

TOWN COUNCIL MEETING NO. 741, MARCH 26, 2008

ROLL CALL

Mayor Derwin called the meeting to order at 8:00 p.m. and led the Pledge of Allegiance. Ms. Howard called the roll:

Present: Councilmembers Merk, Toben and Wengert, and Mayor Derwin
Absent: Councilmember Driscoll
Others: Town Administrator Howard, Dep. Planner Vlastic, Asst. Town Attorney Leigh Prince, Asst. Town Administrator McDougall, Planning Manager Lambert and Asst. Clerk Hanlon

ORAL COMMUNICATIONS: None

CONSENT AGENDA

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

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

- (3) Warrant List of March 26, 2008, in the Amount of \$363,710.90.
- (4) Resolution No. 2386-2008 Approving Third Amendment to Agreement for Audit Services Between the Town and Maze Associates Accountancy Corporation, per Admin. Services Officer's memo of 3/26/08.

REGULAR AGENDA

- (1) Minutes of the Town Council Special Meeting of March 4, 2008 (Removed from Consent Agenda)

Councilmember Merk submitted changes to the minutes of the 3/4/08 special meeting. By motion and second, the minutes were approved, as amended, by a vote of 3-0, with Councilmember Wengert abstaining.

- (2) Minutes of Town Council Meeting on March 12, 2008 (Removed from Consent Agenda)

Councilmember Toben submitted changes to the minutes of the 3/12/08 meeting. By motion and second, the minutes were approved, as amended, by a vote of 4-0.

- (5) Public Hearing: Amendments to Zoning Title of Portola Valley Municipal Code Regarding (a) Variances; and (b) Fences

Mr. Vlastic said the two amendments to the zoning ordinance were more technical and less substantive in terms of the way the zoning functioned.

- (a) Variances

Mr. Vlastic reviewed the staff report of 2/26/08 and the recommended changes to the findings for variances. He said State law had changed over time, and the proposed language for the Town's regulations was more

consistent with planning law. While the findings were more consistent with State planning law, they still covered the fundamental issues that were of concern to the Planning Commission, sitting as the Board of Adjustment, when it considered variances. He noted that there was no need for a finding that the variance be consistent with the General Plan, but the Planning Commission wanted to keep that language so that there was no misunderstanding. Responding to Councilmember Merk's question on finding #5, he said "zone regulation," as opposed to "zoning regulations," was used because it was tied to the specific zone that the property was in rather than to all zoning regulations. The specific uses were by district and by zone. You could not grant a use that was not consistent with the zoning. Ms. Prince confirmed that the language tracked with the State law language.

Councilmember Toben said he understood that the intent was to bring the Town's variance provisions in line with the State language, and that the drift seemed to liberalize the language and make it a little less severe. But, finding #4 appeared to move in the opposite direction. As indicated in the staff report, this provision was not mentioned in the State law. He questioned how the Town could establish a higher standard than the State required. Ms. Prince said the State law set the minimum. You were allowed to go beyond that if you wanted stricter requirements, as set forth in the Government Code. Councilmember Toben questioned why the findings were being softened if it was not required to ratchet it down to meet the more liberal State standards. Responding, Mr. Vlastic said with the earlier language and particularly beyond reasonable doubt, the sense was that the findings were so strict that the Commission didn't have the authority to exercise the judgment that was intended. He fully appreciated the Town's interest in being consistent with State law, but also appreciated the care that the Planning Commission brought to these decisions.

Councilmember Wengert said the Planning Commission spent a lot of time on the revised language and was very comfortable with the changes from the perspective of the stringency of the variances the Town granted. The Commission wanted to retain the reference to the General Plan for added emphasis. She supported the amendment.

The public hearing was opened, there were no comments, and the hearing was closed.

Councilmember Toben moved first reading of title, waive further reading, and introduction of an Ordinance Amending Section 18.68.070 of the Portola Valley Municipal Code Regarding Variances. Councilmember Merk seconded, and the motion carried 4-0.

(b) Fences

Mr. Vlastic reviewed the staff report of 2/28/08 and recommendation to reinsert provisions that had been inadvertently omitted for fences in other than residential, Mountainous-Residential (M-R) and Open-Area (O-A) zoning districts. Councilmember Merk said it would be helpful if the changes were shown in strikeout or red so that they would stand out. Mr. Vlastic said paragraph 1.B had been inadvertently removed and was now put back in.

