

TOWN COUNCIL MEETING NO. 638, JANUARY 28, 2004

ROLL CALL

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

ORAL COMMUNICATIONS: None

CONSENT AGENDA: All items removed from Consent Agenda

REGULAR AGENDA

(1) Minutes of Special Town Council Meeting of January 14, 2004 (Removed from Consent Agenda)

Councilmember Driscoll submitted a change to the minutes of the 1/14/04 meeting. By motion and second, the minutes were approved as amended by a vote of 4-0.

(2) Warrant List of January 28, 2004 (Removed from Consent Agenda)

Responding to Councilmember Merk, Ms. Howard confirmed that the Town would be reimbursed for the payment to Granite Rock (p. 3) for assisting with a truck rollover.

By motion of Councilmember Merk, seconded by Councilmember Driscoll, the Warrant List of 1/28/04 was approved by the following roll call vote:

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

(3) Re-numbering of Chapter 8.10 of the Portola Valley Municipal Code

Ms. Howard reviewed the staff memo of 1/20/04 and the recommendation to adopt an ordinance re-numbering Recycling and Diversion of Construction and Demolition Debris to Chapter 8.9 of the Town's Municipal Code. She confirmed that this would correct an administrative error and that the re-numbering is reflected in the current codification of the Code.

By motion of Councilmember Merk, seconded by Councilmember Driscoll, Ordinance No. 2004-\_\_\_\_ was introduced with first reading of title, waive further reading, Re-numbering Chapter 8.10 to Chapter 8.9 in Former Ordinances Relating to Recycling and Diversion of Construction and Demolition Debris by a vote of 4-0.

(4) Proposed Modular Building for Town Hall Operations

Ms. Howard reviewed the staff report of 1/20/04 on the proposed, temporary modular building. Responding

to Vice Mayor Davis, she said staff had not been able to find used modules that were of the desired style and big enough to house the existing modular furniture in the current building. Additionally, when modular buildings were moved, the safety aspect decreased considerably. As proposed, the modules would be constructed here. Responding to Councilmember Driscoll, Mr. Hipsher confirmed that there would be some resale value after 2-3 years; he said he would need to do further research. Councilmember Merk noted that the knockdown cost had not been included in the purchase price. Ms. Howard said that would probably be part of the negotiated price it was sold for. Councilmember Driscoll suggested: 1) the purchase option probably had another \$50,000-\$75,000 return value at the end of its use; or 2) the building might be handed down for a series of uses as things were shifted over a period of time.

Councilmember Toben said a resident had written urging that the Council consider long-term leasing of available retail/commercial space in Town. While not in favor of long-term leasing of property not owned by the Town for Town functions, he asked if this had been considered as an alternate scenario. Responding, Ms. Howard said there was actually very little space available. The old pharmacy space had been leased. The Village Square had one 1,800 sf space, which was too small. There would also be the cost of electrical upgrading, etc., that would need to be done. The Country Offices had offices that were between 200 and 1,100 sf, but there were no vacancies. Mr. Pollock had indicated that he had nothing available in his buildings.

Responding to Councilmember Toben, Ms. Howard said alternate sites had been looked at on this site. In terms of setbacks, locating the building all of the way out to the fields was preferable, but it could cost \$100,000 to get the utilities back there. It was also not known where the lines would be coming in for the new buildings. The main advantage to the proposed site was that the electrical, phones, generator, etc., were all right there. Mr. Hipsher described PG&E's requirements if the modular building was located elsewhere; just to get one pole and a transformer would be between \$65,000 and \$100,000. There would also be water, sewer, phone and cable issues along with egress/ingress and parking issues. Ms. Howard said Ford Field had also been considered, but the utilities would be even more of a problem because there was essentially nothing there now. She confirmed for Councilmember Toben that the proposed site was clearly the most economical.

Responding to Councilmember Toben's question about the two alternatives described in the staff report for placing the modular building within the fault setback, Town Planner Mader said there could be implications in the future for private projects in terms of fairness and principles. Ms. Sloan added that the Town itself was not legally required to follow its own procedures--even though most of the time the Town did. This situation could be treated like a variance, but that was not required. Given the exceptional circumstances, Councilmember Toben said he was comfortable proceeding without the formalities of going through a variance process.

