

TOWN COUNCIL MEETING NO. 682 NOVEMBER 9, 2005

ROLL CALL

Mayor Davis called the meeting to order at 8:05 p.m. and led the Pledge of Allegiance. Ms. Howard called the roll:

Present: Councilmembers G. Comstock, Driscoll, Merk and Toben, and Mayor Davis
Absent: None
Others: Asst. Town Administrator Powell, Town Attorney Sloan, Planning Manager Lambert, and Deputy Clerk Hanlon.

ORAL COMMUNICATIONS: None

CONSENT AGENDA

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

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

- (1) Warrant List of November 9, 2005, in the amount of \$282,594.21.
- (2) Resolution No. 2218-2005 Approving and Authorizing Execution of a Fifth Amendment to Agreement for Legal Services Between the Town and the Law Offices of Jorgenson, Siegel, McClure and Flegle, LLP, per Town Administrator's memo of 11/1/05.

REGULAR AGENDA

- (3) Minutes of Town Council Meeting of October 26, 2005 (Removed from Consent Agenda)

Councilmembers Toben and Merk submitted changes to the minutes of the 10/26/05 meeting. By motion and second, the minutes were approved as amended by a vote of 5-0.

- (4) Discussion on Options for Construction Traffic Road Fee (CTRF)

Ms. Powell reviewed the staff report of 10/25/05 on options for implementation of a new CTRF that could be distributed to the Town and private entities. She introduced Robert Spencer, MuniFinancial, noting that he had prepared the original analysis that helped to establish the Town's CTRF.

Mr. Spencer provided an overview of his report "Construction Traffic Fee Update Options—Town of Portola Valley," dated 10/17/05. He said the options studied included: 1) a single townwide fee expanded to include both public and private road impacts; 2) a two-tiered fee that added a new fee for private road impacts, and 3) a zoned fee that created new fees for up to four zones in Town. He discussed his recommendation (pp. 2-3) to maintain the current program, increase the current fee for inflation, and not expand the program to include private roads. He reviewed other options available to road maintenance districts including special assessments (p. 3).

Councilmember Toben said he was a resident of one of the districts in Town that was served by a public

road that was privately maintained. The problem was that all of the road impact fees collected went into public road maintenance. He said he disagreed emphatically with every one of Mr. Spencer's findings. He found the analysis defective in its failure to understand the particular nuances of Portola Valley and its residents in small neighborhoods. What might seem like an insignificant sum of money was a significant sum given that the impacts on his neighborhood were not compensated in any way by the fees paid by these residents. He also did not support the argument raised with respect to the added administrative burden. He found there would be very little additional burden on the Town staff in doing a computation that would allocate the fees to the private roads.

Responding to Councilmember Toben, Mr. Spencer confirmed that he was aware that the Woodside Highlands neighborhood taxed itself \$250 per parcel in order to handle the bulk of the maintenance that was required for the roads. Councilmember Toben said the solution that Mr. Spencer recommended was already in place and at considerable expense to the homeowners. Additionally, he said Craig Taylor, president--homeowners' association, had done a superb job of answering the comments in the report that favored a status quo arrangement. He reiterated that he disagreed with the report's conclusions and continued to think that a just allocation of these fees for private roads was a matter of significant principle for the Woodside Highlands homeowners' association. Responding to Mr. Spencer, he said the fee did not generate a lot of money, but it was significant from the neighborhood's standpoint. Since the fee was implemented, the Town had collected \$24,000 in sums that could be ascribed to Woodside Highlands, which was a significant sum of money. He noted that damage to the roads due to construction projects was in addition to routine degradation. He said Woodside Highlands was simply seeking its fair share of the fees.

Responding to Mayor Davis, Mr. Spencer said the initial study for the Town was based on an estimate of the average road miles that would be used by construction traffic on public roads in Town. The average number of truck trips associated with different kinds of construction activities had been looked at. Those truck trips each had an incremental impact on the facility. For example, if a road could handle 1,000 truck trips before it needed to be overlaid with asphalt and a given construction activity would have three truck trips, then the impact fee would be three one-thousandths of the cost of that overlay. It was tied to the public road miles in Town, the cost of overlaying those roads, and the relative impact of truck traffic on those roads. It was also important to realize that you could only charge new development to fund its share of its impact; it was not fair to charge new development for upgrading a facility that was built to different standards. The fee had to be adjusted down for the level/quality of road that existed today. That level could only be maintained through the fee, and you couldn't charge a higher fee to rebuild the road to a higher standard. Responding to Mayor Davis, he said even though the impact might be greater on a substandard road, you could only charge a fee to rebuild the road to that same lower standard. The impact might be greater, but the cost of maintenance would be less because it was a lesser standard road.

