

TOWN COUNCIL MEETING NO. 783, JANUARY 27, 2010

ROLL CALL

Mayor Toben called the meeting to order at 7:30 p.m. and led the Pledge of Allegiance. Ms. Howard called the roll:

Present: Councilmembers Derwin, Richards and Wengert, and Mayor Toben  
Absent: Councilmember Driscoll  
Others: Town Planner Mader, Town Attorney Sloan, Town Manager Howard, Asst. Town Manager McDougall, Admin. Services Officer Nerdahl and Town Clerk Hanlon

ORAL COMMUNICATIONS

Mayor Toben said Eleanor Boushey passed away at 97 years of age. He asked Jon Silver to comment on her life and service to the Town. Mr. Silver said Ms. Boushey was one of the original Town Councilmembers. The year she left office, he came on the Council; when he left, Ted Driscoll came on the Council. When Ms. Boushey was elected, it was the exception to have women serve at any level of government. She was a trailblazer in many ways with a great deal of grace and conviction that won the respect of everyone. He discussed his interactions with Ms. Boushey over the years and her interest in preserving Town values. Mayor Toben noted that the article in *The Almanac* detailed her array of interests and viewpoints. During the first few years that Ms. Boushey was a member of the Council, a number of cornerstones of the Town's land use policies were put in place such as: a) adoption of interim zoning, subdivision, and building ordinances; b) establishment of the ASCC; c) adoption of the General Plan with its emphasis on preservation of steep and unstable hillsides; d) adoption of slope density ordinance, etc. These were not easy measures to enact. Portola Valley was extraordinarily fortunate to have that history and early leadership to build on. The original five Councilmembers operated from a set of very clear-headed convictions and established the bedrock on which the Town was built.

CONSENT AGENDA [7:40 p.m.]

By motion of Councilmember Derwin, seconded by Councilmember Wengert, the item listed below was approved with the following roll call vote:

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

(2) Warrant List of January 27, 2010, in the amount \$45,072.77.

REGULAR AGENDA

(1) Minutes of the Town Council Meeting of 1/13/10 (Removed from Consent Agenda)

Councilmember Richards and Mayor Toben submitted changes to the minutes of the 1/13/10 meeting. By motion and second, the minutes were approved as amended by a vote of 2-0, with Councilmembers Derwin and Wengert abstaining.

(3) Review of 2008-2009 Annual Audit [7:45 p.m.]

Ms. Nerdahl reviewed her memo of 1/27/10 on the 2008-2009 audit and financial statements. She said the

two significant factors that impacted the statements were: a) completion of the Town Center project; and b) the economy. She reviewed: 1) financial highlights set forth in the management's discussion section (p. 3); 2) condensed statement of activities (p. 6); 3) budgetary highlights (p. 7-8); 4) long-term debt (p. 8); 5) statement of net assets as of June 30, 2009 (p. 12); 6) expenditures in excess of budget (p. 26); 7) donated stock value (p. 28); 8) capital assets (p. 30); 9) PERS pension plan rates (p. 34); and 10) Schedule of Revenues, Expenditures and Changes in Fund Balance (p. 38).

Councilmember Wengert noted that the general government expenses of \$2.9 million were 64% of the Town's operating expenses (p. 7). The unrestricted general fund balance was about \$2.3 million. Factoring out the impacts of the Town Center, she asked what the historical average was and how much cushion the Town normally had. Ms. Nerdahl said she would need to pull the financial statements from prior years and do an analysis. Councilmember Wengert said it would be helpful in understanding how the Town was managing with unrestricted cash reserves. Ms. Howard said historically, there was about \$2 million in general fund reserves, which was about the general fund operating expenses. In the past, it had been a benchmark to keep one year of operating expenses in reserves. In the past five years, it had fluctuated greatly. She recommended that the Town adopt a reserves policy; the Town should know how much it needed to have in reserves. Responding to Mayor Toben, she said a proposal would be presented to the Finance Committee in conjunction with the 2011 budget process.

By motion of Councilmember Wengert, seconded by Councilmember Richards, Council voted 4-0 to accept and file the Basic Financial Statements for fiscal year 2008-2009.