Responding to Sally Ann Reiss, Ms. Howard said the existing office space was 2,700 sf; another 900 sf of storage was used in Room 10. She noted that there would need to be some way of getting to the stored files, which were used weekly or daily.

Councilmember Merk said the Town had followed its own procedures in terms of geologic study. He thought it was a bad precedent and a very bad statement to the people of the Town for the Town to say, "You have to do this, but we don't." He was uncomfortable with the procedural aspect. He also thought it was premature to make a decision about this tonight. The geologic report had not been received, and it was unknown how the charrette process would play out. It was also not known how long it would be until ground breaking for the new buildings. Until that information was known, it was unconscionable to spend a quarter of a million dollars of the taxpayers' money and approve temporary buildings. These buildings had been used for over 30 years. While there was a risk that should not be carried unnecessarily, this kind of money

should not be spent on something that we don't know for sure we have to have.

Councilmember Driscoll said he was prepared to consider putting temporary structures in but wanted a better understand of what the whole process would be; that would be discussed later during this meeting and at the special meeting on February 9. Additionally, it might be more desirable to approve this for a period of time and force a re-evaluation at some not to distant time.

Vice Mayor Davis said he did not want to grant an exception for the Town. He suggested staff prepare the agreements so that the scope, expense, and timing were known in preparation for execution of a contract. He also asked staff to prepare an additional report on the costs/actions related to the demolition of the new building. Responding to Councilmember Merk, he confirmed that he wanted to have all of the hard facts with regard to timing, execution, expense, manufacturer, etc. He was not comfortable approving this today but wanted the preparatory work on the contracts and agreements to be done.

In terms of a variance, Councilmember Merk felt it would be very difficult to make the findings.

Ms. Powell said in order to negotiate an agreement with the manufacturer, staff needed to present very specific details about the building (e.g., interior layout, exteriors, etc.) before the manufacturer could indicate how long it would take to build the building. If the Town didn't intend to go ahead with this, staff would be put in a very difficult position with the manufacturer. Mr. Hipsher added that staff had received a preliminary cost from the manufacturer based on a design that staff felt was within the Town's parameters of a visually acceptable building. Staff felt it was appropriate to give some consideration to the viewshed. Even though the building would be temporary, it would be there long enough to be a visual eyesore. The manufacturer had been asked for a building that would fit in with the Town's motif. Additionally, the manufacturers had checked their inventory in three different locations, and there was no new stock available. A new building would have to be built. Staff had gone as far as it could in preparing costs to install a set of buildings for the purposes needed. A grading contractor and electrical contractor had been contacted, and there was a preliminary plumbing estimate. Those numbers were reflected in the staff report.

Responding to Councilmember Merk, Mr. Hipsher said partitions would be used inside the modular office space. There would also be a private conference room, lunch room, two bathrooms that would be ADA accessible, and a restroom accessible from the rear. Councilmember Merk said except for the connection of the utilities, the building was not site-specific. Once a site was graded, the building could be dropped anywhere on the property. It was just the cost of the utilities that changed with moving the building around. Mr. Hipsher concurred, noting that power to this site was very limited. If the modular building was installed as proposed, it would consume the vast majority of the power. Unless there was a main service upgrade, power would have to be taken from the existing Town Hall. It was also limited by the overhead transformer; PG&E could not give any more power than what currently existed. Responding to Councilmember Merk, he said more electricity would be used in the modular building because of the heat pumps/AC on the back of the building.

Responding to Councilmember Driscoll, Mr. Hipsher said the four units were 12' x 64.' Councilmember Driscoll said he would like to see a little more about what it was that the Town was potentially buying. Councilmember Merk said he would like to know more about the resale value. Councilmember Driscoll suggested there also be some more investigation on the variance findings. Councilmember Toben said he was ready to adopt the recommendation tonight, but would concede to the majority. Councilmember Driscoll said there were a series of actions that would be taken at the February 9, 2004, meeting, and this issue was part of that. He suggested agendizing it for the 2/9/04 meeting.