Councilmember Merk said he also lived on a private road, but there was no homeowners' association. His neighbors did not want a better road or one built to Town standards. What residents wanted was to recover from the damage that heavy trucks did to the lane. Like Councilmember Toben, he was extremely disappointed in the reasons listed for not including private roads. He did not think Mr. Spencer understood the Town, what the Town was trying to do, and how the people in Town wanted things to work. The whole reason this issue came up was fairness. That had not been addressed.

Mr. Spencer pointed out that he was told not to do any calculations and just to provide the Council with some guidance based on his experience. He strongly encouraged the Council to think about an incremental fee since the original fee was meant to cover just the public roads in Town. He said he could look into: 1) what that additional fee would be for truck trips on private roads; 2) the cost of maintenance; 3) impact of truck trips, etc., to see what the fee would be. Some projections could be done to estimate truck trips per year.

Mayor Davis said the study should reflect the estimated cost of maintaining the roads. It might be easier just to treat private roads and public roads the same. Responding to Ms. Sloan, he confirmed that he preferred a fourth option to raise the fee and distribute the money to public and private roads; the fee would be the same whether you lived on a private or public road. Considering the relatively small amount of money concerned, he wanted a more simplistic way of distributing the money. He was more concerned about to whom you sent the money and how you knew if it was being properly spent. Mr. Spencer noted that the Town had a legal obligation to ensure that the money was spent according to the law. There were reporting obligations, etc. Responding to Mr. Spencer, Mayor Davis said he doubted whether most homeowners' associations would want to assume the responsibility for private roads. Mr. Spencer suggested it could apply to those homeowners' associations that were interested.

Councilmember Comstock said there was a difference in values of land, which the market took care of. He did not think the Town should subsidize the private roads; those people paid less to begin with. If the private road homeowners were interested in bringing their roads up to the Town standard and the Town took them over, they could be part of the pot. Failing that, it was not a Town responsibility.

Councilmember Driscoll said he was interested in producing a solution where everyone was treated the same. He understood that the standards had created this issue. But, he thought there should be a system that equitably distributed the money. He did not want the Town to perpetuate or accentuate the differences by the taxing structure.

Mayor Davis agreed. He proposed that there be a uniform fee throughout the Town where the money was distributed to private roads when they were used for construction activity. The fee should be raised to reflect: 1) inflation; and 2) a guesstimate of the cost to maintain standard roads. Staff would be requested to do the nexus study given that 8-10% increase. Councilmember Driscoll said the CPI increase and incremental increase for private roads should be high enough so that the Town had no net loss.

Mayor Davis asked for comment.

John Boice, Tynan, said he had been in charge of the Woodside Highlands roads for four years and had supervised most of the construction that had gone on there. The objective of the impact fee was to allocate funds to those roads that were impacted. The funds ought to go to those roads that were impacted—regardless of what they were. He also thought that funds should be allocated to legal entities that had some jurisdiction and ability to handle those funds, as had been done for a number of years. The road maintenance district had an account with the Town, and all of the reports were publicly available. It was not a private road per se. It was controlled by a public, legal agency. Anyone who wanted to form such an agency should be entitled to the impact fees that those roads were part of. If it was an impact fee, it should go to the people who were impacted. Taxes were paid to the Town for road maintenance, taxes were paid to the road maintenance district, and taxes were paid for road maintenance through the utility tax. People should not have to pay more because they lived on a so-called private road. He felt the fee should be uniform. The amount of money was not great, and it would probably pay for a little bit of maintenance caused by these trucks. He added that a few years ago, the entire base of the roads on which most of the projects were on had been done to standards that were equivalent to Town standards. When there were four projects on one block with massive concrete trucks, there was road damage. The roads were narrow, and the edges were torn up.