(4) Approval of Computerized General Plan Diagrams [8:05 p.m.]

Town Planner Mader reviewed his memo of 1/11/10 on the computerized version of six general plan diagrams. He described the old and new diagrams and the process used to update the diagrams and make them consistent. Referring to the Town Center Area Plan diagram, he pointed out that the location of the creek was indicated regardless of whether it was above or below ground. There was no plan to bring the below ground sections to the surface. He discussed the scale of the diagrams noting that with GIS they could all be enlarged. He said the way the diagrams were originally prepared, they conveyed a certain feeling. When they were converted to a computer, that design sense evaporated, but they showed what was proposed. Staff had worked with the engineer on symbols, etc., to give a more reasonable sense of what needed to be shown. He said the process had been very tedious, and there had been some periods of inactivity for various reasons. The Town Attorney recommended that the Council adopt a resolution recognizing the plan diagrams and their certification. Since this was not a project, there was no CEQA finding necessary.

Ms. Lambert thanked Town Planner Mader for his thorough and extraordinary review of the documents. Electronic versions would be included on the Town website. She also thanked the consultant, Rich Laureta of Freyer/Laureta. Town Planner Mader added that Mr. Laureta was very patient in making the changes.

Responding to Councilmember Wengert, Ms. Lambert said the computer files had not yet been compressed. The plan was to keep electronic versions as the diagrams were updated with the latest version on the website. Town Planner Mader said a large amount of storage was also needed for the computerized biologic mapping and fire mapping. Those would also be revised from time to time.

By motion of Councilmember Derwin, seconded by Councilmember Richards, Resolution No. 2472-2010 Approving Revised Diagrams for the General Plan was adopted by a vote of 4-0.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS [8:18 p.m.]

(5) Appointment of 2010 Commission and Committee Members

Referring to the list of memberships for 2010, Ms. Howard noted that James Sansbury had resigned from the Parks and Rec Committee. She said vacancies would be advertised, and Committee Chairs would be doing some person-to-person recruiting. Responding to Mayor Toben, Ms. Lambert confirmed that no Planning Commissioners' or ASCC members' terms were up this year. Mayor Toben appointed the Commission and Committee members shown on the 2010 roster. By motion of Councilmember Wengert, seconded by Councilmember Derwin, Councilmembers concurred by a vote of 4-0.

(6) Reports from Commission and Committee Liaisons [8:21 p.m.]

(a) Cable and Undergrounding Committee

Councilmember Richards said the Committee and PG&E representatives discussed undergrounding under Rule 20A, 20B and 20C programs. The Town had about \$500,000 for undergrounding projects based on \$300,000 in account plus five years of borrowing. Costs were discussed, and PG&E would be reviewing the numbers. There was a fair amount of audience participation—especially from one group representing Woodside Highlands who had general dissatisfaction with the services of Comcast and AT&T. Responding to Mayor Toben, Ms. Howard confirmed that the Committee was meeting with PG&E to come up with firmer cost numbers for projects the Committee wanted to pursue.

(b) Planning Commission

Councilmember Richards said the Commission held a study session on the Town's Geologic and Ground Movement Potential Maps and related changes to the zoning ordinance and policies to implement those. Town Planner Mader added that one of the interesting questions was whether the Town wanted to restrict non-habitable buildings (e.g., barns, stables, workshops, etc.) from fault setbacks. That was complicated and would be coming back to the Commission.

(c) Cultural Arts Committee

Councilmember Derwin said the Committee discussed what kind of art to hang and where to hang it. They decided they would like to have three local artists' shows in the Community Hall. They also discussed the Holiday Fair and the children's tiles, which would be on the Council's next agenda.

(d) Firewise Advisory Committee

Councilmember Derwin said the Committee discussed the 2-day workshop on March 20-21 that would involve students from Woodside and Portola Valley. She said she would attend.