Councilmember Merk moved that the item be continued to the 2/9/04 meeting. [*Changed to a date uncertain later in the meeting.*] Councilmember Driscoll seconded. He noted that the Council was not unsympathetic with the staff's concerns and anxieties. But, there was a fair amount of money involved. He did not feel it was appropriate to advance this issue while the other related issues would be discussed in two weeks. Vice Mayor Davis called for a vote, and the motion carried 3-1 (Toben).

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

##### (5) Reports from Commissions and Committee Liaisons

###### (a) Cultural Arts Committee

Councilmember Toben said the Committee had discussed the Woodside Priory master plan and the proposed performing arts center. The Committee had elicited a commitment that the Priory would provide access to that facility for various Town cultural events. Additionally, because of some community dissent about the master plan and the scope and nature of the proposals, he thought that the Priory would be doing extensive community outreach.

###### (b) Conservation Committee

Councilmember Merk said the Committee was almost finished with their guidelines, which were great.

###### (c) ASCC

Councilmember Merk noted that Carter Warr would be resigning from the ASCC (letter dated 1/26/04). He expressed his regrets and sincere thanks to Mr. Warr for his service. Responding, Mr. Warr said he had enjoyed being on the ASCC for 13 years. He was proud of his legacy of protecting the Town and creating an atmosphere where the ASCC, planning staff and applicants worked together to do good projects. It was with significant sadness that he was resigning, but that was counterbalanced by the happiness brought by being able to spend more time with his daughter. Councilmembers praised Mr. Warr for his service, noting that residents were often very complimentary about his technical knowledge, outreach, and demeanor.

Ms. Howard said she would place a notice in *The Almanac* about the vacancy. Interviews would be conducted at the March 24, 2004, meeting.

###### (d) Parks and Rec Committee

Councilmember Toben said the Committee had a great interest in having a constructive and active role in working on the program for the Town Center. Vice Mayor Davis added that the new Committee Chair would be advertising/publicizing the openings and opportunities on the Committee.

Vice Mayor Davis said a proposal for a dog park had also been discussed. People generally liked the idea and location. The major concern was how to maintain the open space in the Ford Field area. The locked gate/key idea that was part of the proposal had not been well received. The Committee would wait to see the execution concepts before making a recommendation. Councilmember Merk noted that the Conservation Committee had also discussed the issue and was horrified at the idea of fencing the area, dogs running down the grass, and the loss of the open space quality.

##### (6) Service Recognition Policy

Ms. Howard reviewed the memo of 1/20/04 on the proposed service recognition program. Responding to Councilmember Merk, she said the "coupon" in the policy referred to the personal day off, and the reimbursement would be "up to" the amounts shown. The Town Administrator would decide the actual amount of the reimbursement up to what was authorized. Responding to Councilmember Merk, she said she would be more than comfortable with removing her name from the list of eligible staff members. Responding to Councilmember Toben, she said she wanted to avoid giving a monetary amount because of tax/personnel issues. As proposed, it would be an actual reimbursement; employees would be encouraged to do something fun and bring back a receipt.

Councilmember Driscoll asked why people couldn't be given a bonus and include it on their W2's. If you were being reimbursed on goods, you were supposed to be taxed on the fair market value of those goods. Calling it a "reimbursement" implied it was a reimbursable expense and an expense on behalf of the Town. Councilmember Merk agreed. Ms. Howard said this type of policy was in place elsewhere. It was well received by employees and was a little more special than giving someone \$50 after they had worked there for 5 years.

Vice Mayor Davis said no one was objecting to the idea. The question was whether tax law recognized this as a non-taxable event--either due to the size or the nature of the event. Years ago, there used to be a *de minimus* rule. He liked the idea of paying a bill because it made an employee go do something. If it was, however, some kind of tax avoidance by not showing it on the W2, he suggested giving a bigger bonus to make up for the taxes. Ms. Sloan said she would investigate whether a reimbursement was a taxable event.

After discussion, Councilmember Driscoll moved to support the reimbursement concept but asked staff to provide further guidance on the taxation. If it was not found to be appropriate from the IRS standpoint on taxation, he suggested a markup such as 30%, which would apply to all employees. Councilmember Merk seconded the motion, and it carried 4-0.

Bill Lane said he thought it was a wonderful idea. He noted that there were quite a few people in Town who were either on committees or who had benefitted from having a good visit with a staff member. They might like to attend the meeting where the staff member was recognized. Ms. Howard noted that names would be listed on the agenda. Councilmember Merk said it might also be included in the newsletter.