Craig Taylor, president-Woodside Highlands, said he concurred with Mr. Boice. He also agreed that the Town should be more inclusive rather than divided. Some people lived right on the border, and there were no impacts on the roads. Everyone should pay into a common pot and share the responsibility. Sometimes you'd win, and sometimes you'd lose; that was part of being a community. He agreed a lot of time should not be spent making this complicated. He suggested taking those private roads with entities that could accept the funds, adding that to the total amount of roads in Town, applying whatever cost was used for a

mile of road, multiplying that out, and making the allocations based on each project and the amount of miles. A percentage of the fees should not be given to a road maintenance district every year. If there were no projects in that road maintenance district that year, no impact fees would go there. Responding to Mr. Spencer, he wanted to see one fee for any project in the Town without regard to type. When the Town staff went to allocate the money, they calculated the mileage as they did today. The administrative costs would be relatively minor because the mechanism was in place.

Councilmembers discussed distances of private roads from Town borders, truck routes, the fairness of current allocation method, etc.

Mr. Spencer said the current fee was an estimate of the average length of a truck trip in Town. It was a single fee with regard to length. The issue was whether to bring the private roads into the program and whether that should be tracked differently. If the average truck trip was 2 miles on public roads, adding private roads might make it 2.3 miles. There might be some adjustment because the private roads were at a different standard but without doing a lot of analysis/engineering. He asked how it would be allocated.

Mayor Davis suggested using an equation whereby Wayside Road, for example, would get some percent when something was built on that road. The calculation would be done once for the 5-6 roads. Whenever construction occurred on that road, the funds flow for impact fees would be ratio-ed. If construction occurred on a public road, 100% of the fee would go into the public road pot. If the construction site was on a private road, some percentage of that fee would go into a separate pot for that district. For each fee payment, there would be that one additional step to allocate revenues. He confirmed for Ms. Powell that the consultant should be asked to come up with the ratios. As previously discussed, he felt the money should be set aside as if there were road maintenance districts or homeowners' associations. If they did not come forward, then the money would be returned to the Town after a certain period of time. He wanted to encourage better quality roads. A modest contribution might galvanize people to improve the quality of the road. He suggested a time period of two years. Councilmember Toben suggested that for a small, disorganized neighborhood, it might take longer. After discussion, Council agreed that money should be set aside for the private roads with the intention that they would form some legal entity. Responding to Mr. Spencer, Councilmember Merk said he felt those streets that currently did not have maintenance districts/homeowners' associations should have separate pots.

Mr. Spencer said if, for example, \$3,000 sat in the Bow Way account for ten years, under the law that would have to be re-allocated back unless the administrative cost of refunding outweighed the amount to be refunded. Ms. Sloan said she thought it was 5 years. If people didn't do anything, it could be allocated to the public roads. It would only have to be refunded if it was not spent on the public roads.

Responding to Councilmember Comstock, Ms. Sloan referred to the January 3, 2005, staff report and read the section that addressed the legality of the Town expending money on maintenance of private roads, which were opened to and traveled by the public.

Council agreed to defer discussion of retroactive fees. Councilmember Driscoll suggested someone from Woodside Highlands be included in future discussions with the consultant.

(5) Fees for Fence Permits

Ms. Lambert reviewed the staff report of 11/2/05 on fence permit fees.

Councilmember Merk noted that other towns handled fences quite differently. In some cases, whether or not a fence was reviewed depended on the material. He questioned why horse fences needed permits. If you met the requirement of a horse fence—a simple 3-rail fence with perhaps some 6" x 6" wire—he did not think the design needed to be reviewed. The fees could be cut in half by not requiring a permit on a very

simple fence. Or, there could be a flat \$50 fee with no inspection. Referring to the permit application, he pointed out an inconsistency between what was required on the site plan (p. 2) and what was called out in item 3 (p. 3) in terms of structures.

Mayor Davis said the ordinance encouraged horse fences if people wanted fences. He did not think they should be treated equivalently to other types of fences. He would prefer a lower fee for horse fences—assuming it was where it was supposed to be, the proper height and material, etc. Councilmember Merk noted that those determinations required an inspector and staff time. Ms. Lambert added that as proposed, horse fences would still require a 6-day notice to neighbors. Currently, site plans were not provided. Staff tried to assist people on where their rights-of-way were. She and the building inspector usually went out to the site.

Councilmember Merk said the primary goal was to keep an open feel and character in Town. He felt the whole reason to permit fences with significant opacity was to maintain that open feeling. If someone was building a fence that didn't restrict that open feeling, such as a horse fence, he questioned the need for a permit.

