

TOWN COUNCIL MEETING NO. 701, SEPTEMBER 13, 2006

ROLL CALL

Mayor Toben called the meeting to order at 8:03 p.m. and led the Pledge of Allegiance. Ms. Howard called the roll:

Present: Councilmembers Davis, Driscoll and Merk, and Mayor Toben
Absent: Councilmember Derwin
Others: Town Attorney Sloan, Town Administrator Howard, Public Works Director Young, Asst. Town Administrator Willis, Planning Manager Lambert, and Deputy Clerk Hanlon

ORAL COMMUNICATIONS

Chip Norris, Wayside Rd., said water puddled at the corner of Wayside and Portola Rds., which might be attracting mosquitoes. Mayor Toben said the Public Works Director would investigate.

CONSENT AGENDA

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

Ayes: Councilmembers Davis, Driscoll and Merk, and Mayor Toben
Noes: None

- (1) Minutes of Special Town Council Meeting of September 13, 2006, with Councilmember Davis abstaining.
- (2) Warrant List of September 13, 2006, in the amount of \$300,113.12.
- (3) Resolution No. 2264-2006 Adopting Town Investment Policy, per Admin. Services Officer's memo of 8/29/06.
- (5) Resolution No. 2266-2006 Approving a Loan of Monies from the Town to the Wayside Road Maintenance District, per Asst. Town Administrator's memo of 8/25/06.

REGULAR AGENDA

- (4) Disposal of Surplus Property (Removed from Consent Agenda)

Responding to Councilmember Driscoll, Mr. Willis said the old Xerox Docuprint printer was more than 8 years old and cost about \$600 to maintain and repair. As indicated in his memo of 8/29/06, it would be recycled but might not be re-used. Councilmember Driscoll suggested staff check eBay to see if someone might be interested in buying the printer for parts.

By motion of Councilmember Driscoll, seconded by Councilmember Davis, Resolution No. 2265-2006 Approving and Authorizing the Disposition of Surplus Property was adopted by a vote of 4-0.

- (5) Enforcement of Coal Mine Ridge Trail Usage Policy

Lt. Ken Jones, Sheriff's Office, reviewed his memos of 4/4/06, 9/5/06 and 9/11/06 on patrols of Toyon and

Old Spanish Trails for violations of trail usage, including bicycle use and dog walking. During the 60-day trial period in February and March, verbal warnings were given to dog owners for dogs on trails. During the summer months, the deputies were tied up with priority calls and no checks were made in June or July. He reviewed the trail usage during August and the first week of September as set forth in his memo of 9/11/06. He noted that the first priority of the deputies was to protect the citizens, and deputies often received calls while trying to patrol the trails. Additionally, the deputies did not have the proper clothing/shoes for patrolling trails. He said deputies would continue to check the trails as best they could. Mayor Toben said the Council understood the Sheriff's priorities and expressed appreciation for the efforts made to patrol the trails. Responding to Councilmember Merk, Lt. Jones said a typical check involved the deputy walking ¼ mile up the trail and spending as much time as he could—about 15-20 minutes. Checks were made at different times during the day and different days of the week including weekends.

Responding to Councilmember Driscoll, Lt. Jones said reserve deputy sheriffs and volunteer citizens could issue warnings. Councilmember Driscoll felt there were a number of people who would be eager to pass out warnings. Responding to Ms. Sloan, Lt. Jones said the SCOP (Senior Citizens on Patrol) program was used on the coast, and the volunteers worked directly for the Sheriff's department. They wore semi-uniforms and used portable radios and mini-service trucks. A similar program was starting on the Bay side through the Office of Emergency Services. The Sheriff's Dept. was also interested in bringing the SCOP program to the Bay side. The Council expressed interest in this.

Responding to Mayor Toben, Lt. Jones said those encountered on the trails were very cooperative. Some said they did not know that dogs were not allowed on the trails. There had not been any repeat offenders. Mayor Toben said the Town had received some reports of some very hostile exchanges between hikers and dog owners, which was why the Town was taking this issue seriously.

Marilyn Walter, Conservation Committee, said the deputies were going up from the Alpine Trail to the junction with the Old Spanish and Toyon Trails. Last Saturday, she encountered four dogs in 1½ hours. People came in different ways—especially if there was a police car sitting at the entrance. She thought having a presence on the ridge was very important. Lt. Jones noted that the department had not received any complaints about dogs on trails.