Mayor Toben said last June, the Fire Board indicated there would be \$130,000 for fire prevention activities this fiscal year. At this meeting, he asked about the status, but had not received an answer. This Committee was meant to be a forum where everyone could pitch in together and come up with some collaboration around a comprehensive program of fire prevention and fuel abatement. He thought an accounting of what was happening with the fire prevention budget would be forthcoming. Additionally, he proposed there be a joint meeting with the Woodside Town Council on the fifth Wednesday in March to discuss fire issues. That would also send a message to the communities that the Councils were quite concerned about this. Ms. Howard said she was working with Ms. George on setting the meeting up. Councilmember Derwin added that CERPP was interested in having a fire presentation.

(e) Safe Routes to School Coalition

Councilmember Derwin said a survey had gone out and had a 40% return rate. The SuRE Coordinator would be sorting through the data and comments. A regional scatter gram/grid had been discussed that

would show bus stops, etc., and help to put together carpools. In order to get people out of their cars, carpool or take the bus, it had to be safe and convenient for the parents. Additionally, the SamTrans bus was arriving late to school and the kids were getting tardies. She would look into it.

(f) C/CAG

Councilmember Derwin said she attended a meeting of the Resource/Climate Protection Committee last week.

(g) Parks and Rec Committee

Councilmember Derwin said the Committee discussed the definition of open space and wanted it known that they did not agree with the other Committees. One member felt Spring Down should have more recreational uses and that the voters should decide. Additionally, some Committee members wanted to be involved in discussions with Corte Madera about use of the tennis courts.

(h) Trails and Paths Committee

Councilmember Derwin said the new Chair was Elizabeth Rubin who was an equestrian, runner and biker. The Committee discussed routes for kids to get from Corte Madera to Alpine Hills after school. The trail was on the market side and the crosswalk on Alpine was treacherous. Kids were walking/riding on the other side of the street, which was not a designated safe route to school and was difficult to ride on. The Committee and the Public Works Director would investigate what could be done. The Committee also discussed the trail on the Town Center property with the hitching post by the redwoods, which would result in a loss of parking spaces. That would be coming to the Council. Mayor Toben noted that all improvements to Town Center had been deferred for this fiscal year.

WRITTEN COMMUNICATIONS

(7) Town Council 1/15/10 Weekly Digest [8:38 p.m.]

(a) Groups of Bicycles/Pelotons and Safety

Referring to e-mails from/to Sherry Cagan, Councilmember Wengert said Ms. Cagan had been very proactive in trying to reach out to the bike community about safety concerns. Pelotons were viewed by many, including cyclists, as a danger to pedestrians, bicyclists, equestrians, and motorists. There were DMV regulations that were citable for potential enforcement. But, she felt Ms. Cagan's approach, which was to make the bike community aware of the dangers and hazards, was much better. Woodside shared the problem, and the question was what outreach the combined communities could make to these groups. Responding to Councilmember Derwin, she described times when pelotons rode through the Town.

Mayor Toben said he saw two legal questions: 1) whether the Town could require groups of bike riders of 12 or more to post their riding schedule; and 2) whether the Town could limit the number of riders to, for example, no more than 12 per grouping. Responding, Ms. Sloan said the answer was "no" to both questions. The Town had discussed this before, and nothing had changed in the law. Bicyclists were allowed to proceed on streets just like cars and fell under the Vehicle Code. The Town could not limit the number of people or force them to ride single file. They had to obey traffic laws, and people could call the Sheriff if there were violations. But, there was little the Town could do—especially if they were spontaneous rides. Her understanding was that some of the groups were very informal and weren't associated with any bicycle shop or club. She felt the cooperative things that Ms. Cagan was doing were important—especially if she could get a dialog going that wasn't hostile. She described the Town of

Woodside's special events ordinance that could apply to bicycle events that raised money for charity. But, the Woodside Town Attorney had told staff that the ordinance they had on the books was not enforceable and didn't solve the problem. She noted that Woodside received many more complaints because riders rode on smaller roads, and there were many more horses. Responding to Councilmember Wengert, she confirmed that a single bicyclist or a group could ride in the lane of traffic. Basically, the law said bicycles should be treated like all other vehicles.