Councilmember Driscoll agreed—providing people built the fence they said they were going to build. But, he felt there should be some sort of drive-by. He could support a \$50 fee for a horse fence and \$150 for anything else. Mayor Davis said he didn't think \$150 was enough. The fences that were argumentative in their opacity, height, size, color, etc., would require more staff time as indicated in the staff report. Ms. Sloan added that the Town Planner felt that if you set too high a fee for a fence permit, people wouldn't apply. Recouping costs had to be balanced against discouraging people to apply.

Councilmember Driscoll said he did not think that \$250 was too steep. Councilmember Merk said \$250 was nothing compared to having someone draw up plans, get a survey/plot plan, etc. Ms. Sloan noted that a survey was not required. Councilmember Driscoll said \$250 was equal to the cost of adding 5-8 feet of fencing. Ms. Lambert noted that the application indicated that the Town had information for many parcels if the owner did not have, for example, plot plan information. The one thing staff couldn't assist with was determining property lines.

Ms. Sloan said she did not recommend anything over \$225, which staff indicated was the cost. Ms. Lambert confirmed for Councilmember Merk that \$225 was a low estimate of staff costs; she thought it would take between 4-5 hours.

Council discussed whether a 6-day notice should be given for a horse fence. Mayor Davis questioned what a neighbor would have to complain about. Councilmember Driscoll said a fence tended to change vegetation and use pattern. He thought the Town should err on the side of notification. He wanted to encourage neighborliness and not deception or surprise. Ms. Lambert agreed. She did not think the notification on a horse fence would generate much reaction.

Council discussed whether \$50 was sufficient. Councilmember Driscoll suggested \$100 to cover staff expenses in order to verify it was a horse fence. Mayor Davis said he felt having a difference in the fees was a strong projection of the fact that the Town encouraged horse fences. Responding to Councilmember Merk, Ms. Sloan said the Town did not have to charge a fee that would recoup costs. Mayor Davis suggested \$100 for horse fences, \$225 for other fences, and then re-visit the subject in six months to see if the fees were adequate.

Councilmember Merk moved to approve Resolution No. 2219-2005 Setting the Filing Fees and Deposit for Fence Permit Applications for the Planning and Building Department, as amended. Councilmember Toben seconded, and the motion carried 5-0.

(6) Zoning Ordinance Amendments Regarding Fences

Mayor Davis referred to Town Planner Mader's memo of 11/2/05 on the ordinance amendment for fences. He asked for public comment, and there was none.

Councilmember Merk moved second reading, waive further reading, and adoption of Ordinance No. 2005-360 Amending Title 18 [Zoning] of the Portola Valley Municipal Code by Amending Chapters 18.04 [Definitions] and Section 18.42.040 [Exceptions to Requirements – Fences and Walls] of Chapter 18.42 [Accessory Structures], Adding Chapter 18.43 [Fences] and Repealing Section 18.54.020.C [Measurement of Height]. Councilmember Toben seconded, and the motion carried 5-0.

(7) Amendment to Animal Control Chapter of Municipal Code

Ms. Powell reviewed the staff report of 11/4/05 on the amendment to the animal control chapter of the municipal code. Per Council's request, she said staff had tried to tailor the ordinance more to the rural, residential environment in Town. Responding to Mayor Davis, Ms. Sloan said Camas Steinmetz spoke with the County about the revisions. While the County did not recommend having a Town panel conduct the dangerous dog hearings, that was acceptable to them. They also accepted adding the language about Portola Valley being a rural community as one of the mitigating factors.

Referring to the amendment (p. 11) and the new provision about removing a dangerous animal designation, Councilmember Toben asked if the Town could face any liability issues in the event the designation was revoked and the animal subsequently mauled someone. An owner could repress an animal for the required time period and make representations that the behavior was cured. Responding, Ms. Sloan said George Stern had recommended that after a certain amount of time, the dog would automatically not be considered dangerous. Staff had discussed this with the County counsel who did not feel that was appropriate. The new provision allowed someone to petition the Town panel to hold a second hearing. With a second hearing and the discretion involved, immunity went with it. The liability would be no different than with the first hearing, but there was immunity. She added that Mr. Stern felt that if an owner could demonstrate that a dog had been trained, altered, aged and mellowed, there should be a second chance. Responding to Councilmember Toben, she said legally, she felt the new provision was appropriate.

Councilmember Merk thanked staff for coming up with an ordinance that was more in line with what Council discussed. He added that he was still unhappy with the services the Town received for what was paid.

