

TOWN COUNCIL MEETING NO. 740, MARCH 12, 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 Driscoll, Merk, Toben and Wengert, and Mayor Derwin
Absent: None
Others: Town Administrator Howard, Public Works Director Young, Town Planner Mader, Town Attorney Sloan, Building Official Fitzer, Planning Manager Lambert, Asst. Town Administrator McDougall

ORAL COMMUNICATIONS: None

CONSENT AGENDA

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

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

(2) Warrant List of March 12, 2008, in the Amount of \$247,769.00.

REGULAR AGENDA

(1) Minutes of the Town Council Meeting of February 27, 2008 (Removed from Consent Agenda)

Councilmembers Merk and Toben submitted changes to the minutes of the 2/27/08 meeting. By motion and second, the minutes were approved as amended by a vote of 3-0, with Councilmembers Driscoll and Wengert abstaining.

(3) Public Hearing: Establishing Policy and Filing Fee for Temporary Occupancy

Ms. Lambert reviewed the staff memo on the policy and filing fee for temporary occupancy permits. Mr. Fitzer discussed minimum requirements for temporary occupancy as shown on Exhibit #3 attached to the staff memo.

Responding to Councilmember Merk, Ms. Lambert said temporary occupancy required compliance with landscaping. When an applicant obtained a construction loan for the house, they wanted to final out that loan and then finish the rest of the project—which usually meant landscaping wasn't complete. Mr. Fitzer said currently, the major screening elements needed to be completed; some of the smaller shrubs could wait until the appropriate season. The Planning and Building Department didn't want to insist on planting thousands of dollars worth of trees at the wrong time of the year just to see them wither and die. Ms. Lambert said staff went out to the site and highlighted certain trees and significant planting that would help with screening the project. Responding to Ms. Sloan, she confirmed that the intent was to get the significant screening plants in--but not everything. She suggested rewording to indicate "substantial compliance with project conditions" or address landscaping as a separate topic. There could also be a bond and timeline for landscaping. Councilmember Merk said it needed to be clarified. Ms. Lambert noted that the "Inspection by Planning Staff" section indicated that significant planting must be installed. Councilmember Driscoll said that language was more helpful.

Councilmember Driscoll said he interpreted the policy to require that it was substantially complete and compliant. Temporary occupancy should not be granted if it was not built according to plan; temporary occupancy should be granted if they had not quite finished, but it was compliant. Councilmember Wengert noted that the Building Official had the ultimate discretion. Mr. Fitzer said the hope was to have some existing guidelines so that the rules or standard of care didn't change for each individual project. At the same time, it shouldn't be too precise so that discretion on the part of the town engineer, planning or building official was eliminated. Right now, there were pre-construction meetings where staff talked to the architect, contractor and applicant about the standard of care and what was expected to complete the project. The Town did not broach the subject of temporary occupancy because it was not encouraged. But, as soon as the applicant brought it up, the Town looked at where they were and where they wanted to be at the end of the day. The Town tried to work with the applicant in a reasonable way. The policy would allow staff to see if the applicant was meeting the minimum requirements. The policy did not address every single issue.

Councilmember Merk said years ago, the occupancy permit was the only teeth the Town had. When someone got an occupancy permit and the project wasn't finished, they tended to languish with nothing happening. On most of today's project of \$1,000,000 houses, \$10,000 was one-tenth of 1 percent. It was a lot of money but not a significant amount of money compared to the overall cost. Ms. Lambert said the \$10,000 was a deposit. Staff talked about increasing it, and that would have to be done by ordinance. Responding to Councilmember Merk, she said she did not think it had been an issue; any additional costs that the Town incurred would be charged back to the applicant. Ms. Sloan said the intent was to be able to recoup enforcement costs; she could only remember one incident that she had been involved with.

Councilmember Wengert said Exhibit #5 indicated that the approximate staff time dedicated to processing a temporary occupancy permit amounted to \$600. Ms. Lambert said the estimates were based on average costs. Councilmember Wengert asked if there was any methodology to charge more if it was a complex situation. The Town shouldn't have to absorb the costs for this exceptional process. Ms. Sloan said if this fee was changed, it would be appropriate to change all the other fees. Every couple of years, the Town reviewed fees for internal staff and chose a fee that was about average. Some applications took less time, and some took more. That system could be converted to an hourly fee for internal staff; some cities used a complete "pay as you go" system. If that was done, she felt it should be done for all fees. Responding to Councilmember Wengert, she confirmed that the average cost methodology was used for all the fees. Ms. Howard said it was a large task to redo the fees and required hiring a consultant. It was last done 8 years ago and probably needed to be re-done. Councilmember Wengert said one solution was to have an annual CPI or some other index so that regular increases happened automatically. She thought the average made sense but felt the fees should be revisited.

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

Councilmember Driscoll moved to approve resolutions: 1) adopting a policy for temporary occupancy permits; and 2) setting the planning and building temporary occupancy permit application fee. Councilmember Merk seconded the motion.

