

SPECIAL TOWN COUNCIL MEETING NO. 665, FEBRUARY 23, 2005

ROLL CALL

Mayor Davis called the meeting to order at 7:32 p.m. and led the Pledge of Allegiance. Ms. Howard called the roll:

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

ORAL COMMUNICATIONS: None

PLANNING COMMISSIONER APPLICANT INTERVIEWS

Mayor Davis noted that only two of the three applicants for the Planning Commission vacancy were present for the interviews. He said Marianne Plunder felt that the Council was familiar with her background and service to the Town.

Bill Vermeere described his background as set forth in his letter of 1/31/05. Responding to questions, he discussed: 1) why he was interested in serving on the Commission; 2) his service on the ASCC; 3) issues facing the Planning Commission; 4) challenges of being a Planning Commissioner; 5) availability for meetings and site visits; 6) familiarity with Town issues; 7) the Planning Commission's role; 8) his scientific approach to decision making; and 9) his approach in dealing with emotionally charged issues.

Nate McKitterick described his background and goals. Responding to questions, he discussed: 1) his approach to controversial issues; 2) availability for meetings and site inspections; 3) service on the Airport Roundtable; 4) the Planning Commission's approach to the Nathhorst Triangle issue; 5) issues facing the Planning Commission; 6) loss of commercial businesses in Town; 7) higher density housing in Town; 8) potential conflicts of interest; and 9) his expertise with multi-party dispute resolution.

CONSENT AGENDA

By motion of Councilmember Driscoll, seconded by Councilmember Toben, the item listed below was approved by the following roll call vote:

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

- (1) Warrant List of February 23, 2005, in the amount of \$181,496.45.

REGULAR AGENDA

- (2) Minutes of Council Meeting on February 9, 2005 (Removed from Consent Agenda)

Mayor Davis and Councilmember Merk submitted changes to the minutes of the 2/9/05 meeting. By motion and second, the minutes were approved as amended by a vote of 4-0.

(3) Change in Enforcement of Conditional Use Permits

Ms. Sloan reviewed her memo of 2/17/05 on recommended revisions of the Zoning Code regarding conditional use permits (CUPs). She said those sections that talked about automatic suspension or revocation of a use permit had been removed; the law required that there be a public hearing before that step was taken. Responding to Councilmember Merk, she confirmed that the reference to Code Section 18.34.130 in the first paragraph on page two of the memo should be to Section 18.34.180. She confirmed that section 18.34.180 was being replaced with section 18.34.170.B.

Councilmember Toben moved first reading by title, waive further reading, and introduction of Ordinance No. 2005-\_\_\_\_ Amending Sections 18.34.170 [Revocation of Permit or Variance – Cause] and 18.34.180 [Revocation of Permit or Variance – Procedure] of Chapter 18.34 [Administration] of Title 18 [Zoning] of the Portola Valley Municipal Code. Councilmember Merk seconded the motion.

Mayor Davis asked for public comment, and there was none. He called for a vote and the motion passed 4-0.

(4) Consultant Agreement for Preparation of the Mitigated Negative Declaration for Town Center Project and Amendment to Agreement for Spangle Associates

Ms. Howard reviewed her memo of 2/17/05 on: 1) the consultant agreement for the preparation of the Expanded Initial Study to support a Mitigated Negative Declaration for the Town Center project; and 2) the agreement with Spangle Associates to provide background information about the Town, review provided information and input as required for the Expanded Initial Study, and prepare the Mitigated Negative Declaration. Ms. Sloan added that David J. Powers was recommended because they were: a) a fairly small firm that was fairly close by; and b) not presently occupied by gigantic projects. Both she and Town Planner Mader had worked with the firm before; she found them very cost effective and efficient.

Councilmember Toben noted that the cost was a lot more than anticipated a few weeks back. He wondered if the Town had conveyed the message well enough that cost was being looked at seriously. Noting that the Powers firm was based in San Jose, he said San Francisco was also 45 minutes away, and there were great firms in San Francisco as well.

