

TOWN COUNCIL MEETING NO. 677, AUGUST 10, 2005

ROLL CALL

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

Present: Councilmembers G. Comstock, Driscoll and Merk, and Mayor Davis  
Absent: Councilmember Toben  
Others: Town Administrator Howard, Town Attorney Sloan, and Deputy Clerk Hanlon.

ORAL COMMUNICATIONS

(a) Request for Use of Town Center facilities by PVSF

Joy Elliot, Co-president--PV School Foundation (PVSF), reviewed correspondence from the foundation dated August 2 and 5 requesting use of the Town Center facilities for a fundraising gala on May 20, 2006. She introduced Janet Lorenzen (gala chairperson), Anne Campbell (District Administrator), Karen Jordan (Board member), and Ginney Kavanaugh (foundation advisory board). Ms. Elliot described the PVSF, fundraising efforts, quality of the schools and the foundation's role, previous gala events, difficulty finding a new location, and community involvement in the event. Ms. Lorenzen discussed: 1) attendance, by invitation only, with reserved seating; 2) local traffic; 3) amplified sound; 4) the silent auction, cocktail hour, dinner, live auction and dancing to a live band; 5) use of the baseball field, adjoining areas, and parking area; 6) similarities of the Town Center to previous locations used; 7) tenting; 8) indoor and outdoor lighting; and 9) fire department permits.

Karen Jordan, School Board, said the foundation leaders would work as hard as possible to alleviate any concerns. She described the importance of the foundation dollars to the school district and the work put into the gala. She said this event gave everyone an opportunity to highlight what everyone enjoyed about the community; it was small, tightly knit, and supportive. An example of that was the school district working with the Town in housing the library at the Corte Madera School. She hoped the Council would approach this request in the same spirit.

Responding to SallyAnn Reiss, Mayor Davis said the item did not meet the criteria to have it added as an urgency item to the agenda. He noted that the Council looked very favorably upon the School District and the foundation. But, there were a number of details about the request that had not been provided. Additionally, to support the request required setting aside a number of ordinances. It was also without historic precedence from the standpoint of the number of people, etc. Public safety and a number of requirements had to be addressed. There was no guarantee of approval.

After discussion, Mayor Davis asked Councilmember Merk to assist staff in working with the representatives of the foundation on the request.

(b) Statement by Councilmember Comstock

Councilmember Comstock read the following:

"Twelve years ago I was surprisingly asked to sit on the ASCC—working in Town government had not ever been on my radar screen until then. After 8 years on the ASCC, I was again quite unexpectedly asked to run for Town Council. What a privilege it's been to be involved in our community in this way. I've developed enormous respect for my fellow members of the Council and

members of the Commissions and Committees, our staff, and many people in the Town I've come to know. After these twelve years, I think it's time to give someone else a turn, and I reached the decision not to seek another term on the Council. I thank you for a wonderful experience."

#### 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 and Merk, and Mayor Davis  
Noes: None

- (1) Minutes of the Town Council Meeting of July 27, 2005.
- (2) Warrant List of August 20, 2005, in the amount of \$239,596.00, following clarification for Councilmember Merk of reimbursement for the adult soccer BBQ (p. 8).

#### REGULAR AGENDA

- (3) Request by William Lettis & Associates to Conduct a USGS Supported Research Study of the San Andreas Fault at Portola Valley Town Center

John Baldwin, William Lettis & Associates, reviewed the request presented in his letter of 8/1/05 to conduct USGS supported research of the Woodside trace of the San Andreas Fault at the Town Center. He described a number of events taking place to commemorate the 1906 earthquake. He noted that the work would be done in October 2005.

Responding to Councilmember Driscoll, Mr. Baldwin used the map to describe why the proposed trench location had been selected. Responding to Councilmember Comstock, he said the trenching would provide further documentation of the southern projection of the fault as it went through the existing Town Center. It was highly unlikely that it would impact any of the proposed development. It was fairly well documented where the fault was based on the previous trench and the probes. It would give more information on how often these kinds of earthquakes came through here. Responding to Councilmember Comstock, he said the trenching to the west was deeper because the water was deeper; it was also a higher surface. Responding to Councilmember Merk, he said any grass disturbed by the trenching would be reseeded. Councilmember Driscoll said the trenching would be a great benefit to the Town by narrowing down the location of the fault in that area.

By motion and second, Council directed staff to prepare an agreement for the consent agenda.