(7) Draft Agenda for Special Council Meeting of February 9, 2004

Vice Mayor Davis referred to the staff report on the proposed agenda for the special meeting on 2/9/04. His hope was that the specifics of how that meeting would be conducted would be agreed on tonight and made available before that meeting. He also wanted some of the background consolidated in order to bring everyone up to speed on the Town Center project.

Responding to Councilmember Driscoll, Ms. Howard said she believed the geologic report would be available for the 2/9/04 meeting. She noted that the Town had received a copy of the Executive Summary. Town Planner Mader added that he had received a preliminary version of one of the critical maps and had commented. Councilmember Driscoll asked if some of the geologic investigations should be summarized. Vice Mayor Davis preferred to let the Lettis report stand on its own

Town Planner Mader said Mr. Young had asked for a brief memo on the relationship of the Lettis report to the Town's fault setbacks. Fortunately, the Town's setbacks on the zoning map indicated that practically all of the area of the fields was free from setback constraints with one minor exception. Councilmember Merk

suggested that be added as item #1.4 on the proposed agenda shown in the 1/22/04 memo.

Responding to Councilmember Driscoll, Ms. Sloan summarized her memo of 1/27/04 on architectural services and Proposition 35. She suggested adding approval of an RFP for architectural services to the agenda for the 2/9/04 meeting.

Councilmember Driscoll suggested that the RFP include the pre-charrette preparation, the charrette process, the post charrette design document, as well as the master planning/site development planning and the first phase of architecture. He did not want to enter into a 10-year contract; the second and third phase might be done by different architects.

Ms. Howard suggested a Request for Qualifications (RFQ) might be more appropriate. Normally with an RFP, you asked for a very specific proposal to do x, y and z. In this case, x, y, and z were unknown. Ms. Sloan said RFQs and RFPs were sometimes used in a two-step process. If you didn't know who was out there, you might send out an RFQ to, for example, twenty architects. It would not be a specific proposal that covered exactly the work to be done, the time it would take, and the cost. The responses to the RFQ could narrow the field down. While that was being done, you might firm up what you wanted to do and then send out an RFP to five firms. If ideas were specific enough, you could skip the RFQ.

Responding to Councilmember Merk, Ms. Sloan confirmed that Proposition 35 did not require the Town to take the lowest bidder. The Code talked about a fair, competitive selection process. Public agencies interpreted that to mean sending out an RFP and evaluating the response. In addition to cost, you could also look at qualifications, experience, etc. Councilmember Merk said the qualifications were initially the most important thing to look at. He preferred an RFQ first, selecting the cream of the crop from that, and forwarding an RFP to those.

Ms. Howard said the Council would need to commit to the architect to be part of the charrette proposal. This person would need to help with the master plan for the campus, as well as design the first phase (e.g., Town Hall and the corporation building). She also thought there should be a pre-proposal meeting with staff and a Council representative to: a) define the scope of this project; and b) give these people some historical background. She would be looking for references from local/small communities. She felt the evaluation should address things like: 1) knowledge of local ordinances and conditions; 2) experience with sustainable design; 3) including a lead certified consultant on the design team; 4) understanding of and willingness to participate in a charrette process and involving the community in the design process; 5) experience with buildings and challenging geotechnical conditions; 6) experience with town halls and municipal building projects; 7) availability of the firm; 8) who would be on the design team; etc. She envisioned a process whereby candidates would be interviewed and the Town would commit to a firm. She thought it would be very difficult to put together an RFP when there was no real definition of what the Town would be doing. Ms. Sloan said there needed to be some basis of cost to see if the person/firm selected was competitive. It might not need to be a maximum "not-to-exceed" cost but rather an hourly rate.

Town Planner Mader felt an RFQ was a good way to go. It would give the Council a broad cross section. It also meant twenty people would not be doing detailed proposals, which was not fair to them either. The RFP would have to be done exceedingly carefully so that people could base costs. That might be phased so that the Town could protect itself and ensure that the decision was a good decision. He thought a two-phased process was very appropriate.