Mayor Davis asked for public comment, and there was none.

Referring to the ordinance (p. 12), Section 6.04.110.C, Councilmember Merk suggested inserting "Town panel" where Hearing Officer was deleted, as had been done in all the other sections.

Councilmember Driscoll moved first reading, waive further reading, and introduction of an Ordinance Amending Chapter 6.04 [Animal Control] as revised. Councilmember Toben seconded, and the motion carried 5-0.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(8) Change in Trails Committee Charter

Referring to Ellen Vernazza's e-mail, Mayor Davis noted that the Trails and Paths Committee wanted to remove the start time for the meetings from the charter. By motion of Councilmember Merk, seconded by Councilmember Driscoll, the charter was amended by a vote of 5-0.

(9) Discussion of November 8, 2005, Election Results

Mayor Davis congratulated Maryann Derwin on her election to the Council and Councilmembers Merk and Driscoll on their re-election. Responding to Mayor Davis, Ms. Hanlon said the County did not expect to certify the election results until after Thanksgiving.

With respect to Measure H, Mayor Davis said it was clear that the Town needed to continue to try to bring into the decision-making process those who had tried to use the utility users' tax as an expression of their unhappiness with the Town Center project.

Bill Lane, Westridge, said the re-election of incumbents over the years was a tremendous accolade and compliment to the administration of the Town by the staff and its consultants. He felt everyone in Town should be very proud of the way the Town had been managed and governed for 40+ years. He offered congratulations to Maryann Derwin and best wishes to all. He offered to help Councilmembers to serve the Town in a way that it had been served for so many years.

Councilmember Driscoll noted that there were four candidates running for three positions. He felt all had run up front, straight, honest, and friendly campaigns. He complimented SallyAnn Reiss on her campaign as well, noting that she would have been a very fine addition to the Council. Mayor Davis said he looked forward to Ms. Reiss continuing her high-energy and great contributions to the Town. Councilmember Toben described Ms. Reiss's service to the Town on various committees and chairing events. Having spoken with her this morning, he said she remained fervently committed to bringing the Town Center project to reality. She would be continuing her central involvement in the fundraising effort. He described her catalytic role in the "Yes on Measure H" campaign. He added that he was delighted to serve with those elected and re-elected and also cherished the fact that Ms. Reiss would remain integrally involved in the community.

Councilmember Driscoll said the "no" vote on Measure H demonstrated that there was a significant percentage of the population that was disaffected, not informed or unhappy. He felt each of the Councilmembers should attempt to reach out to that group and try to understand why they felt as they did and figure out what could be done about it. It was difficult to reach a consensus when people had rushed to a judgment that what was being done was wrong.

Jon Silver, Portola Valley Road, agreed with Councilmember Toben's comments about Ms. Reiss's contribution to the "Yes on Measure H" effort. He named others who had been particularly effective in gathering support for Measure H, including Danna Breen. He felt there was a lot of misunderstanding on the part of those who voted against Measure H. It was important to reach out to those people and promote better understanding. In terms of funding the Town Center project, he felt it should be a public project and, if necessary, a bond issue. Craig Taylor, Santa Maria, noted that Gary Nielsen added a tremendous amount to the campaign. Without those volunteers, it would not have happened. It was a very close vote and the Town needed to figure out how to engage those opposed. But, it had also galvanized people to start the dialogue for both sides.

Pierre Fischer, Valley Oak, said he had attended a Finance Committee meeting in May 24, 2004, where a consultant had explained how the Town could get a loan for a maximum of \$50 million. He was surprised to see a letter in *The Almanac* from a Councilmember and the flier that said this meeting never happened or that no one on the Council knew about it. Responding, Councilmember Driscoll said he had attended the meeting. The consultant had been asked to advise the Town on options. Responding to Mr. Fisher, he said the "No on Measure H" campaign erroneously indicated that the Council was planning on using the utility users tax secretly and behind people's backs to pay for the Town Center project. That was unfair. Mayor Davis noted that Mr. Fischer had missed the next four Finance Committee meetings where everything from bond issues to parcel taxes was discussed. The charge to the Finance Committee had been to look at

public financing methods. He [Davis] had attended all the meetings and at no time was there a decision made to proceed with any of these forms of funding. If the Council was held responsible for every presentation or proposal discussed, the government couldn't proceed.