- (4) Proposal Regarding Relocation of Art Gallery to Former Library Facility

Mary McCann reviewed the Art Gallery's request dated 7/25/05 to relocate the gallery to the former library space. Responding to Councilmember Driscoll, Ms. Howard said what was left in the former library was primarily the old stacks and bookcases; the stacks were disposable. If the Council approved the relocation of the Art Gallery, staff would work with the library to determine the disposition of the material left in the building. Ms. McCann noted that the gallery was requesting an amount of the space equal to what it had now.

Responding to Councilmember Comstock, Ms. McCann said the reason for the request was more visibility. It was also a little safer because the windows in the old library had been treated. Responding to

Councilmember Comstock, Ms. Sloan confirmed that no modifications to the building were being proposed. Responding to Councilmember Comstock, Ms. Howard said the gallery provided liability insurance. Ms. Sloan said the Town was not liable if an earthquake caused the building to fall on a gallery staff person, but the person would probably sue. The lease had an indemnity in that they would hold the Town harmless; there was also a sign posted. The Town had done everything it could.

Responding to Councilmember Comstock, Ms. Howard said ABAG had a meeting in May and determined that the insurance would continue for another year because of the number of people moving out of the buildings. She pointed out that the building would probably not be there in a year. The hazmat report would be completed shortly and at some point, whatever abatement was necessary would have to be done before the building could be removed. Additionally, Siegel and Strain had begun determining how much material could be re-used. The building might be taken down in 6-8 months.

Councilmember Driscoll questioned whether there was sufficient time in the new space to justify their move. Ms. McCann noted that the gallery had asked for a six-month lease from November 30, 2005. Ms. Sloan pointed out that the gallery wouldn't need to wait to move until the present lease expired. Councilmember Merk said it was important for the gallery to realize that the Council didn't know how long the building would remain.

Mayor Davis said the former library space would be an increase in space for the gallery, it was in a better location for visibility, and there was no more risk than the current location. Councilmember Comstock moved to approve the request. Councilmember Merk seconded. He said there were still a number of details that needed to be worked out; a number of questions had been raised when the request was first made. At the very least, the lease had to be changed to reflect the fact that the Town might need less than 60 days to vacate the building so that the building could be removed.

Responding to Mayor Davis, Ms. Sloan said a new lease should be drafted indicating a month-to-month lease--without guaranteeing six months after the end of the current lease.

Councilmember Driscoll said he was in support of the gallery doing what they were trying to do. The new space was better from the gallery's perspective in terms of visibility. Since this was a long-time tenant of the Town Center that was not clearly identified as having a place in the new Town Center facilities, he wanted to accommodate the gallery as much as possible.

Council directed staff to draft a new lease.

(5) Fourth Amendment to Architectural Services Agreement

Ms. Howard reviewed the staff report on the fourth amendment to the agreement with Siegel & Strain for the design and development phase of the Town Center project.

Responding to Councilmember Driscoll, Larry Strain said the design and development phase was large because as much work would be done as possible to come up with the best possible system, including all of the energy modeling, etc. Figuring things out took time. If it could be figured out in this phase, the work should go very quickly in terms of completing the working drawings; preparation of the working drawings would start during this phase. Additionally, he recommended starting to negotiate the contract during this phase rather than waiting until this contract was over—perhaps in the beginning of October.

Responding to Councilmember Driscoll, Ms. Howard said \$660,000 had been budgeted; clearly, that would be exceeded. Towards the end of the year, she would ask for a transfer from the reserves for the Town Center into the budget. She reiterated that when the budget was prepared, this was a phased project. Since then, the scope had doubled. Responding to Councilmember Driscoll, Mr. Strain said the whole

project was still well within the number that was included in the last budget for total services. Ms. Howard said the total for design services for the whole project was \$1,710,000. For Councilmember Comstock, she confirmed that was roughly 10% of the estimated cost for the whole project.

Responding to Councilmember Merk, Mr. Strain said civil engineers (proposal, Section I) did all of the utilities except electrical (proposal, Section E). Referring to Section G, landscaping, Mr. Strain confirmed for Councilmember Merk that the landscape architect would complete the play yard plan (L.4.0). It was his understanding that Lutsko would be doing the general layout with the specifics about the equipment, etc., completed later. He said he would check with them to see exactly what was included. Councilmember Merk said \$70,000 for a landscape plan was a lot of money. Mr. Strain said this consultant was expensive but very good. Someone could be found for less money, but it was not the same quality. Councilmember Driscoll noted that the site represented a substantially larger portion than the buildings in terms of the cost. Mr. Strain said he did not think the cost was out of line. He added that if he found items included in a consultant's scope that were not needed, the firm would be asked to take them out. He noted that the landscape architect's proposal had come down \$20,000.