Ms. Sloan said she and Town Planner Mader had discussed two firms in San Francisco that she had worked with. EIP was a well-known firm who was currently buried by two large projects. The other firm in San Francisco was ESA. She had worked with them on a project in Redwood City and found them very slow and ponderous. She confirmed that she and Ms. Howard had discussed the budget with the Powers project manager for this project. The original budget was over \$100,000, and it had been lowered. One of the things that made it higher than anticipated was the historical analysis. CEQA required that if the buildings were 50 years old or older, extensive study was required. Responding to Councilmember Toben, Councilmember Driscoll said all of the buildings were just over 50, with the last one built in 1954. Ms. Sloan added that she had discussed the historical analysis with the Powers firm as well as looked at some recent cases. With Nancy Lund's help, an architectural historian would do an analysis to determine if the buildings had architectural or historic merit.

Referring to the cost estimate document, Ms. Sloan confirmed for Councilmember Driscoll that the Town Geologist would have to summarize and report on the Lettis report. Councilmember Driscoll felt that the Town had already paid quite heavily for that report; he did not want the Town to have to pay to have it translated from English to English. Ms. Howard noted that all of the sub-consultants except for one had included attendance at two meetings in their proposals; if they did not attend, those charges would not be included. Councilmember Toben said the Powers firm would be expected to monitor the hours being charged; if the sub-consultants were not needed at the meetings, they should not come.

Ms. Sloan added that there had been some discussion about the Town hiring sub-consultants and letting Spangle Associates do the NMD. After reflection, the Planner's office felt they couldn't take that on right now and would rather act as a reviewer like they had with the Priory. She noted that the Town Planner thought doing the work in-house would cost close to \$80,000. Councilmember Merk added that both of these companies had been around for a long time. Their work was good, and he did not think there should be any concern about the quality. He said he also questioned the Town Geologist's cost. Responding to Councilmember Driscoll, Ms. Sloan confirmed that the costs were estimates and the contracts said "not to exceed." If the Council approved the contract, the Town could still go back and ask Cotton Shires directly why they estimated \$4,300. Responding to Councilmember Driscoll, she reiterated that the Town Geologist would review and condense the Lettis report and put it into the NMD. Councilmember Driscoll said it was important that this was done properly.

Councilmember Driscoll moved to adopt Resolution No. 2155-2005 Approving and Authorizing an Agreement Between the Town and David J. Powers & Associates, Inc. Councilmember Merk seconded, and the motion carried 4-0.

Councilmember Merk moved to adopt Resolution No. 2156-2005 Approving and Authorizing Letter Agreement Dated February 16, 2005, Between the Town and Spangle Associates. Councilmember Toben seconded, and the motion carried 4-0.

(5) Amendment to Agreement and Digitization of Town Trails Map

Mr. Young reviewed his memo of 2/16/05 regarding the first amendment to the consulting agreement between the Town and Freyer and Laureta, Inc., to provide engineering support services. He said the firm's rates were among the lowest. He described the type of work the firm normally did for the Town.

Councilmember Toben moved adoption of Resolution No. 2157-2005 Approving and Authorizing Execution of First Amendment to Agreement for Professional Services Between the Town and Freyer & Laureta, Inc. Councilmember Driscoll seconded, and the motion carried 4-0.

Mr. Young reviewed his memo of 2/16/05 on the digitization of the Town Trails Map utilizing GPS. Responding to Councilmember Toben, Lynne Davis, Trails Committee, said digitizing the Town trails was important because property lines and where the trails actually were could be pinpointed. It was also useful for property owners who could be shown whether they had trail easements on their property. This was a better tool for the home owners and trail users and would provide the Town with a better trails map. The Trails Committee had put this as a second priority; the first priority was the Portola Road Trail, which was done when the road was paved.

Councilmember Driscoll [*inaudible*] said the digitized trails map would probably exceed the accuracy of the topo map of the ground underneath. He felt this would be an on-going process as new data sources, new aerial photos, etc., became available.

Councilmember Toben moved adoption of Resolution No. 2158-2005 Approving and Authorizing Letter Agreement Dated February 17, 2005, Between the Town and Freyer and Laureta, Inc. for Digitization of the Town Trails Map. Councilmember Driscoll seconded, and the motion carried 4-0.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(6) Policy Revisions and Use Fees for Town's Recreational Fields

Ms. Powell reviewed her memo of 2/17/05 on: 1) field use fees; and 2) general requirements for field use.

