

TOWN COUNCIL MEETING NO. 653, AUGUST 11, 2004

ROLL CALL

Vice Mayor Davis called the meeting to order at 8:01 p.m. and led the Pledge of Allegiance. Ms. Howard called the roll:

Present: Councilmembers Driscoll, Merk and Toben, and Vice Mayor Davis  
Absent: Mayor G. Comstock  
Others: Town Attorney Sloan, Town Administrator Howard, Dir. Admin Services Powell, Public Works Director Young, Planning Manager Lambert, Building Official Hipsher, and Deputy Clerk Hanlon

ORAL COMMUNICATIONS: None

CONSENT AGENDA

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

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

- (1) Warrant List of July 28, 2004, in the amount of \$233,678.65.
- (2) Warrant List of August 11, 2004, in the amount of \$220,520.88.
- (3) Resolution No. 2134-2004 Approving and Authorizing Execution of the Lease Agreement Between the Town and Bonny Novesky, Shirley Mariani and Susan Prickett, per Dir. of Admin Services memo of 7/30/04.
- (4) Resolution No. 2135-2004 Approving and Authorizing Execution of the Lease Agreement Between the Town and Kalani Engles Smith, per Dir. of Admin Services memo of 7/30/04.
- (5) Resolution No. 2136-2004 Approving Use of Master Surety Bond for Town Officers and Employees, per Dir. Admin Services memo of 7/16/04.

REGULAR AGENDA

- (6) Minutes of Regular Town Council Meeting of July 14, 2004 (Removed from Consent Agenda)

Ms. Sloan and Councilmembers Merk and Toben submitted changes to the minutes of the 7/14/04 meeting. By motion of Councilmember Merk, seconded by Councilmember Toben, the minutes were approved (3-0) as amended, with Councilmember Driscoll abstaining.

- (7) FY 2004/2005 Portola Road Resurfacing Project

Mr. Young reviewed the staff report of 8/3/04 on the Portola Road resurfacing project (#PW2004-01).

Responding to Councilmember Driscoll, he said Measure A funds had to be used each year or less would be

received the next year. He noted that a lot less resurfacing was planned for next year. Ms. Howard added that of the \$400,000-\$500,000 spent yearly on resurfacing, only about \$200,000 came from the general fund; the rest was Measure A or gas tax money, which could only be spent on these types of projects. Councilmember Driscoll said reducing the resurfacing funding to include just Measure A funds for a couple of years could generate some additional savings. Councilmember Merk said when the roadways reached a certain condition, resurfacing would not be adequate and the base would have to be redone; that was more expensive. Responding to Councilmember Driscoll, Mr. Young discussed the Pavement Management System whereby an evaluation was made of all the streets and timeframes were established for what needed to be done to the streets. Not following the procedures could add to the repair costs.

Councilmember Merk moved adoption of Resolution No. 2137-2004 Approving Plans and Specifications and Calling for Bids for the Portola Road Resurfacing Project and Awarding of Bid No. 2004-PW01. Councilmember Toben seconded, and the motion carried 4-0.

(8) Biennial Notice and Introduction of Ordinance Amending the Conflict of Interest Code

Ms. Sloan reviewed her memo of 7/2/04 on the 2004 Conflict of Interest Code biennial notice and Ordinance amending the Conflict of Interest Code and Appendix. Additionally, she recommended that Leslie Lambert become a designated employee subject to the Code.

Councilmember Merk moved first reading of title, waive further reading and introduction of Ordinance No. 2004-\_\_\_\_ Amending Chapter 2.36 [Conflicts of Interest] of Title 2 [Administration and Personnel] of the Portola Valley Municipal Code. Councilmember Driscoll seconded, and the motion carried 4-0.

(9) Follow Up to Grand Jury Report Recommendations

Ms. Powell reviewed the staff report of 8/2/04 on revisions to the Personnel Policy Manual in response to the 2003-2004 Grand Jury Report recommendations. As set forth in the staff report, she noted that a section on Gifts and Gratuities would be added to the Personnel Policy Manual and revised in the Employee Handbook.

Councilmember Merk moved to adopt the proposed additions/revisions to the Personnel Policy Manual and Employee Handbook as set forth in the staff report of 8/2/04. Councilmember Driscoll seconded, and the motion carried 4-0.

(10) Status of Town Center Project

Ms. Howard said the design team would be meeting next week to review the presentation to the ASCC and Planning Commission agendaized for a joint meeting on September 13. Additionally, Gary Nielsen was working on fundraising strategies and a proposal would be presented at the next Council meeting. The FAQs for the website should be completed in the next week; also, a large amount of information was being posted as a result of the June 30 meeting. Mr. Young had also arranged for a car count for Town Center for a two-week period in September.

Councilmember Toben suggested there be some discussion at the next Council meeting about the agenda for the September 8 meeting and what specific action items would need to be addressed that night--such as a decision about the pre-school; the design team was eager for the Council to resolve that issue.