Referring to proposal E, item 3.A.c, Councilmember Merk said the Town had a generator donated by the fire department that had just 100 hours of service; these were all test hours, and a new generator was not needed. Mr. Strain said the proposal was in error, and the firm knew the generator would be reused. In item 3.B.c, Councilmember Merk said he would like to see light tubes included with skylights and windows. He described some of the benefits of light tubes. Mr. Strain agreed and said complete day lighting modeling would be done of the buildings that included skylights, light tubes, etc.

Responding to Councilmember Driscoll, Ms. Howard said a purchase order was in process for TBI to review the proposal.

Councilmember Driscoll moved adoption of Resolution No. 2202-2005 Approving and Authorizing a Fourth Amendment to Professional Services Agreement Between the Town and Siegel & Strain Architects. Councilmember Comstock seconded.

Councilmember Merk said he was starting to get concerned. He talked to 30 different people from a broad spectrum in Town. This juggernaut of a project was rolling, gaining momentum and getting bigger with more and more money being fed into it. He did not see where the money was coming from to do this in one phase or even to do it at all. He was concerned about forging ahead without knowing where the funds were coming from. He questioned what would happen if the Town didn't get the donations hoped for and the voters turned down some kind of a bond. That had not been looked at seriously enough to start spending this kind of money. He could not comfortably vote for this amendment even though he did not want to vote against it.

Responding to Councilmember Driscoll, Mr. Strain said if the Town decided in eight months not to do a single-phase project, the work that had been done would still be valuable. Councilmember Driscoll said by the first quarter of next year, the Town should have a good grasp on what the public portion of the funding would be. At that point, the Town could opt to scope the project back. He was comfortable with that. As long as the same project was being built—whether in phases or not--the work product was not lost.

Councilmember Merk said a couple of years ago, a lot of new interior equipment was purchased for the old Town Hall. At that time, he had raised the point that a new Town Hall was going to be built. It was argued then that the new equipment was versatile and could be re-used. There was nothing in any of the design criteria indicating that that equipment was going to be used. When the new building was done, he suspected old fixtures would not be moved into it. He felt that same line of reasoning would apply. There was the potential that a lot of money was being put into something that might not happen.

Councilmember Driscoll said he completely understood the anxiety. Being on some of the sub-committees, he had the benefit of a little more visibility of the internal workings of the process. There were a couple of proof points that had already been set up. Within one or two months, the Town would be receiving feedback from the consultant about whether the target fundraising was feasible. In terms of the fundraising effort, a pre-commitment process was already in place; a proof point would come in a couple of months when the Town went formally public with the process. The Council would have an understanding of how well things had gone so far. If the Town was very short or halfway of what was needed, the backup plan was a phased approach. Some of the design and development work might prove to be an advance expenditure. Responding to Councilmember Merk, he said the Town would spend whatever it had contracted to spend in the design development phase; certain parts might be shelved; phase 1 was roughly half of the whole project. He felt somewhat confident that the fundraising for the whole project could be done, and substantially more confident that it could be met halfway. While he shared the anxiety, this was an investment and not a wasted cost. At some point, this money would have to be spent.

Mayor Davis called for the question, and the motion to adopt Resolution No. 2202-2005 carried 3-0, with Councilmember Merk abstaining.

(6) Hazardous Materials Assessment of the Town Center

Mr. Young reviewed the staff report of 8/3/05 on the selection of an environmental consultant to perform hazmat inspection services prior to the demolition of the existing Town Center buildings.

Councilmember Driscoll moved adoption of Resolution No. 2203-2005 Approving and Authorizing Execution of a Professional Services Agreement Between the Town and Hazmat Doc. Councilmember Merk seconded.

Referring to the proposal, Councilmember Merk said the hours of work should conform to standard hours in Town, or 0800 to 1730 Monday through Friday unless there was some special circumstance; permission could be granted by Mr. Young. The motion and second were amended to reflect the change.

Mr. Young mentioned that the abatement itself needed to be done before school let out in June to avoid competition with the schools and higher prices for contractors. Responding to Councilmember Comstock, he confirmed that abatement preceded demolition. He confirmed for Councilmember Merk that it could affect the gallery. Councilmember Merk said the gallery needed to be made aware of this.

Mayor Davis called for the question and Resolution No. 2203-2005 passed by a vote of 4-0.

(7) Agreement for Legal Services with Regard to the Town's Franchise Agreement with Comcast Cable Services

Ms. Sloan reviewed her memo of 8/3/05 and recommendation to enter into a professional services agreement with Gregory J. Rubens to renegotiate the Town's cable service contract. Responding to Councilmember Merk, she said the \$20,000 cap on fees would be for both Portola Valley and Woodside. Councilmember Driscoll noted that the Cable Committee supported the recommendation.