Councilmember Toben said he had some concerns about the documents. He had a conversation recently with a couple who were having difficulties navigating their way through the planning and building process. It was quite difficult to integrate the various documents and make sense of them from the standpoint of someone who was unaccustomed to working with them. Referring to the procedure/policy document, he said Councilmember Merk had pointed out some imprecision with the landscaping requirements. The explanation was fine but not easy to track—particularly when the language under the compliance bullet was not consistent with the first bullet on page 2. There was also a checklist of items that was required for final occupancy sign off, and an inspection by public works and planning staff. He wasn't sure if Exhibit #3 was the document being referred to. Ms. Lambert said applicants were sent a letter that indicated items specific

to the project that had to be addressed. Public works and planning would indicate what needed to be done. It was a punch list. Councilmember Toben thought those items would lend themselves to a checklist. Ms. Sloan said it would vary from project to project. Responding to Councilmember Toben, Mr. Fitzer said the items shown in Exhibits #3 and #4 could be included in the letter. Exhibit #4 was the final inspection checklist. It served as a tickler for the contractor/owner. Once they felt they had completed all these items for their project, they would call for an inspection. He would go out and write a job specific punch list for areas that were still not complete or code/spec deficient. Those items would be too varied and too many to reduce down to a checklist format. They were job specific. Ms. Lambert suggested removing the term "checklist" from the policy. Councilmember Toben suggested producing a document similar to Exhibit #3 with several blanks that would enable the Town to provide a customized list of outstanding items. Mr. Fitzer said different projects contained too many different elements. The codes were measured in linear feet; that could not be reduced to a checklist. At the end of the project, the job had to conform with the spec, conditions of approval, and all the planning, engineering, and building codes. Those codes and conditions were too lengthy to reduce to a checklist format. It would also mislead the applicant that they only had to do what was on the checklist. Responding to Councilmember Toben, he confirmed that all the requirements on Exhibit #3 had to be completed before a temporary occupancy permit would be issued. Councilmember Toben said Exhibit #3 was not alluded to in the policy. He felt it should be integrated in order to reduce the different pieces of paper that the homeowner was trying to comprehend.

Councilmember Driscoll withdrew his motion and suggested that the policy/procedures be fine-tuned. He supported it but wanted to make sure the documents were clear for the homeowner. Ms. Lambert said an example letter would have been helpful. It was very clear and spelled out specifically what must be done. Councilmember Driscoll noted that homeowners would be receiving the policy prior to having their own personal letter drawn up. He felt some wordsmithing was needed to make it more user friendly.

Councilmember Wengert agreed that Exhibits #3 and #4 should be referenced within the procedure. Responding to Councilmember Wengert, Ms. Lambert confirmed that the homeowner was not given a copy of Exhibit #5 that showed Town costs of processing temporary occupancy permits. Responding to Councilmember Wengert, she said homeowners were provided with an application form and a copy of the ordinance. Responding to Councilmember Toben, Ms. Sloan said the Building Official would be using his discretion based on the policy. Councilmember Wengert said she would not want to take his discretion away.

Referring to Exhibit #2 (p. 2), Councilmember Merk said the first bullet on "Inspection by Planning Staff" should read, "Trailers, both living and/or job, must...." Referring to the ordinance, he said it talked about eviction from the premises. It hadn't come up, but if it did, he questioned what the Town could do if someone refused to finish the project. Ms. Sloan said the Town had the authority to have the utilities disconnected. That usually got people's attention. If it was not complete, it could be hazardous, and the people had to get out. Mr. Fitzer confirmed that the County had done that.

Councilmember Driscoll said he resonated with some of Councilmember Toben's comments. He encouraged the staff to periodically, carefully read the permit documents provided to homeowners and see whether they made sense. He had also heard concerns. The Town needed to be continually looking at these documents with the understanding that the average person may see them once in their life--if that. Councilmember Merk thought a resident should participate; staff was used to these forms. After discussion, Bernie Bayuk volunteered to assist in a periodic review of permit documents.

Councilmember Driscoll moved adoption of Resolution No. 2382-2008 Setting the Planning and Building Temporary Occupancy Permit Application Fee. Councilmember Merk seconded, and the motion carried 5-0. Ms. Lambert said staff would fine tune the policy and bring it back to the Council.

(4) Town Center Project Phase 2B/Sausal Creek Daylighting Phase 1 Bid Packages 19-22, 26-29, and 35

Mr. Young reviewed his memo on the bid packages for the Town Center project phase 2B and phase 1 of the Sausal Creek daylighting project. He confirmed that the Sausal Creek daylighting scope was bid as a bid alternate. When the bids came back to the Council for approval, the Council could look at the numbers for the Town Center portion and the creek portion. Estimated costs for these packages were approximately \$2.5 million, which was within the budget. Advertising would start tomorrow, bids would be opened on 4/10/2008, and construction would start in May. He recommended the Council adopt the resolution to release the bid packages.