(10) Status of New Town Center Project

Ms. Powell distributed copies of: 1) Laura Chase's memo of 11/9/05 on alternative plans for the Town Center building cluster; 2) Mr. Vlastic's memo of 11/3/05 to the ASCC; and 3) Susi Marzuola's memo to Mr. Vlastic of 11/4/05. As indicated at the ASCC special meeting on 11/7/05, she said the ASCC was seeking Council's concurrence so that they could continue with the design review process with the architects. After discussion, Councilmembers agreed they wanted to study the material prior to discussing the alternatives being proposed.

Mayor Davis said the Church had signed the lot line agreement. This item would be agendaized for the 11/21/05 meeting.

Councilmembers discussed the perceptions of people in town and meetings being held with the architects at the request of the fundraising committee to explain things to the fundraisers. Councilmember Merk said the Town needed to ensure that all meetings that had to do with the design were noticed so that anyone in the public could attend the meetings and see how the process was working. In talking to people, he said the reason some voted against Measure H was to send a message to the Council. There was a complete disconnect between what Measure H did and why people voted "no" on it. Responding to Mayor Davis, he said there was the perception that a subgroup was influencing the design. Councilmember Driscoll said if further meetings were held, they would be publicly noticed even though everyone was invited. There was no intention to exclude anyone.

Councilmember Comstock said the focus on publicly noticed meetings and trying to get good turnout was a very worthwhile endeavor. But, he felt there was a substantial portion of the population that simply didn't attend such meetings. Over the last four years, he did not think there were more than 200 individuals who showed up at these meetings. That was a very small percentage of the total population that showed up for these meetings—noticed or not. It was very important to have some mechanism so that the rest of the 95% knew what was going on. The Town newsletter went out every six months, but he didn't think it was working. He thought the Town should carefully consider doing something like the bulletin that Woodside put out twice or once a month. It could be as simple as a one-page letter from the Mayor that went out each month. While a lot of people might throw it out, they couldn't accuse the Town of not communicating. It should be very focused. It didn't have to cover enormous range—just deal with the important topics. If that was mailed to each and every voter, it would have a much better chance of being seen than expecting those people to come to public meetings or read *The Almanac*. Secondly, he said there was a fair chance that the Town was responding to a particular interest group in pursuing an alternative design approach for the Town Center. There were many people who were obviously concerned about the cost, etc. He thought it was worthwhile to explore an alternative design, but he was concerned that the focus might go so heavily in that direction that other directions would not be pursued. On the low budget end was the austere Town Center design. At the other end of the spectrum was the comprehensive plan that included a range of uses, etc. He was concerned that all of the attention would be put on the austere plan without finding out how the vast middle ground—the 95% of the people who didn't come to the meetings—felt about it. In the 11/4/05 digest, there was a copy of his draft cover letter and post card survey on the Town Center that he had suggested at the last meeting. First, he thought they should be asked if they preferred the comprehensive plan or austere plan without consideration of how much it would cost. If a large percentage wanted to pursue the more comprehensive plan, then that could be taken to the financing group to see if it could be done. Or, a substantial percentage might feel strongly that the austere plan should be pursued. At least the Town would be working from a basis of some understanding of the general feeling in Town as opposed to the feeling of the relatively small number of people that actually showed up at the meetings. That could be used as a

basis for the funding rather than allowing worries about the funding to direct the Town to any particular design solution. Better communication had been talked a lot about, and something needed to be done. The simpler and more frequent the better. The design options should be kept open, and discovering the true feelings of the majority of people in Town was very important in terms of function, form, utilization, etc. Responding to Craig Taylor, he agreed the website could be used, but a mailing was the only sure way of getting something to everyone in Town.

(11) Reports from Commission and Committee Liaisons

(a) Cable Committee

Councilmember Driscoll said Comcast had requested that the Town enter into a non-disclosure agreement for beginning negotiations for the renewal of their contract. Ms. Sloan said she would need to check with the attorney retained to work on the contract. Councilmember Driscoll discussed Comcast's reluctance to release information on the number of subscribers, outages, etc. After discussion, Councilmember Merk said if Comcast wanted confidentiality, they should not deal with public entities. Responding to Councilmember Toben, Councilmember Driscoll said the Cable Committee received a report of incidents/problems from Comcast when they attended monthly meetings. The Committee monitored response times, etc. In his experience, Comcast showed up for one in three meetings. The Comcast representative for the Town apparently had some personal problems.