By motion of Councilmember Merk, seconded by Councilmember Driscoll, Resolution No. 2204-2005 Approving and Authorizing Execution of an Agreement Between the Town and Gregory J. Rubens, Esq., was adopted by a vote of 4-0.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(8) Status of Town Center Project

Ms. Howard said August 4 was the deadline for comments on the draft EIR; the seven comments received would be responded to and incorporated into the final EIR. She said the trenching the Council approved at the previous meeting had been done, and the report should be received in three weeks. The hazmat study would start August 15 and should take 3 days; the report would be back in three weeks and would indicate how large the abatement would be. Also, Larry Strain was beginning the inventory of the materials in the current buildings that were usable; he felt there was quite a bit that could be incorporated into the design.

Councilmember Driscoll said the ADT was looking to Councilmembers to help with various subsets of the project. One group was focusing on site issues, and Councilmember Merk was participating. Another group would focus on sustainable/green issues and would tap into citizen knowledge. Another subset would focus on construction expertise/cost. More special target groups might be formed, and Councilmembers would be asked to participate.

(9) Reports from Commission and Committee Liaisons

(a) Traffic Committee

Councilmember Merk said the Traffic Committee was looking for members.

(b) MROSD

Councilmember Merk said MROSD was prioritizing trails projects for Windy Hill. He communicated to them that the Town wanted to see a mid-level trail put in, that it would add a lot of character to the other trails, and that it would give many more options as to how users went up and down Windy Hill. Responding to Councilmember Driscoll, he said he understood that the section of the trail behind The Sequoias proposed for abandonment would remain.

WRITTEN COMMUNICATIONS

(10) Town Council 7/22/05 Weekly Digest (previous agenda)

(a) San Mateo County Sheriff's Office Crime Activity Report for April-May

As a follow-up to Councilmember Merk's question, Mayor Davis said citations listed in the report weren't actual citations given. "Traffic related activities" was a report of the radio activity where people called in to check on an automobile or person. The motorcycles didn't generally call in. The chart was mislabeled.

(11) Town Council 7/29/05 Weekly Digest

(a) BMRs at Blue Oaks

Referring to Hector Flamenco's e-mail regarding the location of the Blue Oaks BMRs, Councilmember Driscoll asked about the status. Ms. Sloan said she was working with the attorney for the Blue Oaks homeowners' association. She anticipated having something for discussion in early October.

(b) Sand Hill Road Office and Hotel Development Project

Councilmember Comstock referred to the notice of a scoping session for the Sand Hill development project and commended Planning Commission Chair McIntosh on his letter of 8/4/05 to Menlo Park. Mayor Davis noted that Stanford had agreed to make a presentation to the Town on the project. Councilmember Merk said the Planning Commission hoped that the Council might also write a letter. Mayor Davis felt the appropriate response at this point was for the Planning Commission to respond. He would like to hear the

presentation and then respond. Councilmember Driscoll noted that this was not part of the Town's sphere of influence.

Councilmember Comstock said the traffic impact would spread far and wide--including Alpine Road. Alpine Road was very vulnerable to signage issues. He said there shouldn't be any signs at the corner of Santa Cruz and Sand Hill that directed I-280 traffic to go up Alpine. There should be plenty of signage directing people to use Sand Hill Road to I-280. Councilmember Driscoll pointed out that the focus at this point was to ensure that the EIR did a competent traffic study. Councilmembers discussed the project and impacts on Alpine Road.

(12) Town Council 8/5/05 Weekly Digest

(a) Day lighting of Sausal Creek

Referring to the memo from the Conservation Committee of 8/1/05, Councilmember Driscoll said day lighting the creek at Town Center was still an option. Councilmember Merk said he explained that to the Committee. Councilmember Driscoll described the permit processes necessary to day light a section of the creek, which could delay the project by as much as a year. The design team had suggested that it be pursued in parallel or be done after the buildings were built.

(b) Resignation of Building Official

Responding to Councilmember Driscoll, Ms. Howard said there was normally a conversation between the employee and the supervisor when someone resigned. Responding to Councilmember Driscoll, Mayor Davis said he had spoken with Mr. Hipsher.

(c) Article on Proposed Fencing Regulations

Referring to the *San Jose Mercury News* article on 8/1/05, Councilmember Merk said the article was misleading and took many items out of context. He felt it was poor quality reporting.

ADJOURNMENT

The meeting adjourned at 9:51 p.m.

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Mayor

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Town Clerk