Responding to Councilmember Wengert, Mr. Young confirmed that the bidders had to bid on both parts or not bid at all. In the spec language, it indicated that the award would be based on the base bid, and the Town had the option of choosing the alternate. Responding to Councilmember Merk, he confirmed that the Town would have to choose the lowest bid on the base bid even if the bid on the alternate was very high. If the second lowest bid had a much lower bid for the alternate, the Town was still bound to take the first bid with the higher alternate. It was not the total. Ms. Sloan said you had to decide the minimum that would be done and the lowest responsible bidder had to be chosen on the base bid. At the Town's discretion, the alternate could be added—but only with the bidder selected with the best base bid.

Responding to Councilmember Driscoll, Ms. Sloan said the Town could reject having the base bidder do the alternate and re-bid the alternate as a separate bid. Councilmember Merk said if the base bid was to grade a level field, the contractor would grade a level field. Then the Town would have to pay someone else to grade a ditch. Ms. Sloan said the only other alternative was to revise the bid package and have the alternate be part of the base bid. Councilmember Driscoll said another option was to judge it based on the whole bid—including phase 1 of the creek—with the alternate being just phase 2 of the project. Ms. Howard said phase 2 of the buildings was more important than the creek, and that was what had to get out. The only alternative was to break it into completely different bid packages, with the two projects not bid together.

Councilmember Merk suggested picking the bid that had the lowest combined price—or leave some option open. Councilmember Driscoll suggested, "The Town reserves the right to choose the lowest of either the alternate or the base project." Ms. Sloan said it had to be based on State law and the Public Contract Code. Once something was bid, you were obligated to take the lowest bid. Councilmember Driscoll said the Town was not obligated to choose the lowest bidder if there were qualification issues, etc. Ms. Howard added that all the bids could be rejected. Mr. Young noted that this was a competitive bid. He expected 5-7 companies to bid this job because they wanted the job. Ms. Howard said it would be clear if someone low-balled the base bid. Mr. Young said that would be foolish in case the Town decided not to do the creek. Councilmember Driscoll said if the low bid charged too much for the creek, the Town could just reject the bids and re-bid it. Councilmember Merk said that would take at least a month. Ms. Sloan said it would take a great deal of time to redo the bid packages. If it was based on price per linear foot to grade, she didn't think the alternate could be bid higher. They had their set fees. Councilmember Merk thought a specific bid could be rejected because of the disparity. Mr. Young said the bid packages were broken out in earthwork, grading and asphalt paving. The grading of the creek was very small in the overall picture. The bulk of the cost would be the site grading (tennis courts, parking lot, easement, etc). He did not think a contractor would try to low-ball the majority of the work.

Referring to bid package #29, Mr. Young confirmed for Councilmember Merk that Russ Miller field was included. Councilmember Merk asked if consideration had been given to why the southwest corner of that field tended to be wet all the time. Mr. Young said he thought it was the way it was graded. The whole field would be re-graded. There was also shade in that area that didn't allow it to dry. Councilmember Merk said it might be a seep from uphill. Mr. Young said when the grading was done, a couple of test holes could be dug to see if a French drain would solve the problem.

Referring to bid package #21, Councilmember Merk asked if his questions about the size of the signs had been addressed. His concerns included the sign on Portola Road, building signs, etc. Mr. Young said the Town Center sign was not included in this bid package—just the letters on the buildings and the directional signs. He understood that just the donor signs would be mocked up. The signage package could be removed; informal bid packages were not part of the public bid process, and modifications could be made to the bid package. Alternatively, it could be let but made contingent on approval from the ADT. Councilmembers Driscoll and Merk agreed with that approach.

Councilmember Driscoll moved approval of Resolution No. 2382-2008: a) Approving Plans and Specifications and Calling for Bids for the Town Center Project Phase 2B / Sausal Creek Daylighting Phase 1 – Bid Packages 19, 22, 26-29, 32 and 35 (Project No. 2006-PW03D); and b) Approving Plans and Specifications for Informal Bidding for Bid Packages 20, 21, 30, 31, 33 and 34 (Project No. 2006-PW03D). Councilmember Merk, noting that the wording of the signage bid package had been amended, seconded the motion. Mayor Derwin called for a vote, and the motion carried 5-0.

Mr. Bayuk asked if there was a list of criteria on which the decision would be made for selection of one of these bids. At the point when the Council was deciding to proceed with digging the ditch, the criteria should include the status of the availability of funds. Councilmember Driscoll said the Town was required by State law not to have special criteria. Additionally, the money was available to do phase 1 of the creek project. In addition, not all of phase 2 was being put to bid at this time. There were still reserves left over for the remaining small items. Mr. Bayuk said his concern was that the ditch would be dug but there would not be funds to do phase 2. Would the ditch be re-filled? Councilmember Driscoll said the Town had the money and multiple sources potentially for the rest of it.