Councilmember Toben said the Parks and Rec Committee had worked on these recommendations over the

course of several meetings during the past couple of years. Among policy considerations that they wanted to highlight was the desire to tax adults more than children. The view was that the Town should encourage youth recreation and should not increase its fees to youth participants. The amount for the adult leagues would be tripled from \$10 to \$30. He said the Committee had also looked at some very complicated structures for taxing players on a per hour basis, but understood staff's concerns about administering that approach. The proposed fees were workable and would generate about \$21,000 for maintenance of the recreational facilities.

Mayor Davis said in the past, there had been a difference between the fees for local and non-local organized adult leagues. Responding, Councilmember Toben said the Committee had not focused on the out-of-town users because there were not that many involved in non-local organized adult leagues. Responding to Councilmember Merk, he confirmed that the non-local groups had a lower priority in terms of scheduling. Ms. Powell noted that the priorities were shown on Attachment "C" with the highest priority at the top of the list.

Mayor Davis felt there should be a difference in the fees for local and non-local organized adult leagues—especially if the non-local use was minimal—to continue the philosophical concept. He proposed \$40 for non-local organized adult leagues. Ms. Powell said she knew of only two local organized adult leagues, which were more than 50% Portola Valley residents.

Responding to Mayor Davis, Councilmember Toben said the concern over listing names and addresses of players in youth leagues was that that information would become public record. Councilmember Driscoll said he found the concern valid. Members of the public who were watching young children/athletes would be able to discover their street addresses. Councilmember Merk questioned how the "50% local" could be determined. Ms. Powell said the Town basically accepted their word; there was no way to check. Councilmember Driscoll suggested listing the town but not the street. Councilmember Merk noted that it should specify whether the person was a resident of the Town, its sphere of influence or other.

Referring to the "Staff Response" section of the memo, Councilmember Merk said the seasons were well-defined for soccer, baseball and softball, but not for any others (e.g., lacrosse). He felt there should be a catchall for those.

Ms. Powell added that there was one adult league that played in the spring and fall but took a winter break; they felt that was one season. As proposed, they would be charged for two seasons. On the other hand, CYSA had agreed to pay for two seasons. She felt there should be some consistency for the adult leagues. Councilmember Toben suggested that it be dealt with on a case-by-case basis. After discussion, Council agreed that a season for the "other" groups was 4 months in a 12-month period.

Responding to Councilmember Driscoll, Ms. Sloan said she felt a Hold Harmless was a worthwhile requirement.

Responding to Councilmember Merk, Ms. Howard said if the field was closed by the Town, it would be reasonable to give "casual" users a refund. Responding to Councilmember Driscoll, she said the Town did not do any field preparation for casual users. Councilmember Driscoll said he felt there should be a clause indicating that they would get a refund presuming the Town had not incurred any cost in preparing the field.

Responding to Councilmember Merk, Ms. Howard confirmed that the Town did not receive 15% of gross revenues from the tennis teachers. Right now, there was no way to control the use of the courts. Councilmember Driscoll added that the condition of the tennis courts was not good.

Ms. Howard said Parks and Rec recommended that there not be litter deposits. Staff started requiring deposits because there was a problem with candy wrappers, etc. Councilmember Toben said Parks and

Rec wanted the deposit to be commensurate with the intensity of the activity. A company picnic was different from a birthday party with 10 children. Ms. Howard confirmed that the deposit was currently \$100 for a company picnic; there was no charge for a birthday party unless a field was being used; if a field was used, the charge was \$100. Responding to Councilmember Driscoll, she confirmed that AYSO paid a \$500 deposit at the beginning of their season. It was refunded at the end of the season if there had not been any problems. Councilmember Driscoll suggested the deposit be based on the number of people attending versus the type of groups. After discussion, Council agreed to keep the current policy and include it in the written policy. Councilmember Toben suggested charging \$100 for less than 50 people, and \$500 for more than 50. Council agreed.

Council concurred with the proposed recommendations, as amended, for rental/use of Town fields. Ms. Howard said the amended version would be included in the next digest.

