working with the Emergency Preparedness Committee; two members were on both committees.

(c) Emergency Preparedness Committee

Councilmember Merk said the Committee discussed adding something to all the committee charters about emergency preparedness and urging committee members to get some training to help improve the size of the pool of people who were trained to help in an emergency.

(d) County Office of Emergency Services

Councilmember Merk said there would be a regional earthquake exercise on October 23. It was a statewide exercise and would be based on recovery after the event. Towns and neighborhood response teams were being asked to participate.

(e) Planning Commission

Councilmember Merk said the Commission discussed the sustainability element. Most of the discussion was about a project that involved landslide repair and replacement of two homes on a two-lot parcel. He discussed what was proposed, the owner's concerns about house size and the ability to get financing, public benefit of having the slide repaired, timing and Resolution 500 issues. It would be coming to the Council on July 9.

(f) Community Events

SallyAnn Reiss said the Committee discussed having the ribbon cutting ceremony at 2 p.m. on the day of Blues and BBQ. It would be a short, intimate gathering with 1-2 short speeches. Afterwards, self-guided tours would be possible to see the new buildings. It would end at 3 p.m. so Blues and BBQ could continue.

(g) ASSC

Councilmember Wengert discussed projected reviewed by the ASSC at the last meeting. One project on Westridge was for an accessory structure and pool area that would involve a lot of off haul on a dangerous part of the road.

(h) Ethics Training

Mayor Derwin said she completed her ethics training during which they spent a lot of time talking about how much trouble elected officials could get into if they didn't follow the rules.

WRITTEN COMMUNICATIONS

(15) Town Council 6/13/08 Weekly Digest: None

(16) Town Council 6/20/08 Weekly Digest

(a) Mobile Food Facilities

Referring to Ms. Sloan's memo of 6/19/08, Councilmember Driscoll said he had had some complaints that local businesses were hurting because their lunch business was being taken by the mobile food trucks. Ms. Sloan said the trucks could not be banned. But, they could be potentially regulated. Most of the

regulations from other cities addressed things like cleanliness of the food and safety. Responding to Councilmember Merk, she said the Town could require them to have a business license to do business in the Town. The Sheriff would have to handle enforcement.

Councilmember Merk said he felt regulating vehicle weight, requiring trash receptacles and no parking on private property were all good requirements. Blocking or obstructing a public or private road also happened a lot. Councilmember Driscoll said Mr. Dayeh pointed out that the general plan required that all businesses serve primarily the Town's residents. He did not think that these trucks were making half their income from Town residents.

Responding to Councilmember Driscoll, Ms. Sloan said if the majority of the Council thought these trucks should be regulated, she could bring in samples from other cities. She wanted to make sure that there were complaints other than from the local business competition. She suggested tabling this to see if more complaints came forward to warrant spending time on it.

(b) Town Center Award

Referring to his e-mail of 6/20/08, Councilmember Driscoll said TBI had submitted the Town Center project for a Building of America Award.

ADJOURNMENT

The meeting adjourned at 11:20 p.m.

Mayor

Town Clerk