After discussion, Council asked that the deputy patrols continue for another three months. Councilmember Driscoll suggested putting a contact in the Newsletter for those who wished to volunteer for the SCOP program on the Bay side.

(7) U.S. Mayors' Climate Protection Agreement

Mayor Toben said *The Almanac* published an editorial on August 2, 2006, urging local cities to endorse the Kyoto protocol. At the same time, he received a letter from Stan Van Velsor, Global Warming Program Coordinator-Sierra Club, encouraging the Council to endorse the U.S. Mayors' Climate Protection Agreement. Endorsement of the Agreement would require the Town to reduce its emissions of greenhouse gases by at least 7% below 1990 levels by the year 2012. He felt a large number of residents viewed this issue with growing concern and that many residents would be likely to come forward and join in a volunteer effort to help the Town: 1) calculate the appropriate targets; and 2) fashion, prioritize, and implement potential solutions/strategies for addressing this issue. Schoolchildren could also get involved.

Mayor Toben said the Resolution/Agreement was a model and contained eleven different recitals of fact—some contained assertions regarding the cause and extent of the problem of climate change. There was some imprecision in the language. Council's action should be based on the recognition that this problem was real, and there was a civic obligation to respond. He suggested sending a letter to the coordinator of the U.S. Mayors' Climate Protection Agreement project explaining that while the Council endorsed the Agreement, that did not imply that the Council agreed in all respects with the statements regarding the

cause or extent of climate change. He read a draft of the letter.

Ms. Lambert reviewed her staff report of 9/5/06 on the Agreement and discussed: 1) what other jurisdictions/organizations were doing to reduce global warming; 2) steps the Town had already taken; and 3) measures that could be adopted to address this issue. She reviewed her recommendations set forth in the staff report.

Gary Bailey, Global Warming Public Outreach and Education Campaign, Sierra Club, urged the Council's endorsement of the U.S. Mayors' Climate Protection Agreement. In addition to asking cities to reduce greenhouse gases, he said the Agreement also called on Congress to pass bipartisan greenhouse gas reducing legislation with: a) specific timetables and emission reductions; and b) flexible market based trading mechanisms. He said the U.S. Conference of Mayors unanimously passed the Resolution and urged all mayors to adopt the Agreement. He said the Town had made a good start in reducing greenhouse gas emissions and could make a major contribution by endorsing and signing the Agreement and adding the Town's voice to the call to Congress to pass meaningful, effective, bipartisan legislation to reduce greenhouse gas production in the United States. The more towns and cities that signed the agreement, the more encouragement there was for others to follow suit; some needed more encouragement than others.

Councilmember Driscoll described some of the efforts being made by Palo Alto to address this issue. His only concern was that staff would be burdened trying to determine emission levels, etc. Ms. Lambert confirmed that the intent was to try to produce policies, procedures and guidelines to accomplish the goal of reducing greenhouse gas emissions.

Councilmember Davis said endorsing the Agreement would be a galvanizing action and attention-getter for people to participate in ways to improve the situation.

Councilmember Driscoll said the Design Guidelines tried to encourage people to build within the context of the Town and with respect for the neighbors. Energy guidelines were equally important and could be an adjunct to the Design Guidelines and gave people a compendium of resources where they could find out about solar water heating, photovoltaics, etc. Ms. Lambert noted that the Town used the Sustainable San Mateo County Guidelines, including the checklist. There were also a number of handouts at the counter. Councilmember Driscoll encouraged the Planning Commission to take a hard look at this issue.

Councilmember Merk said people needed to be given an idea of how much energy was used and pollution was created by construction. He discussed the amount of carbon dioxide released into the atmosphere in the production of concrete. There was a whole educational component to the impact from the size of buildings. The gas sold at the gas station paled in comparison to the fuel burned from cement trucks coming in from Redwood City or Sunnyvale to pump hundreds and hundreds of cubic yards of concrete.

Michael O'Brien, San Carlos, encourage the Council to sign the Agreement. The more people who signed on, the more consciousness was raised.

Craig Breon encouraged Council to sign the Agreement. He said he did not think the Agreement was primarily symbolic. There were a number of things the Town could do to make measurable improvements. Another key aspect was education. The Town couldn't control the kinds of cars people bought or how much they drove, but the citizens could be better educated. He said he would like to be part of any group the Town formed to address this issue.