(b) Trails Committee

Councilmember Driscoll said the Trails Committee would be requesting that the Council implement a policy whereby the police would patrol the trail entrance at Alpine and Willowbrook that went up to Toyon Trail, which was a no-dogs trail. There were apparently some repeat offenders. The Committee had spoken to the Sheriff's department, who was willing to do patrols as long as they were clear on what they were expected to do. That would be coming to the Council. Secondly, there was a trail that passed below the property being developed at the end of Redberry in Blue Oaks. There was also an ad hoc trail probably blazed during the construction of the Portola Glen Estates that connected to Redberry and was a walkable trail; it could conceivably go to Black Oak Trail. The Trails Committee was interested in pursuing a new trail easement with the Blue Oaks homeowners' association during negotiations about the new home. He had informed the Committee that it was unlikely that the Council would seek a PUD modification for this trail. The Committee would be taking a field trip to the area. With respect to the donation of open space at Lake Road, he said the Trails Committee was also very interested in this because they believed it could be a trail connector.

(b) Traffic Committee

Councilmember Comstock said the Committee discussed a property on Westridge located on a steep corner with a steep slope. The property owner would like to put a mirror on the opposite side of Westridge to improve visibility when he came out of his driveway. The Traffic Committee referred the request to the Westridge architecture committee as a first step. The Committee also discussed transfer parking for trailer trucks that couldn't maneuver on narrow roads and trucks waiting their turn for access to a construction site. He said Mr. Young was involved, and a recommendation would be forthcoming.

(c) Town Center Outreach Committee (TCOC)

Councilmember Toben said the TCOC was discussing possible replacements for the Chair, Linda Weil. He noted that the Committee continued to work hard on outreach. The first newsletter had received generally favorable response, and the second issue was in progress. The Committee was also working on individual meetings and outreach via *The Almanac*. Councilmembers Driscoll and Toben discussed presentations given to homeowners' associations and informal gatherings.

WRITTEN COMMUNICATIONS

(12) Town Council 10/28/05 Weekly Digest

(a) Open Space Acquisition Committee Budget

Referring to Craig Taylor's letter of 10/27/05 (revised), Ms. Powell noted that the Committee had requested an amount not to exceed \$1000 for an end-of-year charitable donation solicitation. She showed Councilmembers what the mailer would look like. Responding to Mayor Davis, Councilmember Merk suggested it come out of the open space fund; it would pay for itself. Councilmembers agreed.

(b) Invasive Plants at Nathhorst Triangle Park

Referring to Marilyn Walter's letter of 10/23/05, Councilmember Driscoll suggested forwarding the letter to the Conservation Committee and Trails Committee so that they could request an appropriate budget for the removal of invasive plants on Town property. Ms. Powell added that Mr. Young had already planned for a lot of this work, and Ms. Walter had been notified. Councilmember Merk discussed the increase in invasive plants and the need to educate property owners.

(13) Town Council 11/4/05 Weekly Digest

(a) Draft Post Card Survey and Cover Letter on Town Center Design Alternatives

Councilmember Comstock reviewed his draft post card survey and cover letter that he discussed earlier. He reiterated that he felt the survey should not reference cost. Councilmember Merk said there would be a bill to pay for Plan A or Plan B. If cost wasn't considered, people would probably pick the more comprehensive option.

Mayor Davis questioned whether people should be asked for bite-sized information. The difficulty was getting a meaningful response. Councilmember Comstock said this was intended to be a reply card; the text that went with it mentioned that this was a first step before the Town came to grips with costs. Mayor Davis felt it was an idea that needed further development/discussion.

(b) Recruitment for Building Inspector

Referring to Ms. Powell's memo of 11/2/05, Councilmember Merk said it was worthwhile to extend the recruitment period to ensure the Town got a good building inspector.

CLOSED SESSION

(14) Conference with Real Property Negotiator

Government Code § 54956.8

Property: Blue Oaks BMR Lots

Negotiators: Blue Oaks Homeowners' Association, Town Attorney and Town Administrator

Under Negotiation: Price and Terms

(15) Public Employee Performance Evaluation

Government Code § 54957

Title: Town Administrator

REPORT OUT OF CLOSED SESSION: *Nothing to Report*

ADJOURNMENT

The meeting adjourned at: 11:40 p.m.

Mayor

Town Clerk