The public hearing was opened, there were no comments, and the hearing was closed.

Councilmember Merk moved first reading of title, waive further reading, and introduction of an Ordinance Amending Section 18.42.040 [Exceptions to Requirements – Fences] of Chapter 18.42 [Accessory Structures] of Title 18 [Zoning] of the Portola Valley Municipal Code. Councilmember Wengert seconded, and the motion carried 4-0.

(6) Establishing Policy for Temporary Occupancy

Ms. Lambert reviewed the staff report of 3/26/08 on the revised policy for granting temporary occupancy. Responding to Councilmember Merk, she said under "Inspection by Planning Staff," external colors and

materials needed to be completely installed/applied. She said she would insert "external."

Responding to Councilmember Toben, Ms. Lambert said the applicant was not issued a permit. They received a letter from the Town that addressed temporary occupancy. In that letter, the conditions of approval were addressed. Those were the things outlined in the punch list. The letter also indicated the dates for temporary occupancy. Councilmember Toben said the final inspection checklist was the generic checklist prior to occupancy. It was important for the applicant to know what would be looked at. Some of the items were health and safety issues that had to be done and signed off on.

Councilmember Wengert said the procedure was not fully outlined. There was no reference to the fact that a letter would be issued to the homeowner. Ms. Lambert suggested, "Upon temporary occupancy, the owner shall receive a letter stating..." Councilmember Wengert suggested "Temporary occupancy becomes effective upon receipt of a letter from the Town authorizing temporary occupancy."

Councilmember Merk moved approval of a Resolution Adopting a Policy for Temporary Occupancy, with the addition of the word "exterior" and a statement about the owner receiving a letter before temporary occupancy could begin. Councilmember Wengert seconded the motion.

From the perspective of a homeowner trying to navigate through the system, Councilmember Toben said he was still not satisfied with the way the policy was laid out. The policy referred to items like colors and materials, exterior lighting, substantial conformance, etc. But the second document, which was provided as an attachment, was really the meat of the issue and referred to things like roofing, wiring, plumbing, kitchen, bathroom, water heater, furnace, etc. He saw no reason why that content couldn't be merged into the policy document. Those were the essential elements that had to be addressed before temporary occupancy could be granted. Color and materials were peripheral but were flagged in the policy. Additionally, the fire sprinkler system was addressed in the policy cover page. It should be one of the items enumerated in the Building Department Requirements checklist. He felt all of the content under Building Department Requirements should be transferred into the policy under the statement: "The following standard requirements for temporary occupancy must be completed in order to obtain a Temporary Occupancy." Councilmember Merk suggested referring to the "Minimum Requirements for Temporary Occupancy" sheet as an attachment. The attachment might change over time. Councilmember Toben said he was not that worried about the content being separate; policies were easy to amend. He wanted the two documents integrated. Another example of the disconnect was that the policy did not have a reference to geotech, but geotech was referenced in the second document.

Ms. Lambert said she would incorporate the Minimum Requirements for Temporary Occupancy into the policy. She noted that the Building Official did not do an inspection until Planning and Public Works did their inspection. Councilmember Toben suggested adding the sequence to the policy.

Ms. Howard confirmed that the Council wanted a temporary occupancy policy that first laid out the process and then set forth the requirements in one document. Not only would the homeowner understand what he/she needed to do to get the occupancy, he/she would know the minimum requirements in order to be granted temporary occupancy. Councilmember Merk withdrew his motion and suggested that the rewritten version be put on the consent agenda. Council agreed.

(7) Support for Parks for the Future Funding Program

Ms. Howard reviewed the staff report of 3/26/08. She noted that Bill Lane's letter urging support was dated 3/24/08. She added that the City Manager of Brisbane, Clay Holstine, had been very instrumental in making sure that the small towns ended up with a fair portion of the tax revenue.