Additionally, during the last Council meeting, it was agreed that the issue of demolition needed to be re-visited.

Councilmember Driscoll said it would be helpful for the design team to address the impacts of the Windmill

School in front of the Council and public. Ms. Howard said she would ask the design team to prepare a status report for the Council's 8/25/04 meeting.

#### COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

##### (11) Consideration of Class "A" Roofing Ordinance

Ms. Lambert reviewed the staff report of 8/3/04 on minimum roofing standards for fire resistance. Councilmembers commended staff on the report.

Responding to Ms. Sloan, Ms. Lambert said "new structures" were defined by the 50% rule and the current Uniform Building Code Ordinance. Mr. Hipsher added that the County Assessor's office felt that if the structure was substantially removed, it was a new structure--regardless of whether one wall or the foundation was left. In remodeling, it would also be a new structure if parts of the structure substantially impacted the roof structure. He felt it could be left up to the determination of the Building Official. Additionally, he noted that a structure required sprinklers if the project entailed over 75% of the value of the structure. Ms. Sloan said she preferred to use the 75% figure--even if that required some discretion. She suggested "If 75% of a structure's value or more was destroyed, it was considered a new structure for the purposes of roofing requirements." Ms. Lambert pointed out that there was already a 50% rule in the zoning ordinance. Councilmember Merk agreed that if a percentage was used, it should be 50%. Responding to Councilmember Merk, Ms. Lambert confirmed that the 50% related to valuation; that was a complicated measure as well. Mr. Hipsher suggested "If 50% of the roof structure/roof framing assembly was removed, a Class A roof assembly would be required." In many cases when a structure was re-roofed, the roof structure was not removed. Substantial remodels, however, often included removing the roof structure. Responding to Vice Mayor Davis, he said the 75% formula for sprinklers was difficult to enforce. The equation used a number based on current cost per sf as set by the ICC. Responding to Vice Mayor Davis, he confirmed that he felt the roofing requirements should be based on removal of 50% of the roof structure.

Responding to Councilmember Toben, Ms. Lambert confirmed that the staff report and recommendations had been forwarded to the Fire Marshal.

Council concurred with staff's recommendations as discussed.

##### (12) Status of Conditional Use Permits

Ms. Lambert reviewed the staff report of 8/2/04 on the status of the Town's conditional use permits. Responding to Vice Mayor Davis, she confirmed that the Planning Commissioners had been forwarded a copy of the report but had not had an opportunity to discuss it.

Referring to the CUP Follow-up Log, Councilmember Merk asked how it was determined that some of the CUPs were void. Responding, Ms. Lambert said a CUP was void if the use was no longer there, it had been taken over by new owners, there were duplications, etc.

Responding to Councilmember Toben, Ms. Sloan said if a use permit did not have a fixed term and all of the conditions were being complied with, the Town did not have any authority to amend the use permit to require

a fixed term. If they came in and asked for something or they were out of compliance, the whole use permit could be looked at. Councilmember Driscoll said he felt there should be some review period and that the permits should not be open-ended; that was the direction the Town should move in. He suggested the table be amended to show which permits were open-ended or had a term. Ms. Lambert said she would provide that data.

Responding to Virginia Bacon, Golden Oak, Ms Lambert said the Stanford Wedge was listed as Alpine Rock Ranch. Responding to Ms. Bacon, she confirmed that Our Lady of the Wayside did not have a Town CUP as it pre-existed the incorporation of the Town. Ms. Sloan said it was probably a legal non-conforming use for the zoning district. Ms. Bacon asked if there was anything in the General Plan that would obligate a CUP holder to provide services for the Town in exchange for that permit. Also, she wanted to know if there were any CUP holders who provided services to the Town. Responding, Ms. Sloan said the Woodside Priory was an example. When they were first issued their CUP, they were required to enter into an agreement of understanding regarding the field. Councilmembers Merk Driscoll discussed services agreed to by the Ranch PUD.

(13) Addendum to Advisory Committee Handbook for Anonymous Donations

Referring to the staff report of 7/20/04 on the revised addendum to the Advisory Committee Handbook, Ms. Sloan reviewed the proposed language pertaining to anonymous donations.

Noting that this item had received coverage in *The Almanac*, Councilmember Toben said he felt that the headline could trigger some negative reaction in Town; some might read it as the Council setting up the ability to do secret deals. He thought there might be some reaction and suggested continuing the item to the next meeting. Responding to Councilmember Toben, Ms. Sloan said the addendum was just to let people know that if they wished to remain anonymous, they should use the method described. Otherwise, the Town, as a public agency, didn't have the ability to keep donations anonymous. She confirmed for Councilmember Toben that the Town could adopt a policy that prohibited accepting anonymous donations if it wanted to. She noted that many people contributed to non-profits anonymously.