Linda Weil said if the Council chose an RFP route for the sake of expediting the process, the qualifications section would be an important section within the RFP. The RFP could state what the evaluation criteria were. Also, to put out an RFP, you did not need to know all of the details. You did, however, need to know

the parameters of the project such as site location, highest priority programming functions, a charrette process would be used, etc. The design team would know what you're talking about--especially if you held a pre-bid meeting. She felt a one-step RFP process could be done whereby the qualifications were heavily weighted.

Carter Warr said the normal process on projects of this scope was to do an RFQ. Within the RFQ, there needed to be a very clear understanding of how the selection criteria was weighted and how that selection was going to be made. The Brooks Act required candidates to be ranked. The Act essentially disallowed bidding on professional services; professional services could not be selected based on price. It had to be based on qualification. As a consequence, after the candidates had been ranked, the highest ranking candidate entered into a negotiation on a scope of work. If you went directly to an RFP, typically, the proposal part that included the price was in a sealed envelope and was only opened after the ranking, and only opened for the #1 rank. If a successful contract could not be negotiated, the #2 rank's envelope would be opened, etc. Responding to Councilmember Driscoll, he said price was typically based on the scope of work, which was then broken down into tasks and hours to accomplish tasks. Without a very specific scope of work, it was very difficult to price. With the Town, a master plan had not been established. The likely phase during which a professional could price would be the charrette, which ended with a product. Until that product and a plan to act on was developed, there was nothing to price. Almost no architects in today's market based their fees on a percentage of construction costs. There was a disincentive to contain costs, and he felt it was an adverse contractual relationship between the architect and the owner.

Councilmember Driscoll was concerned that pricing only the first couple of small phases would put the Town in a position of committing to an architect who might then gouge us later on. He felt there would have to be some parameters or estimates "not to exceed" so the Town wasn't entering into a blank check with someone. Mr. Warr said he recommended that the Town not tie itself to one architect for the whole process. Because the Town would be doing a qualifications-based selection, the Town could continue with an architect if it desired; if you were not happy with the architect, you would have a second, third and fourth to go to as an alternative. Councilmember Driscoll said the charrette process would cover a lot of the preliminary design work. He felt it would be uncomfortable for the Town to tell architect "A" he was too expensive and use architect "B." Mr. Warr said it happened all the time. Councilmember Driscoll felt it would not be a desirable outcome.

Councilmember Toben said the architect that did the charrette would have an obvious advantage in presenting an attractive professional services agreement going forward. At that point, there would be an opportunity/obligation to consider alternative prices--particularly if the proposal seemed high. Mr. Warr added that at that point, the Town would have an opportunity to truly negotiate because there would be a clearly defined project. The Town could make sure that the price was contained and a "not to exceed" or guaranteed maximum could be negotiated.

Councilmember Driscoll said he and Councilmember Toben would assist staff in the preparation of an RFQ for the 2/9/04 meeting. Town Planner Mader noted that Mr. Warr suggested having an RFQ and going directly to negotiation. What you would need in order to provide a framework for the negotiation that would follow would also need to be discussed. Ms. Howard suggested framing it as an RFQ but asking for a proposal for the charrette process. Vice Mayor Davis said the statement of the criteria/weighting factors that would be used was one of the most significant parts of an RFQ. He hoped all of the actions/documents agendaized for the 2/9/04 meeting would be as specific as possible.

Councilmember Toben said the Town seemed to be seeking to engage a team with two distinct but equally important skill sets: 1) expertise in design; and 2) great expertise in public involvement. He was concerned that if 4-5 good candidates were identified on the design side, there might not be 4-5 equally capable and

expert charrette management teams in the Bay Area who could team separately with those 5 design teams. The Town could pick a very fine designer but an inferior charrette manager. There might be two superb charrette management teams in the Bay Area, and they could be affiliated with more than one design team.

Mr. Warr agreed, noting that the process that he and Ms. Weil brought to the Council was not one that was being used everywhere. It was gaining in popularity because of its superior success in creating synergy and consensus within communities. Most architects did not do business that way. The Council would need to decide whether they were foursquare behind a charrette process or wanted to pursue the project in a more traditional way.