Responding to Mr. Bayuk, Councilmember Toben said the creek project was being done in two phases. The Council was not committing to proceed with phase 2 in the absence of a secure funding source. If he were a betting person, he would bet that that funding source would not be able to be secured by late April when the Council would be sending out the bids for phase 2. He thought that the Town would defer completion of the creek project for another year while further fundraising took place for private funding or securing grants. He was personally quite concerned about having money in hand before proceeding with the completion of this project. He voted only for phase 1 at the last Council meeting. There was news of a \$100,000 gift in hand. The Town also had a good track record of getting bids at or below the predicted cost.

(5) Additional Security Service for the Town Center Project Site

Mr. Young reviewed his memo of 3/12/08 and recommendation to hire Creative Security Company for posted security service for the next five months for the Town Center project. Responding to Councilmember Toben, he said the guards would not be armed. If someone tried to break in, the guard would call Mr. Hodgson and the Sheriff's department. Councilmember Driscoll noted that the site had been burgled, and there would be a lot more material on the site that was critical to keeping on schedule. Responding to Councilmember Wengert, Mr. Young said security lights had been discussed, but the Town wanted to keep in line with the same rules that were applied to everyone else; security lights were not allowed on any other residential property. Councilmember Wengert said lights that could be turned on if there was a problem could be added as an additional deterrent. Responding to Councilmember Driscoll, Ms. Howard said there had been some discussion with Woodside Patrol, but staff did not think what they could offer would be very effective. During a few special weekends, someone had been hired just for the weekend, but this would be nightly. Mr. Young said the Woodside Patrol could be used on the weekend during the day. Responding to Councilmember Merk, he said there would be one guard Monday through Friday and another guard on the weekend. Mr. Young said if the hours needed to be staggered, the company would work with the Town.

By motion of Councilmember Merk, seconded by Councilmember Driscoll, Resolution No. 2384-2008 Approving and Authorizing Execution of an Agreement Between the Town and Creative Security Company was adopted by a vote of 5-0.

(6) Town Health Officer Appointment

Ms. Sloan reviewed her memo of 3/4/08 and recommendation to consent to the County of San Mateo Health Officer enforcing order and State statutes and regulations relating to public health in the Town of Portola Valley. Referring to the third whereas in the resolution, Councilmember Merk said it should read "...more than 40 years..." since the Town had been incorporated for 44 years.

By motion of Councilmember Driscoll, seconded by Councilmember Toben, Resolution No. 2385-2007, as corrected, Consenting to San Mateo County Health Officer Enforcement in the Town of Health Officer Orders Promulgated Pursuant to Statue and Regulation was adopted by a vote of 5-0.

(7) Approval of Job Descriptions and Salary Range

Ms. Howard reviewed her memo of 3/12/08 on changes to Town staff classifications. Shellie Anderson, Bryce Consulting, presented her report dated 2008. She discussed: 1) reformatting of the Sustainability and Resource Efficiency (SuRE) Coordinator job description; 2) minor changes to the Office Assistant position; 3) changes to the Senior Building Inspector's title; 4) revisions to the Town Clerk position; 5) collection of salary information; 6) recommended salaries; and 7) classification of the Planning Technician.

Councilmember Toben questioned why the Town itself was not included in the salary comparison of peer communities. Ms. Anderson said when salaries were set, you compared yourself to the market, so you couldn't have yourself in the market because it would skew the comparison. The goal was to make sure your agency was comparable to the market. That was the standard practice in use. Councilmember Toben noted that the recommendation was for a 25% increase in the range for the Town Clerk. He asked if the current Asst. Town Clerk was performing equivalent duties of the Town Clerks in other communities. Ms. Anderson said she didn't study the position this time but had studied it the last time. She felt the duties were comparable to Town Clerks in other agencies.

Responding to Councilmember Merk, Ms. Howard said the Office Assistant position was new and would assume the additional responsibilities the staff would have—such as reporting requirements tied to the Hasso Plattner agreement. The position would also provide more cushion in the front office. Councilmember Merk said he felt "Senior Building Inspector" sounded like a higher title than "Deputy Building Official." Ms. Anderson said Building Official was the top; being a Deputy Building Official was better than being a Senior Building Inspector; inspectors were line staff. Councilmember Merk said it was strange to create a new position and pay that person more than the person who was already doing the work. The Planning Technician was doing many of the things that the SuRE Coordinator would be doing. Councilmember Toben noted that the Planning Tech was already at the top of the range. The new person would be at the starting level. Councilmember Merk said if he was the person who had been doing all the green work, writing the articles, etc., he wouldn't like it. Mayor Derwin noted that the SuRE Coordinator would be doing other things. Ms. Howard said staff had struggled with this issue, which was why Ms. Anderson had been asked to look at the current responsibilities and duties of the Planning Technician to see if it warranted a step up to a different classification. The determination was that it didn't. As far as the salary being 20% higher, there were specific job requirements of the SuRE Coordinator such as having a college degree. In order for it to be marketable, the salary would have to be higher. Ms. Anderson felt it would be a tough job to fill. It was a very specialized area. She couldn't find anything comparable in public entities. Councilmember Driscoll said he felt the position would likely be filled and that in two years, the market would change. Councilmember Toben said inquiries he made at Stanford suggested that there was a hungry market for this kind of position. It was a fertile field for young talent and was the kind of position that would appeal to someone who was energetic about new ideas for doing this kind of work. If it was marketed properly, he felt there would be a good field.