Julia Bott, Executive Director of San Mateo Country Parks and Recreation Foundation, said this was the

same measure as the measure in 2006, which received 55% support. About \$100,000 more had been raised for the campaign than had been raised last time. The goal was to have all the money raised that was necessary for the early mailings. Additionally, someone had been hired to do the organizing for city committees, and more work was planned for the communities. Two polls had been conducted to see whether there was support. It was determined that a lot of people didn't know enough about the measure. The message needed to go out through direct voter contact, informative mailers, as well as community-based discussions with people. Having the endorsement of city councils was very important, and she hoped to get the Council's endorsement. She also wanted to know how the Town would spend its share. This was a sales tax that needed to be spent for parks and recreation. The Town could decide locally how to spend it, and that could change over the 25 years of the tax. To convince voters that this had a value to them, dollars needed to be translated into projects.

Responding to Councilmember Merk, Ms. Bott said the first poll in 2005 indicated that there was not support for an increase of 1/4 of a cent, and all of the professionals agreed on 1/8. Across the State, there was a variety of different tax levels; a lot of communities implemented a smaller percentage. If this passed by the voters, it would not take effect until November of 2008. The Board of Equalization required time to let vendors know. Councilmember Merk said he did not know what projects the Town had planned for the next fiscal year and what the budget would be. This measure denied the Town the ability to cut back on the budget level for Parks and Rec. If it was cut back, tax revenue would be lost. The Town's needs changed, and the budget changed. The State was in financial trouble because there were so many things that they had to pay for, and there wasn't enough money to go around. This would tie the Town's hands in a way that wasn't very acceptable. If the Town needed to cut the budget, he did not think it should be penalized for receiving the tax. Responding, Ms. Bott said the Town could cut its budget expenses for various departments as long as the Town's Parks and Rec budget was cut percentage-wise the same as the other departments. Councilmember Merk felt that was onerous. Ms. Bott said it was the best that could be done in order to meet the needs of the community who wouldn't support a measure if they felt towns could just cut the budget and use the tax dollars to fill it. The voters needed to be convinced that these were new dedicated funds, and this was a safety valve to let towns cut the budgets when they needed to—recognizing that they wouldn't want to cut public safety. Other departments could be cut by a percentage—not dollars.

Councilmember Wengert said given the Town's history, the priority was to try to maintain the Parks and Rec budget as long as possible. If there were budget cuts, it would probably be in other areas. Councilmember Merk said 25 years was a long time. It was difficult to know what would happen tomorrow much less 24 years from now. He would support the measure but felt uncomfortable about this aspect. Councilmember Wengert agreed that any time there were limitations on the ability to make cuts the Town felt were the best ones to make, it would always raise a red flag.

By motion of Councilmember Toben, seconded by Councilmember Wengert, Council adopted Resolution No. 2387-2008 Endorsing *Parks for the Future* – Measure O on the June 3, 2008, Ballot by a vote of 4-0. Ms. Bott noted that Councilmembers could personally endorse the measure on the website. Councilmember Merk suggested agendaizing a discussion on what the Town wanted to do with the funds. Ms. Howard said staff would develop recommendations. Councilmember Toben suggested that Parks and Rec and the Trails Committee have input.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(8) Status of Town Center Project

Ms. Howard said the playground was open and was very popular. The backstop was finished, and the pathway and final landscaping around the field were being installed. The fences should come down in about two weeks. All the windows were in the library as well as the electrical and plumbing. The sheetrock was up in the community hall as was the interior wood; the trim was going in on the inside and was ahead of

schedule. The walls and trusses for the town hall were going in this week. All the wood for the exterior siding had arrived. Responding to Councilmember Toben, she said trees would be planted near the playground for shade when the construction fence came down. Responding to Councilmember Toben, she confirmed that staff was aware the water fountain was not working properly.

(9) Reports from Commission and Committee Liaisons

(a) Parks and Rec Committee

Councilmember Toben said Erica Hughes reported that the majority of the Committee was disappointed that the field surface study would not go forward. The Committee was pleased that the playground was now open. Additionally, the Committee was divided on the field use fees issue, and he did not anticipate a consensus in the near future. There was a lot of concern on whether non-residents were paying their fair share for the use of Portola Valley facilities.