In response to Councilmember Toben's concern, Vice Mayor Davis suggested posting what was being proposed on the website and agendaizing the issue for a subsequent meeting. Councilmember Toben supported the suggestion noting that this item was not well described in the agenda. In the Website article, Vice Mayor Davis suggested indicating that: 1) the Town accepted anonymous donations; and 2) the proposed language provided a method for making anonymous donations. Ms. Sloan suggested that the agenda read "Addendum to Advisory Committee Handbook Regarding Fundraising." Councilmember Merk suggested "...including anonymous donations."

(14) Reports from Commission and Committee Liaisons

a. Trails Committee

Councilmember Driscoll said there were cars routinely parked on one of the trails on Alpine Road near Los Trancos Road. He asked that it be investigated. Councilmember Merk added that the same thing was happening on Portola Road opposite Grove.

b. Planning Commission

Councilmember Merk said the Planning Commission held a public hearing on a request for deviation from Resolution 500 because more square footage (3%) was wanted than what was allowed; the project was on Wayside Road. The Commission granted the request but had some concern that it might be precedent

setting and that more people would press against those limits.

c. Conservation Committee

Councilmember Merk said the Conservation Committee had made the final adjustments to the Conservation Guidelines booklet, and it would be ready for the printer shortly.

d. Town Center Project Fundraising

Vice Mayor Davis suggested that either Councilmember Driscoll or Councilmember Toben be the contact for Gary Nielsen and his efforts on the Town Center project fundraising. Councilmember Driscoll suggested inviting Mr. Nielsen to attend the Town Center subcommittee meetings. Responding to Councilmember Driscoll, Ms. Howard confirmed that these were considered staff/working meetings. Ms. Sloan agreed that Mr. Nielsen could be invited from time to time when it was necessary. Responding to Councilmember Toben, Vice Mayor Davis confirmed that he [Davis] would still be the Council liaison to the fundraising efforts.

WRITTEN COMMUNICATIONS

(15) Town Council 7/16/04 Weekly Digest

a. Closure of Service Road/Trail at Windy Hill

Councilmembers complimented Craig Breon on his letter of 6/29/04 regarding the closure of the service road/trail at Windy Hill.

b. Crime Activity Report

Referring to the Crime Activity Report for April-June, Councilmember Merk pointed out that Larguita and Sharon Park Dr. were not in Town.

(16) Town Council 7/23/04 Weekly Digest

a. Revised Affordable Housing Questionnaire

Ms. Howard said the Council approved an affordable housing questionnaire in April. It had not been mailed out because the school district wanted to wait until the teachers returned. Mayor Comstock had made some significant changes, and she asked if the Council wanted the matter re-agendized. Councilmembers agreed it should be agendized. Councilmember Merk pointed out a word omission. He also questioned how the information would be kept confidential as indicated on the questionnaire. Ms. Howard agreed it could not be kept confidential. Councilmember Toben asked that a marked-up version be provided showing Mayor Comstock's revisions.

b. Amicus Letter to Support Tiburon's Land Use Issue

Vice Mayor Davis referred to Mary Ellen Wetlesen's e-mail of 7/23/04 requesting the Town's support of Tiburon's petition to the CA Supreme Court regarding a JPA's ability to be immune from a town/city's local land use regulations. He discussed the case and contradictory court results. While the Town historically did not engage in these types matters, he felt this one might be pursued. Responding to Vice Mayor Davis, Ms. Sloan said the League had chosen not to become an amicus because there were two sides to the story. Some cities, like Tiburon, were very upset; other cities--especially in Marin County--thought that Tiburon was

wrong. In this case, Marin County was part of the JPA and the court ruled that since one member of the JPA could trump local zoning, the JPA could. Her opinion was that Tiburon was right on the law and that a JPA should not trump local zoning.

After discussion, Vice Mayor Davis said the basic point which the amicus letter addressed was worthy of support. Councilmembers agreed. Councilmember Toben noted that several residents had signed a letter dated 8/5/04 encouraging the Town's support. Council directed staff to forward an amicus letter in support of Tiburon's position.

(17) Town Council 7/30/04 Weekly Digest: None.

(18) Town Council 8/6/04 Weekly Digest

a. Discount for Cable Television Service for Senior and Disabled Citizens

Referring to Belmont's letter of 7/30/04 on a discount for cable service for senior and disabled residents, Vice Mayor Davis suggested forwarding the letter to the Cable Committee. Council agreed.

b. Peninsula Traffic Congestion Relief Alliance

Referring to the invitation to join the Peninsula Traffic Congestion Relief Alliance's Governing Board and JPA dated 8/2/04, Councilmember Driscoll said he did not think the Town was a major contributor to the problem or could provide the solution. Council agreed to postpone joining at this time. Councilmembers discussed traffic on the section of I-280 in the Town's sphere of influence.

#### ADJOURNMENT

The meeting adjourned at 9:20 p.m.

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Vice Mayor

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Town Clerk