Councilmember Toben said the classification information at page 4 for the Planning Tech listed a number of

green-related issues. He asked if all those responsibilities would remain with the current Planning Tech or be assumed by the SuRE Coordinator. Ms. Howard said no changes were anticipated for the Planning Tech position. Responding to Councilmember Merk, she said a lot of what the SuRE person would be doing was not what the Planning Tech was doing. The Planning Tech was looking at the actual construction. The SuRE position involved a lot of outreach, informational aspects, development of materials for distribution, educational aspects, coordination with various committees and agencies, etc. Mayor Derwin said this person also needed to track legislation. Councilmember Merk didn't want the SuRE coordinator to come in and take away some of the interesting work the Planning Tech had been doing. Ms. Howard said she was very aware of this issue. Councilmember Wengert said she shared some of Councilmember Merk's concerns about the Planning Tech II employee who had done a terrific job on green issues before the Town became heavily involved.

Councilmember Driscoll added that the Town would have a green building standard by next year for homes. The Planning Tech would be heavily in the business of green issues. Ms. Howard said that might also create a position that would be a step up.

Councilmember Toben said he did not care for the term "marginal duties." Ms. Anderson said the term was consistent with job descriptions and language used by labor attorneys. Councilmembers Toben and Driscoll said they preferred "secondary duties."

Councilmember Toben said the analysis didn't address the ranges; it determined medians. The range appeared at the end. He asked where the bottom of the range came from. Ms. Anderson said the range was consistently a 41% spread. She took the median of the maximums to come up with the Town's new maximum and then backed out 41%, which was consistent with how the ranges were currently. Ms. Howard said the Town needed larger ranges that left room for long-term employees to grow in the job. She tried to be creative and provide opportunities for people to stay.

Councilmember Driscoll moved to approve the additional two staff positions (SuRE Coordinator and Office Assistant), approve the two changes in titles and classifications (Town Clerk and Deputy Building Official), adopt the new salary range, and re-label "Marginal Duties" as "Secondary Duties." Councilmember Merk seconded the motion, and it passed by a vote of 5-0.

(8) Review of Hasso Plattner 2007 Year End Audit

Ms. Howard reviewed her memo of 3/12/08 on the KPMG Report for the Hasso Plattner grant. She noted that the audit had already been filed with the foundation in Germany. Next year, the focus would shift to use of the building. Responding to Councilmember Merk, she said this audit cost \$22,000. Councilmember Merk noted that a new staff person was needed to handle the requirements of this grant. He questioned how free this \$2 million grant was. Councilmember Driscoll said the audit portion would be \$180,000-\$200,000 over the life of this agreement, which was about a 10% tax. The staff time was part of that. There was no question that the German tax laws diminished the total grant. Councilmember Toben noted that a \$1.8 million grant was not trivial.

Ms. Howard said she was surprised at how much information the auditors wanted. Ms. Sloan noted that the foundation required an internationally recognized accounting firm. Councilmember Driscoll said he called two other firms who were not willing to take the job because it was too small. He was pleased that KPMG stepped forward and met all the requirements.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(9) Portola Valley Community Fund (PVCF) Request for Approval of 1st and 2nd Quarter Budget for 2008

Ms. Howard reviewed the PVCF's memo on the 4th quarter 2007 budget and the proposed 1st and 2nd quarter 2008 budget.

Councilmember Driscoll moved approval of the 1st and 2nd quarter budget. Councilmember Toben seconded, and the motion carried 4-0, with Councilmember Merk abstaining.

(10) Friends of Sausal Creek Proposed 2nd and 3rd Quarter 2008 Budgets

Ms. Howard reviewed the Friends' 4th quarter 2007 and 1st quarter 2008 budget and proposed 2nd and 3rd quarter 2008 budget.

Councilmember Toben moved approval of the Friends' 2nd and 3rd quarter 2008 budget, and Councilmember Driscoll seconded. Responding to Mr. Bayuk, Ms. Howard confirmed that the expenses would be paid from money raised by the Committee. Councilmember Driscoll added that the Town held the money that would be given back to the Committee to help with the fundraising. Mayor Derwin called for a vote, and the motion carried 5-0.