(b) Historic Resources Committee

Councilmember Merk said the Committee took a tour of the library and discussed their budget. They were concerned that some of their existing furniture, etc., might not be appropriate for the new space. Ms. Howard said if there was money left over, it could go to purchase the same type of chairs as the study center. Councilmember Merk said the table would be important because it would be a work area for rolling out maps, etc. Ms. Howard suggested the Committee request adequate funds in their budget for what they wanted in their new library space.

Councilmember Merk noted that at a previous Council meeting, the Council agreed that the Portola Valley school sign could go in the Schoolhouse. Mr. Young suggested putting it on the outside, back wall of the Schoolhouse. Councilmembers agreed it would have greater visibility outside.

(c) Planning Commission

Councilmember Merk said the Douglasses would be connecting to the sewer. It would take 3 months just to get annexed, and the costs were high. The Commission also fine-tuned the amendment for non-conforming uses, which would be coming to the Council soon. Nate McKitterick was elected Chair, and Leah Zaffaroni would continue as Vice Chair. The Commission also discussed the upcoming green workshop.

(d) Emergency Preparedness Committee

Councilmember Merk said the Committee discussed the layout and equipment that would go into the EOC. Mr. Kabcenell compiled a list of all the electronic items and a budget. There were some odd-shaped windows at one end of the room that would need to be blacked out. The Committee was also concerned about the conference table. It needed to be divisible into 5-6 parts that could be easily moved. The Committee also discussed the April 30 training session, which would probably be a presentation on what needed to be done. A representative from Cal Water also attended the meeting and spoke about access to valves, etc., during an emergency. They were also identifying areas where pipes crossed fault lines and would be providing backup hoses. They thought the Town would have a place to store hoses. A 4" or 6" hose needed a space 10' x 10' x 8' high. That would need to be discussed. The Committee was pleased with the architect's plans to put water storage at the end of the maintenance building.

(e) Greenwaste Contract

Councilmember Merk said a meeting had been held on the Greenwaste contract. A 10-year contract would probably be recommended with a slight increase in fees. They wanted to give people a choice on the size of totes they preferred for green waste/garbage and recyclables.

(f) Construction Traffic Committee

Councilmember Merk said the Committee met and discussed policy for Council's review.

(g) Basement Committee

Councilmember Wengert said the Committee held its first meeting on March 20, and it was well attended with a spirited but even discussion of the issues. Staff updated the statistics on basements in Town and how they would be impacted by basement regulations using various percentages. It appeared that the magnitude of the problem might have been somewhat smaller than anticipated. There was not a significant number of basements that were substantial over the past decade. It was also clear from the discussion that new residents coming to Town expected to be able to have a substantial basement if they built or rebuilt. A consensus emerged that: 1) the history did not indicate a problem that was of the magnitude expected; and 2) green and sustainability initiatives would take the Town in a new direction in terms of what was allowed in terms of efficiency and floor area ratios. From both those who were against basements and those who were supportive of some restrictions, the feeling was that this was a subject best addressed at the time the Town dealt with the changes coming down the pike vis-à-vis the sustainability discussions. There was also a difference of opinion relative to the efficiency of below ground space, and it was felt that people should be allowed to choose how they would prioritize under a scheme that would have a series of choices for green building and sustainability.

Responding to Councilmember Merk, she confirmed that the trend was for people coming in with expectations for a substantial basement. Given that the Town was at a juncture over the next year or two, it was questionable whether the Town should put in an ordinance now--recognizing that sweeping changes were likely as the Town dealt with all the sustainability issues. The group felt that rather than putting down strict limitations today when there had been none to date, it was better to provide the ASCC with performance standards for basements. Linda Yates and Clay Baker discussed and put forward some strong recommendations about basements. There were good basements and bad basements, and size was not necessarily the determinant of the impact. Mr. Baker and Ms. Yates felt there was enough information to provide the ASCC with performance standards to guide them in their discussions going forward. A consensus had been reached within a couple of hours, and everyone came away feeling the discussion had taken the right course. The Committee also agreed to participate as a group in the future if necessary. Mayor Derwin noted that Craig Buchsbaum was not particularly happy with the outcome and was in favor of the ordinance.

Responding to Councilmember Merk, Councilmember Wengert said she would be working with Mr. Baker on getting something to the ASCC. Responding to Councilmember Toben, she said the "standards" or "guidelines" would include a checklist of items related to sustainable basements. Mr. Baker was very confident that that was something that the ASCC could work with to guide them in their discussions and deliberations.