After discussion, Councilmember Driscoll moved to authorize the Mayor to: 1) sign the agreement; 2) attach Mayor Toben's letter to the resolution approving the Agreement; and 3) ask staff to draw up charter documents for an ad hoc committee to look at how the Town could best implement and encourage compliance with the Agreement. Councilmember Merk seconded, and Resolution No. 2267-2006 was

adopted by a vote of 4-0.

(8) Town Center Project Phase 1 – Bid Packages for Salvage, Demolition and Construction of Maintenance Shed

Mr. Young reviewed his memo of 9/13/06 on bid packages 1-10 for phase 1 of the Town Center project. He noted that staff was still editing the documents. After the bid opening, he said staff and the consultants would review the bid results and make recommendations to the Council for discussion, approval and authorization to award each bid package contract per the schedule shown in his memo. Responding to Councilmember Driscoll, he said the documents were a compilation of the Town's specs and the City of Morgan Hill's specs with input from TBI and Siegel and Strain; a lot of the documents had been used for other projects. Responding to Councilmember Davis, Mr. CR Hodgson said the only thing that was somewhat different from what he was used to seeing was the salvaging of all the materials. But, it was clearly defined in the documents what would be salvaged and what would not. Responding to Mayor Toben, Ms. Sloan said staff felt it was important to be very careful with these documents up front in order to prevent problems later on. In addition to the specifications, the methodology for change orders, definitions, amount of insurance, consistency within documents, etc., had all been carefully reviewed. Ms. Howard noted that many other resources, including ABAG and other communities that had gone through similar processes, had been used to ensure that what the Town was doing was consistent with the requirements of everyone else--including the insurance providers.

Councilmember Merk said in a number of places in the documents, there was the potential for a significant increase in the hours of operation beyond that which was called out in the Town's Noise Ordinance. Working on weekends, 24-hour shifts, etc., were possible if a contractor got behind. Councilmember Driscoll suggested adding some language indicating that work outside of the Noise Ordinance hours needed to be specifically authorized. Mr. Young confirmed that permitted work hours were specifically called out in the bids, but this language gave the Town the right to order more hours if the Town chose to do so. The Council would be notified if that was necessary.

Councilmember Merk said a lot of the documents called for detailed and voluminous note taking and tabulations of workers' hours, as well as requiring an on-site superintendent. That was fine for some of the work, but not necessary for something like a painting contractor. He felt the bids would come in high because the Town was asking for so much. He was also floored that standard building practices were being called out. The Town didn't need to tell a professional contractor that he had to build according to code. Responding, Mr. Hodgson said these were typical public works project specifications. In terms of documenting workers' hours, he said the Town was asking for a daily report from the contractors that indicated how many workers were on the job and what they did. This was normally asked for in all jobs. It also protected the Town in case the union filed a grievance and wanted to see certified payroll reports from the workers; daily reports were matched up against the certified payroll data. Responding to Councilmember Merk, he confirmed that the "project superintendent" could be the foreman or the painter; it was not a separate position.

Referring to the Hours of Operation section, Councilmember Merk noted that the engineer had to approve additional hours of operation. Mr. Young verified that "engineer" meant a representative of the Town; in this case, it would be the Public Works Director. Councilmember Merk said "engineer" should be included in the definitions section.

In the Responsibilities of Contractor and Indemnification section, Councilmember Merk said he did not think the Mayor should be included. The Council chose the Mayor, which was an honorary position. The Mayor was not elected by the public and changed every year. It was not correct to give this honorary position a special title--the Councilmembers were all equal. Councilmember Driscoll pointed out that the Mayor signed the contracts and was a single point of contact. Councilmember Merk noted that the Vice Mayor could also

sign contracts.

Councilmember Merk said the Contract Summary section, Section C, addressed work not included. There were many references in the document to the church lot. That should be called out in this section because it was referenced so many times elsewhere in the document. Referring to the section on Temporary Barriers and Enclosures, Section E, #3 (Protection of Work Property), he said if someone was going to be living on site in a trailer, the Council should be made aware of that ahead of time. In the Project Identification section, he said the size of the project sign permitted was larger than what the sign ordinance permitted.