Mr. Bayuk said he thought from previous meetings that at the evaluation of the bid packages for phase 1, the Council would decide whether or not to open the creek. His concern was that the ditch would be dug and then refilled because the money hadn't been raised. Now, he understood that the ditch might be left open for a year to get more donations. This was a new picture. That statement said the decision was made to open the creek, and the Town would take whatever time was necessary to collect the money for the job. For a year and maybe two, there would be a ditch while the Town continued to collect enough money to complete the work. Councilmember Driscoll said when the site was graded, whether there was a creek there or not, surface drainage would have to be dealt with to deal with the occasional downpours. That meadow was no exception, and a lot of effort had been spent getting the drainage off the upper oak woodland, around the baseball field, etc. The end result was that if the creek didn't exist, the Town would have to grade a swale across the meadow to get water off this site. With what was proposed, a slightly deeper swale would be graded than would have been done before. He also did not like the use of the word "ditch," which was a pejorative term. A swale would be graded, and the creek would not be put in it until the additional money was raised. The swale would still function as a drainage device that would have to be done anyway and would be scaled to handle the creek. This was not an open "ditch" that was dry. It was a "ditch" that would retain less water. It would not have the full flow of the creek until the pipe was diverted into it. Mr. Bayuk said a swale was not a sudden depression in the landscape. His concern was that if the creek passage was bulldozed before the money was available to complete the project, there would be an open crossing for a year on this beautiful new Town Center. Councilmember Driscoll said he personally was prepared to vote to complete the creek project as quickly as possible because he felt it was that important. There was a second opinion on that on the Council. The options were still open. Until the bids were received in mid April and the Council could see how much they were, no decision would be made. The Council could end up leaving the meadow exactly as it was except for the surface swaling that was required. The plan was to wait this out and see where things stood in mid April. The school had been torn down and the new buildings started being built before all the money had been raised to finish them. The Council had already taken some chances on this project. When phase 1 was started, the Town had 50%. The Town had to occasionally go out on a limb a little bit in order to encourage donors to donate.

(11) Increase in 2007/2008 Planning Budget

Town Planner Mader reviewed his memo of 3/5/08 on the requested budget augmentation to allow continued work on: 1) sustainability; and 2) basements. He discussed the current status of some of the planning program items. With respect to the State's fire hazard mapping project, he said it was hoped that the State would hold off issuing the final map that included Portola Valley until the Town's data was complete. When the State maps were available, they would need to be brought to the Town and discussed

openly with citizen input. The work of Ray Moritz was to conscientiously define fire hazard in an unbiased fashion based on parameters used by fire experts. Part of that was the bio/vegetation mapping being done by TRA. He noted that the contract with the consultant for the Noise Element update expired at the end of June.

Responding to Councilmember Wengert, Ms. Howard said a purchase order was previously issued for \$5,800 for basements, which had already been used. This was a second augmentation.

Responding to Councilmember Toben, Town Planner Mader said he felt the staffing in his office was adequate to handle the projects. Mr. Vlastic was doing a lot of the sustainability work, and he [Mader] would be working on the Sustainability Element. If someone needed to be brought in to handle the extra workload, that could be done. But, that was often not very efficient. He would prefer to carry something over to the next fiscal year than to pull in someone who didn't know the Town, etc.

Councilmember Driscoll asked if there was some way to develop the Town's own labor resource that was knowledgeable with green building standards by sharing a resource with the Town Planner's office. The Town Planner's office might take on someone to work on Town issues and then the Town hire that person subsequently; or, the current Planning Technician might be able to help the Town Planner; or, maybe the SuRE coordinator could start there and ramp up. Town Planner Mader said if the Town had someone on board who was very capable, that would be fine.

Councilmember Merk said \$45,000 was needed to continue moving ahead. Significant commitments had been made in sustainability and basements. The ball was rolling, and it needed to be kept rolling. It was a question of where this money was going to come from. Town Planner Mader had raised the question of whether the sustainability work should come out of the planning budget. He agreed that the project was largely the creation of the Council, and the funding should be provided by the Council so that other items on the work program of the Planning Commission could be carried out. He asked where the money could be transferred from. Ms. Howard recommended increasing the Planner's budget by \$50,000 to cover these two items. By the end of the year, she anticipated that there would be some funds left in some of the other consultants' budgets that could be transferred to this. In the worse case scenario, the Town would be \$50,000 over on one budget line. Responding to Councilmember Driscoll, she said most of the consultants' budgets would be used up by the end of the year. She always budgeted \$25,000 in miscellaneous consultants, and \$16,000 had been used for the fire consultant. She felt the money could be found.

Councilmember Driscoll said it was important to do this work, and he thought the budget had sufficient slack. Councilmember Merk added that this had been going on for more than twenty years with the Planning Commission. Every year, a budget was set out and then something came up that had to be done. Ms. Howard agreed that the planning budget always was shifted around to make it work. Town Planner Mader said there had been years when the whole planning budget had not been used.

Councilmember Driscoll moved to add \$50,000 to the Planning budget. Councilmember Merk seconded, and the motion carried 5-0.

(12) Appointment to Conservation Committee

Referring to Paul Heiple's memo of 2/28/08, Mayor Derwin appointed Phyllis Eicher to the Conservation Committee. By motion and second, Council unanimously concurred.