Councilmember Toben said the starting point for the discussion on April 5 was the GreenPoints checklist from Build It Green, which was a finished product. Additional items might be woven into that, but fooling around with the template could create complexities. There was also the possibility of tinkering inappropriately with a well-developed set of guidelines. It was not simple, and it was unlikely that the Town could conduct a real exercise that applied that checklist to a project. He had been through the checklist, and nowhere did it talk about basements or performance standards for basements. He was not sure how you could overlay or integrate basements.

Councilmember Merk said if there were performance standards for basements, depending on where someone fell on the checklist, that would determine how big a basement they could have. He felt it could be

separate. Councilmember Wengert said that was how Mr. Baker articulated it. His expertise would be relied on, and follow-up would be required. Councilmember Toben said verification from other experts would also be needed.

Responding to Councilmember Toben, Councilmember Wengert said there had been some discussion about the willingness to consider a reduction in home size as the easiest and most effective way to reduce energy. But, it hadn't been faced head on. Everyone anticipated that that would potentially be part of it, but no one addressed it directly. Councilmember Toben said one of the architects who would be participating in the workshop indicated that the more sophisticated the client, the smaller the home. Councilmember Wengert said there would clearly need to be discussions.

(h) ASCC

Councilmember Wengert said Sue Chaput discussed on-going problems with construction in her area. The ASCC also reviewed two projects on Willowbrook and a property on Westridge.

(i) Conservation Committee

Councilmember Wengert said Jerry Hearn discussed how Acterra could help with organized planting and reduce costs for the Sausal Creek daylighting project. He was encouraged to continue discussions with staff. The Committee also discussed the success of the broom pull. Additionally, there was some discussion about the light brown apple moth issue, which was becoming a much larger problem quickly. The Committee would be collecting information and looking at ways of distributing it. The Committee also reviewed plans for projects on Willowbrook and Mapache.

(j) Mayor's Events

Mayor Derwin discussed organized visits to Little House, the Opportunity Health Center in Palo Alto, the Beachwood School in Menlo Park, a senior center, and her participation in Mayors' Meals on Wheels.

(k) Library

Mayor Derwin said the library had some great programs with good participation. They would be having a poetry competition shortly. The Portola Valley library staff won an award at staff development day.

(l) Pat Brown

Mayor Derwin said Pat Brown would be honored on 4/3/08 at 3 p.m. in the Schoolhouse. Sue Chaput would like someone from the Council to say a few words. Mayor Derwin said she would speak with Councilmember Driscoll.

WRITTEN COMMUNICATIONS

(10) Town Council 3/14/08 Weekly Digest

(a) County Mosquito Abatement District

Referring to the letter of 3/10/08 from the District, Councilmember Merk said the District did a great job and benefited the Town. He supported adopting a resolution recognizing April 21 through April 25, 2008, as "West Nile Virus and Mosquito and Vector Control Awareness Week."

(b) Council of Cities Dinner and ABAG event

Mayor Derwin said she and Councilmember Wengert would be attending the dinner on March 28, 2008. She said she would also attend the ABAG Spring General Assembly on 4/24/08.

(11) Town Council 3/21/08 Weekly Digest

(a) Construction in Town

Referring to the Chaputs' letter on construction in Town, Ms. Howard said Atherton had an ordinance that limited the number of building permits/construction by street. In Town, the Sheriff was regularly sent out, but there was little he could do if the construction vehicles were legally parked. Mayor Derwin noted that some communities required carpooling. Responding to Mayor Derwin, Ms. Howard said staff spent a lot of time talking to construction managers about appropriate places to park, etc.

Councilmember Toben said some of this could be looked at under discussions of green construction. Additionally, staging plans had terms, and those terms could be made more stringent. If the terms were violated, the Town would presumably have some sanctioning authority. He agreed there should be some better instrument to curb some of the excesses. For example, the Town could define the number of parking spaces available for construction vehicles. Councilmembers discussed emergency access, numbers of construction projects, etc.

ADJOURNMENT

The meeting adjourned at 9:46 p.m.

Mayor

Town Clerk