Responding to Councilmember Merk, Mr. Hodgson said the intent of the Waste Management Plan Implementation section was that 15% of the roofing material would be recycled and diverted from the landfill. Responding to Councilmember Merk's question on the Building of Paved Areas section, he verified that +0.05 inches could be interpreted as 0 inches to 0.05 inches; the intent was that paved areas should not be low because of puddling. Councilmember Merk said it should say that it shouldn't puddle.

Responding to Councilmember Merk's question on the Fabricated Assemblies section, Section B, Mr. Young verified that the section had been corrected and completed in a later version. Responding to Councilmember Merk, Mr. Hodgson said he would check for discrepancies in the documents regarding the specifications for conduit raceways and fittings. Referring to the requirements for high tech switches, Councilmember Merk said these switches were expensive, subject to breakage and used electricity all the time. He suggested just asking people to turn off the lights. Mr. Hodgson said the code required an occupancy sensor; Ms. Sloan concurred.

Councilmember Driscoll suggested in the future, there be a special meeting to review bid packages in detail or create an ad hoc committee to review the documents. Mayor Toben said a workshop could be held with the public invited.

Councilmember Davis moved to adopt Resolution 2268-2006 Approving Plans and Specifications (as amended and with additional minor editing) and Calling for Bids for the Town Center Project Phase 1 – Bid Packages 1-10, No 2006-PW03A. Councilmember Driscoll seconded, and the motion carried 3-0, with Councilmember Merk abstaining.

(9) Ordinance Regarding Claims Against the Town (Introduction and First Reading by Title)

Ms. Sloan reviewed her memo of 9/7/06 and recommendation to enact an ordinance addressing claims against the Town. Responding to Councilmember Merk, she said the conflict of interest laws said if something affected 10% or more of the people in Town, it was considered to affect the public generally, and the Public generally exception would apply.

Councilmember Merk moved introduction and first reading by title, waive further reading, of an Ordinance Adding Chapter 3.40 [Claims Against the Town] of Title 3 [Revenue and Finance] of the Portola Valley Municipal Code. Councilmember Davis seconded, and the motion carried 4-0.

(10) Response to the 2006 Grand Jury Report

Ms. Sloan reviewed her memo of 9/7/06 on the Town's response to the 2005-2006 Grand Jury report on: 1) the allocation of property tax revenue; and 2) disaster preparedness training for residents of cities in San Mateo County. Councilmember Driscoll said "CERT trained" should have been clarified in the report. Ms. Sloan said the program offered by CERPP would be considered CERT training. She noted that the letter indicated that any Councilmember that hadn't been through CERPP training would do so by the end of the current fiscal year. After discussion, Council approved the draft of the Town's response to the Grand Jury Report.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(11) Appointment to Nature and Science Committee

Referring to Yvonne Tryce's letter of 8/30/06, Mayor Toben appointed Andrew Browne to the Nature and Science Committee. By motion and second, Council unanimously concurred.

(12) Appointment to Teen Committee

Referring to Will Derwin's letter of 9/5/06, Mayor Toben appointed him to the Teen Committee. By motion and second, Council unanimously concurred.

(13) Status of Town Center Project

Ms. Howard said the hazmat work was on schedule and should be completed by the end of September. Council had just approved the bid packages for phase 1, and they would be publicized on Thursday and Friday. Additionally, she said the architects would be bringing an update to the Council on October 11, 2006.

Councilmember Driscoll said the ADT met last week. There was some concern because the ASCC again encountered some difficulty with the size and magnitude of the backstop on the baseball field. That decision would be deferred until a later time when there could be input from relevant committees.

Mayor Toben said the fundraising team did a remarkable job on Sunday, during the Blues and BBQ event, of drawing people into the Schoolhouse to see/discuss the plans for the Town Center project. There was almost a unanimous positive response from residents. He noted that the redwood tree thermometer showed the progress of the fundraising.