(13) Status of Town Center Project

Ms. Howard said the Town Hall walls were being framed. All the windows, fire sprinklers, electrical and plumbing were installed in the library, and the dry wall was going up in the Community Hall. The backstop

was almost complete, and they were starting to work on the overhang. On March 6, the playground had been inspected, and there were several custom items that did not pass inspection. On March 18, the final inspection would take place. If necessary, the Town was prepared to issue a change order to Community Playgrounds to come in and fix the remaining problems so the equipment could pass the final inspection; \$15,000 was being withheld. Responding to Councilmember Toben, Ms. Sloan said the playground contractor was responsible for performing the work in accordance with State regulations. If it didn't pass inspection, it was faulty work. Ms. Howard described work required to repair the equipment footings. Responding to Councilmember Driscoll, she discussed what was planned for the little playhouse in the redwood grove.

(14) Reports from Commission and Committee Liaisons

(a) Trails Committee

Councilmember Driscoll said the Committee felt that their opposition to all benches on trails in the future and their concerns about replacing vandalized signs were overstated to the Council. He let the Committee know that the Council would adopt a policy that would provide guidance on how significant a person's contribution had to be to warrant a bench. Additionally, there was some concern about how quickly they should move on the Kirsten property, which had been delayed for easement issues. He informed the Committee that they could go ahead with some of the other trail work. There had also been discussion on driveways that needed to be scored for horses. At the next meeting, the Committee would be discussing how to handle trail connections across Portola Road in front of the Town Center project. Problems resulting from Geocaching continued. Additionally, a couple of years ago, the Town tried to come up with a permit process for events involving 100+ racers on the Town trails. Apparently, there had been no compliance with that because no one knew about it. The Committee could not find any documentation on the permit.

Councilmember Toben said this was also before the Parks and Rec Committee because some training outfits wanted to use the trails for recreational purposes. He recalled that the Parks and Rec Committee was concerned that the trail route proposed was really difficult and had requested further analysis to make it somewhat more hospitable. Councilmember Driscoll asked Ms. Howard to see if there was an approved policy and permit.

(b) Planning Commission

Councilmember Toben said the Commission worked on the nonconforming use provisions of the zoning ordinance, and there was general consensus on reconstruction of non-conforming uses after destruction. The Commission also held a preliminary review of the request from Spring Down Equestrian Center for an amendment to their CUP. A majority of Commissioners resisted the request to extend the CUP from 2018 to 2028. The Goodsteins would be undertaking some major capital improvements and wanted assurance that they would be able to amortize the value of those improvements over a 20-year period. Commissioners felt that was a long time to shackle the Town with respect to future uses of that parcel in the scenic corridor. Commissioner Zaffaroni tried to reassure the Goodsteins that that was not a negative signal about the horse culture in Portola Valley.

Councilmember Toben said the Commission also discussed two parcels that were damaged severely during El Nino when there was a major landslide. These parcels were adjacent to his property. The applicants purchased the downhill property and were proposing a 15,000 cy grading project. It was a necessary fix in the view of the Town Geologist because the present condition was bad for the neighborhood. The applicant was seeking assurance from the Planning Commission that if he completed this grading operation, he would be permitted to build two substantial homes totaling 6,000 sf in areas that previously had one damaged home at 2,500 sf and a small cottage uphill of about 700 sf. This would test the limits of the amended Resolution 500. At the Commission meeting, he spoke and did not want it perceived that any of his

comments were a function of his official capacity. Ms. Sloan added that she generally advised liaisons not to participate in the discussion. Liaisons were there mainly to observe and answer questions. However, as a resident and neighbor, Councilmember Toben had a right to speak.

Councilmember Toben discussed: 1) timeline for the work; 2) applicant's plans to build two houses and quickly sell them; 3) representation of the applicant that unless he received some secure signal from the Town that he would be permitted to build two 3,000 sf homes, the bank would not finance the grading job; 4) Commissioners' concerns about the work extending into the rainy season, managing the operation, stockpiling of the material, etc.; 5) applicant's argument that the movement of the landslide was caused by unnatural runoff related to the Hayfields subdivision uphill; 6) applicant's contention that he was simply restoring the site to its appropriate designation, which was Pd; 7) applicant's argument that once it was restored to Pd, you could do what others did with Pd; and 8) Commission's discussion relative to square footage allowed on Pd, as set forth in Resolution 500. Councilmember Driscoll said the property values of the property in Town had reached a point for people to engineer away landslides. That was a dangerous concept.

Councilmember Wengert said the ASCC also discussed the project. The same message had been delivered by the applicant from an economic perspective about the repair aspect of the project and the ability to build to a certain level. The ASCC also discussed the feasibility of combining the lots and developing them as one. Ms. Sloan said she would look into the matter.

(c) Climate Task Force

Councilmember Toben said the workshop on Home Energy Conservation and Green Design would be held on April 5. He would be meeting with architects and designers who would assist in coaching people on green building.