(7) Appointments to the Historic Resources Committee

Referring to Ms. Lund's e-mail of 1/28/05, Mayor Davis appointed Valerie Huff and Ellen Ashley to the Historic Resources Committee. By motion and second, Council concurred.

(8) Appointment to Cable and Utilities Undergrounding Committee

Responding to Mayor Davis, Ms. Howard noted that the applicant, Ting Pun, had attended the last two committee meetings. His application letter was dated 2/9/05. Mayor Davis appointed Mr. Pun to the Cable and Utilities Undergrounding Committee. By motion and second, Council concurred.

(9) Status of Town Center Project (see also Reports from Committee Liaisons)

Ms. Howard said all the user meetings had taken place and the architects were incorporating the information into the design. At the 2/15/05 design team meeting, she said CEQA requirements for phase 1 were discussed. For the purposes of the CEQA documentation, it was decided that the soccer field would remain as is at this point with the understanding that in the future, there might be some discussion as to the type of field it would be; additional CEQA documentation might be required. The lot line adjustment was also moving forward and would be ready for the second meeting in March. Councilmembers discussed the design team/committee/user meetings.

Councilmember Driscoll noted that the County was sending a structural engineer to evaluate the risk of the library structure. Mayor Davis said it was unfortunate that the Friends of the Library did not have a close link with the operating management of the library. Both of the groups seemed to be viewing the problem rather narrowly. Councilmember Driscoll suggested inviting a member of the library management/staff to the Town Center project meetings to keep them knowledgeable about what was going on. Ms. Howard noted that there were three levels involved: 1) the Friends; 2) the library staff; and 3) the County JPA management staff. There were a number of key personnel changes going on, and it was difficult right now to even know who to invite to the meetings.

Councilmember Toben said based on feedback he had received, he requested a meeting with the Friends be held to answer any questions and give them as clear a picture as possible. They were a critical constituency and very important to the public outreach.

(10) Reports from Commission and Committee Liaisons

(a) Town Center Communication, Public Outreach and Fundraising

Councilmember Toben said he met with SallyAnn Reiss on Friday. It now appeared more rational to

separate the functions of public outreach and communication from fundraising. The public outreach/communication function was probably best located in an ad-hoc committee with an open membership and charter, which he would present at the next meeting. The committee would be responsible for things like regular newsletters to the community, organizing a field trip to the new Millbrae library, writing letters to *The Almanac* when there were comments that represented a different point of view, etc. In response to the last letter from opponents to the project, he understood there had been considerable disapproval of the way that came across. There was rising sentiment that a large constituency in Town saw that a new Town Center was the way the Town had to go. Additionally, he said he went to the School District on 1/13/05, and there had been a fairly favorable comment in *The Almanac*. He intended to make that an ongoing contact point so that understanding could be forged with the school community. There had also been expressions of support for the public communication/outreach function from others such as the Chair of the Windmill Board and Jon Silver. Ms. Reiss wanted to bring in Rebecca Flynn to organize the mechanics of the communication/public outreach.

On the fundraising side, Councilmember Toben said the view now was that there ought to be a separate vessel for that activity. The vessel that he was now focused on was establishment of a designated fund. The Council in the past had discussed the fundraising vessel as taking one of three forms. First, something analogous to the Open Space Acquisition Fund, which was basically a separate account into which funds were placed. You wrote your check to the Town of Portola Valley. There was some view in the community that there might be potential contributors who might be reluctant to write a check to a Town fund. The second vessel was a designated fund where you wrote your check to an independent entity—such as the Peninsula Community Foundation (PCF)—but there would still be a very close connection. The fund was ultimately governed by the Board of Directors of the PCF but subject to a charter to be negotiated with them. He had a direct relationship with the president/CEO of the PCF, who was very keen to work with him [Toben] on this. It also did not cost a lot of money to do this at PCF. The third vessel was a separate non-profit organization akin to the Portola Valley School Foundation which was its own 501(c)(3). But, there were substantial governance and administrative cost issues associated with that option, which he described. He favored the second option.

Councilmember Merk suggested doing both options 1 and 2. Option 1 was very easy, and there might be people who were very happy with it.