Mayor Toben said Vehicle Code 21759 required any vehicle, including a cyclist, to exercise caution when approaching an animal and rider. If a cyclist group chose to do nothing and there was serious injury, he asked if the injured rider could bring a negligence case claiming that the club/bicyclists had knowledge of the law and elected not to slow down, etc. He felt education of the cycling community might include a clear understanding of the liability implications if they saw a horse and rider and chose not to slow down. He suggested the Town follow up on Ms. Cagan's work and make it known that the Town was worried about this issue—even though the Vehicle Code limited the Town in what it could do.

Councilmember Wengert said the biggest issue with pelotons in Town was the stop sign at Alpine and Portola Road because the intersection was so busy. She understood that there had been some selective enforcement from time to time by the Sheriff's Dept. While she had huge sympathy with the horse incident, she felt that was much less likely to occur on a recurring basis. Outreach to the bike groups should indicate that the communities were considering stronger enforcement of the traffic regulations/stop signs for pelotons. That might mean having a deputy at Roberts Market from noon to 12:30 p.m. The focus should be the violation of clear traffic laws. The lead rider of a peloton also needed to understand that they had a responsibility to make it safe for horses.

Mayor Toben said he did not feel it was necessary to subordinate the equestrian issue to traffic laws—both were important. There had been a very troubling incident, and this was an equestrian community. He wanted to formalize some of Ms. Cagan's efforts. Councilmember Wengert said she would be happy to be the spokesperson for the Town's official viewpoint, but she wanted to be very clear on what message the Town was delivering and that it was a consistent message being delivered by Woodside as well. It was important to have a cooperative effort on this. Stanford and Palo Alto were also part of it.

Mayor Toben said Laurie Kastanis would be attending the February meeting of a club. Councilmember Wengert said she would also attend and indicate the Town's shared concerns and the need for education and understanding. Mayor Toben asked that the Town Attorney provide a sense of negligence theories and how this could play out. When people realized they might be sued for negligence they might be more inclined to change their behavior in the presence of horses.

Referring to Ms. Cagan's e-mail of 1/26/10, Ms. Sloan said she thought it would be good to post on the Town's website that there were often pelotons coming through Town around noon. Councilmember Wengert said Ms. Cagan's list of clubs was fairly comprehensive. Councilmember Derwin said this information should also be made available to the Trails Committee. Ms. Sloan suggested working with Ms. Cagan on language to put on the website. Mayor Toben said he would take the lead on coordinating communication.

(b) Development Project on Golden Oak Drive

Referring to Virginia Bacon's letter of 1/11/10, Ms. Lambert said she spoke with Ms. Bacon, and her concerns were brought up at the last ASCC meeting. She said the Town files were not in disarray. Ms. Bacon wanted a great deal of data on houses in her neighborhood, which required staff to go through all the files, permits and staff reports for information that was not readily available.

Responding to Councilmember Derwin, Mayor Toben discussed the iterations the project went through.

He felt the staff did a perfectly able job of informing all interested parties. By the last meeting, only a handful of residents attended. Ms. Lambert added that this project was very complicated, and the applicant had changed architects in the middle of the review process. The neighbors were very upset, but the applicant had met all of the requests of the residents and did far more than the ASCC expected. Responding to Councilmember Derwin, she said the architect brought plans in with respect to the sewer connection, and everyone had an opportunity to look at them. Generally, the ASCC did not see that level of detail, which did not come in until the building permit stage.

(8) Town Council 1/22/10 Weekly Digest [9:05 p.m.]

(a) Douglas v. Town of Portola Valley (Federal Case)

Referring to her memo of 1/20/10, Ms. Sloan said the judge's decision to grant the Town's motion to dismiss was very satisfying. Responding to Councilmember Wengert, she said the Douglases had 20 days to amend their claim.

(b) Request from Teen Committee to Donate to the Haiti Fund

Referring to Sharon Driscoll's e-mail of 1/21/10, Ms. Sloan said the request was appropriate; the Council authorized the donation.

CLOSED SESSION [9:08 p.m.]

- (9) CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation  
Government Code § 54956.9(b)  
One case

REPORT OUT OF CLOSED SESSION: None to Report

ADJOURNMENT: 9:25 p.m.

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Mayor

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Town Clerk