(d) Traffic Committee

Councilmember Merk said traffic was backing up on Indian Crossing when people picked up kids at Corte Madera School. It was not wide enough to pass. There was talk about widening it, but the Ranch and Town didn't want to pay for it. There was also talk about opening up the emergency access at the Ranch House as a way for people to cycle through, but the Ranch wasn't interested in doing that. Responding to Councilmember Merk, Councilmember Driscoll said the teachers opposed the previous proposal to stagger classes. Councilmember Merk said there was also some discussion about a request to have a 4-way stop sign at the corner of Mapache, Cervantes and Westridge. If you were coming off of Cervantes and turning left to come this way, it was a bad sight distance. Mr. Young offered to see if trimming trees or breaking down the bank somewhat would help. Additionally, a resident had complained about speeding cars on Cervantes near Minoca, and the Sheriff installed a remote camera to measure speeds. People were going on average 32 mph.

(e) Conservation Committee

Councilmember Merk said about 20 people attended the broom pull.

(f) ASCC

Councilmember Wengert said the ASCC discussed the Spring Down use permit amendment and allowing horse shows after 2010. The ASCC looked favorably upon that. Councilmember Driscoll said there had been a number of complaints about the events at Spring Down, and he hoped the ASCC meetings were noticed to neighbors. Councilmember Merk added that there was a banner on the Town's right-of-way saying "Horse show coming soon." Councilmembers discussed requests from the Goodstiens over the

years, two parcels purchased by the Town, management of the center, and value of the facility to the Town.

Councilmember Wengert said the ASCC also approved the Hollingate's (sp) landscape plan with a few modifications.

(g) Joint Venture Silicon Valley

Mayor Derwin said she attended an event called "Climate Protection Policy Workshop – State Legislative Priorities for 2008." The intent was to improve the collective understanding of AB32 and build an awareness of legislative initiatives.

(h) San Francisco Bay Regional Water Quality Control Board

Mayor Derwin said elected officials were given priority in speaking about the proposed Storm Water Permit. Everyone delivered the same message: this was an unfunded mandate. Due to the amount of resistance, everyone felt that they would have to go back and redo the document. Councilmember Merk said Ms. Lambert reported that in the afternoon, the attitude of the staff was completely different toward the non-elected speakers.

(i) Library JPA

Mayor Derwin said Vickey Johnson was resigning effective March 19. Anne Marie Despain would be the interim director.

(j) Town Communications

Mayor Derwin said the announcement for the green building workshop on April 5th had gone out. Responses were coming in from the other postcard that had been sent asking residents how they wanted to receive communication about the Town. Councilmembers discussed the PV forum. Councilmember Wengert invited Councilmembers to fill out the survey on the Town website about the redesign of the website. Councilmember Merk said he did not find the survey helpful. There was no place for comments. He felt the web site needed to be accessible for people who didn't know how the government worked. They didn't know that if they wanted to know about basements, they had to click on the Planning Commission. The site needed to have some search capabilities. Councilmember Wengert asked Councilmember Merk to submit his comments. Councilmember Driscoll agreed the survey did not make it easy to include remarks.

WRITTEN COMMUNICATIONS

(13) Town Council 2/29/08 Weekly Digest

(a) Home Dug Out Coast Live Oak, Ford Field

Referring to Ms. Lambert's memo of 2/29/08, Ms. Howard said the Conservation Committee looked at the tree. The older members of the Committee felt there was no change in the tree since they looked at it several years ago. They recommended trimming the branches. Five arborists had been asked for their opinions. Three provided written reports indicating that the tree was a hazard and an unacceptable risk for the Town. They said it could be trimmed but recommended removal and replanting of a specimen tree in a place somewhere away from the kids. Councilmember Driscoll noted that arborists had liability issues to consider. Ms. Howard said some arborists had worked with the Town very carefully to save trees. It was expensive, but there were some arborists who were willing to give recommendations on what could be done. Councilmembers and Jon Silver discussed what had been done to the tree in the past. Ms. Sloan suggested agendaizing the item after staff had a chance to receive input from other arborists, research previous inspections, etc.

(14) Town Council 3/7/08 Weekly Digest

(a) Use of Historic School House

Referring to Sue Chaput's e-mail of 3/4/08, Ms. Howard said the Friends of the Library would like to use of the Schoolhouse for an event honoring Pat Brown on 4/3/08. Councilmember Toben noted that the basement committee would be meeting that evening in the Schoolhouse. Ms. Howard said staff would be gone, so the Friends would have to be responsible for clean up.

Councilmember Merk read the adopted rules for use of the Schoolhouse as set forth in a memo from Alex McIntyre dated 11/5/98. Councilmember Driscoll said that policy had been adopted when the MUR was still available. In the last couple of years, the rules had been bent. Ms. Howard said there really was no place for the Friends to put a tent for food and drink outside. The Friends also indicated that Mayor Derwin agreed to sponsor them. Councilmember Driscoll said as long as they adhered to the policy, he did not object. Mayor Derwin felt the group would clean up.

(b) Weed Abatement Ordinance

Referring to Ms. McDougall's letter of 3/3/08 to Gunther Steinberg, Councilmember Driscoll suggested a copy be sent to the Fire Marshal.

ADJOURNMENT

The meeting adjourned at 11:05 p.m.

Mayor

Town Clerk