Responding to Councilmember Driscoll, Councilmember Toben said PCF would do things like administer matching, etc. Councilmember Driscoll said he agreed options 1 and 2 could both be done.

(b) Planning Commission

Councilmember Merk noted that the Planning Commission approved the Priory's CUP amendment last night. He thought most of the issues had been very well addressed. The Priory had also withdrawn its request for access of the four faculty housing units on Georgia Lane.

(c) Conservation Committee

Councilmember Merk said the Committee discussed open space conservation easement maintenance. The Committee also discussed use of artificial turf for the new fields. Councilmembers discussed cost, maintenance, injury, longevity, and health issues associated with artificial turf.

(d) Historical Resources Committee

Mayor Davis said Ms. Lund was working with the Whites on the Woodchopper's House. The Whites had offered to donate the Woodchopper's House to the Town with four conditions. For example, the Town would bear all of the costs associated with moving the building from the Jelich Ranch. Responding to

Councilmember Driscoll, Ms. Sloan said if the house was small, it could be placed on the open space/Spring Down parcels. Mayor Davis suggested that the item be agendized.

WRITTEN COMMUNICATIONS

(11) Town Council 2/11/05 Weekly Digest

(a) Request for Photos from Cities in 21<sup>st</sup> District

Referring to Assemblyman Ruskin's letter, Councilmember Merk suggested sending some photos out of *Life on the San Andreas*. Ms. Howard said Susan Thomas took a lot of those pictures and was in direct contact with his office. Councilmember Driscoll suggested he might obtain a copy of Ansel Adam's photo "Orchard, Portola Valley, California" c. 1932.

(b) Notice of Committee Vacancies

Referring to the ad in *The Almanac* on committee vacancies, Councilmember Merk said the Cable and Utilities Undergrounding Committee's name was confusing. It sounded like it was just an undergrounding committee.

(c) E-mail policy

Councilmember Driscoll noted that Ms. Howard had written a memo re *The Almanac's* incorrect statement that the Town did not have an e-mail policy. Ms. Sloan added that a copy of the Town's policy had been forwarded to *The Almanac*. Councilmember Merk asked how e-mails between Councilmembers were monitored for purposes of the Brown Act. Ms. Sloan said it was basically a voluntary policy not unlike phone calls. She also constantly reminded people of the policy during meetings. When copied on e-mails, she also responded by telling the sender not to send it to anyone else, etc. When someone new was appointed, she sent them information on the Brown Act. As indicated in her memo of 11/29/01, she suggested putting a warning on the website about the public nature of e-mails sent and received by the Town and Councilmembers at Town Hall. Responding to Councilmember Merk, she said closed sessions were for certain subject matters. There need not be anything in writing for a closed session. If someone wrote an e-mail about an item agendized for a closed session, it was a public document. The documents that were not discoverable under the Public Records Act were the ones that she wrote.

(12) Town Council 2/18/05 Weekly Digest

(a) Peninsula Conflict Resolution Center

Mayor Davis noted that there was no usage of the Peninsula Conflict Resolution Center in the Town between 1/7/04 and 12/31/04.

(b) Correspondence re New Town Center

Referring to Dick and Diane Sibert's letter of 2/15/05, Mayor Davis said he would be responding personally to these types of letters.

(c) Conditional Use Permit Enforcement

Ms. Howard referred to Ms. Lambert's memo of 2/14/05 on the status of CUPs in the Town. Updated memos would be provided to the Council every six months.

(13) Appointment of Planning Commissioner

Councilmembers discussed the applicants' previous service with the Town, professional experience, strengths and weaknesses. After discussion, Councilmember Driscoll moved to appoint Nate McKitterick to the Planning Commission. Councilmember Merk seconded, and the motion carried 4-0. Mayor Davis said he would notify the applicants.

CLOSED SESSION

(14) Conference with Real Property Negotiator

Government Code Section 54956.8

Property: Kersten Parcel #076-170-030

Negotiators: Mr. Kersten, Town Attorney and Town Administrator

Under Negotiation: Price and Terms

REPORT OUT OF CLOSED SESSION: No Reportable Action

ADJOURNMENT

The meeting adjourned at 10:04 p.m.

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Mayor

\_\_\_\_\_  
Town Clerk