(14) Reports from Commission and Committee Liaisons

(a) Traffic Committee

Councilmember Davis said the Committee discussed a letter from the Residents' Council at The Sequoias about line-of-sight problems at Willowbrook and Portola Roads. They requested a caution sign be placed to alert drivers at the turn. The sign would read "Senior Citizen Facility Ahead." There was no history of accidents at that location, and the Traffic Committee questioned whether that type of sign would be appropriate. Responding to Mayor Toben, he confirmed that it would be discussed at a future meeting. Additionally, he said Linda Yates raised concerns about two locations: 1) the Westridge and Mapache/Cervantes intersection where schoolchildren crossed; and 2) speeding on the Mapache/Ramoso loop. The Committee agreed that the Westridge and Mapache/Cervantes intersection deserved some attention. Councilmember Merk said the sight distance up the hill was very poor coming off of Cervantes and turning left onto Westridge to come to Portola Rd. On the speeding on the Mapache/Ramoso loop, he suggested asking the Sheriff's Dept. to patrol the area in the afternoon when the Priory school let out.

(b) Conservation Committee

Councilmember Merk said the Committee planned to celebrate oak trees in Town on September 30.

(c) ASCC

Councilmember Merk said the ASCC discussed the big house on Rapley Trail that had a lot of grading as

well as the Town Center project.

(d) Blues and BBQ

Councilmember Merk said there were more than 500 tickets sold in advance and another 250-300 tickets sold at the event. He discussed the event, which went off very well. Additionally, he did not feel that what was going on on the site had any kind of a negative impact. Councilmember Davis agreed and noted that the parking went very well.

(e) Trails Committee

Councilmember Driscoll said the Committee had some questions about the budget process and asked Ms. Howard to draft a memo explaining: 1) how projects that were invoiced after the fiscal year ended were handled; and 2) the distinction between capital and maintenance programs.

With respect to the C1 trail, Councilmember Driscoll said Stanford was willing to have two parallel trails: a paved path and an unpaved foot trail on the same side of the road as the current paved trail. In places where the creek pulled away from the road, Stanford was prepared to let the foot trail diverge from the paved path and go back into those spaces. There were three places where there were fairly extensive intrusions into the space. Stanford was also prepared to upgrade the trail behind Ford Field. The Trails Committee wanted a spur built off of the footpath between Arastradero Road and the horse operation so that there would be a connection over to the trails in Palo Alto. Stanford was being very cooperative. There was also some discussion about reducing the width of the paved path to 6' in order to maintain a separation between the paved path and unpaved trail. Councilmember Merk noted that he often saw people pushing baby carriages on the paved section; two baby carriages passing might fit in 6'. Generally, when there were two different kinds of trails close to each other, the space in between tended to belong to each and you ended up with a really wide trail of two different surfaces. Responding to Councilmember Merk, Councilmember Driscoll said a foot trail back along Los Trancos Creek behind the horse facility was not shown on the plans, but it had been verbally agreed to. He said a decision would also need to be made on who would do the work. Responding to Councilmember Merk, he said Stanford was committed to doing the engineering necessary to protect the trail from erosion from the creek.

(f) Sausal Creek Advisory Committee

Mayor Toben said the Committee would have its final meeting next Thursday. The goal was to have a consensus on opening up a portion or all of the creek. He did not feel creation of a biologically viable creek corridor on the Town Center site would be recommended.

(g) The Sequoias

Mayor Toben said he and Councilmember Driscoll met with the Chair of the Residents' Council, and the Town would continue to pursue ways to work with The Sequoias on shared interests. The Council would be holding its second meeting in October at The Sequoias. Councilmember Merk suggested parking be planned in advance of the meeting.

(h) Airport Roundtable

Mayor Toben said he presented the Roundtable's subcommittee's recommendations for monitoring compliance with the 8,000' minimum crossing altitude procedure. The recommendations and background were set forth in his report of 8/28/06. He said four of the six recommendations were adopted by the Roundtable, and two recommendations were referred back to staff. TRACON had apparently expressed some concerns about recommendation #6, which had to do with establishing a feedback mechanism for

complaints about non-compliance. He said he would continue to work with TRACON to address concerns. In any event, he said monitoring would occur.

WRITTEN COMMUNICATIONS

(15) Town Council 8/25/06 Weekly Digest: None

(16) Town Council 9/1/06 Weekly Digest: None

(17) Town Council 9/1/06 Weekly Digest: None

CLOSED SESSION

(18) Conference with Legal Counsel – Anticipated Litigation
Government Code § 54956.9(c)
Possible Initiation of Litigation: one case

REPORT OUT OF CLOSED SESSION: None to report.

ADJOURNMENT

The meeting adjourned at 10:40 p.m.

Mayor

Town Clerk