Councilmember Driscoll said that would be determined and stated at the 2/9/04 meeting. He felt that the document would need to state that the qualifications would be evaluated but that the Town reserved the right to suggest teams alter their composition. The Town should not assume that there were four non-overlapping, indistinct and permanent teams. Mr. Warr said he took exception to that. One of the things that Proposition 35 talked about was competitive nature. If you requested qualifications from a team, part of the competitive nature of that was how well a team could put itself together, show its cohesive nature and true understanding of the project, and show a level of proven success in doing what it was doing. He thought a "mix and match" aspect could be a problem. Councilmember Driscoll said he felt it was reasonable to state that the Town reserved the right to suggest some adjustments to the team during the negotiation process.

Councilmember Toben discussed six decisions [*the Toben list*] that were ripe for final action at the 2/9/04 meeting: 1) the Council had determined that the current structures that straddled San Andreas Fault must be abandoned; 2) the Council has determined that it wishes to locate all essential Town functions on the western side of the campus rather than going off site and investigating acquisition of property currently in private ownership; 3) the choice of financing will be consistent with the Town's history of no-debt financing and will be pay-as-you-go; 4) there will be a phased program of construction; 5) the Council is committed to a thorough public involvement process that is a charrette process; and 6) the Council is committed to the issuance of an RFQ along the lines discussed this evening.

Councilmember Driscoll thought the Council should decide what the program would include and what the program might optionally include: a "must have" category and a "desire to have" category. Since that hadn't been pinned down yet, he did not think any financial instrument should be precluded. It might be stated as a goal to avoid debt financing. Vice Mayor Davis agreed and discussed possible short-term debt options.

With respect to the communication aspect, Councilmember Driscoll said there had been some suggestions made about starting the public outreach before the charrette--particularly since the process was taking longer than expected. He thought that the public might be given another opportunity for input on uses and programs as part of the pre-charrette work. That might help to more clearly define what the desirable uses were. Councilmember Toben noted that SallyAnn Reiss had suggested inviting thoughtful and disciplined submission (e.g., a one-page form) of proposals. One suggestion was a pre-school program on the campus. Parameters would have to be included on the form such as potential financial implications for the Town, etc. It would be a more systematic way of registering your idea. Responding to Councilmember Merk, he said the current users (gallery, artists, etc.) would also be asked for input.

Vice Mayor Davis said he was concerned about building a space for a specific organization. Spaces were built for functions and uses by the citizenry. He did not want to build a space for a school or gymnasium by name. It should be understood that the Town was not in the rental/construction business. Councilmember Driscoll agreed and said the Council was looking for ideas to help program the project but should not commit to anything. The Town had done and would be doing a great amount of public outreach, and everyone



needed to feel that they had been heard. Vice Mayor Davis was also concerned that everyone might agree that an idea had a great deal of merit only to find that it couldn't be included for financial reasons. People would feel rejected by the system and that the Town was not being responsive to what they felt was a very compelling item on their agenda.

Councilmember Toben said one of the advantages of the charrette process was that program, space requirements and finance were always in the mix and interrelated. There would be the opportunity for people to realize why their idea couldn't be incorporated. There was very tight feedback, which was part of what was singular about the charrette process. Mr. Warr agreed. He also felt there was the potential for creating: 1) more ideas that self-financed themselves; and 2) symmetry to make the Town Center more liked and successful.

Councilmember Driscoll suggested that phase 1 would be the corporation yard and Town administration building. That would not be affected by additional suggested uses, which might influence phase 2 or 3. He felt soliciting for additional uses would help the architect understand the uses that the space would need to accommodate; they could then design flexible/dividable spaces that might change in use over a period of years. He suggested that the program/uses be added between items 2 and 3 on the Toben list.

Councilmember Toben noted that the demolition of the existing buildings had not been discussed. Councilmember Driscoll saw that as included under item #1 on the Toben list. Responding to Councilmember Toben, he said if it was determined that the administration building should be torn down, then the question was whether the classrooms behind it should also be torn down. If those were torn down, certain uses would be temporarily or permanently ended. Additionally, if the Council agreed on the item #1 statement [Toben list], there were a series of ramifications that came from that--like making sure there were releases being signed by the new lessees for those spaces. After discussion, Councilmember Toben suggested it would be adequate to state that the Council chose not to retrofit. Councilmember Driscoll said if the Council chose not to retrofit then the other processes for using the other spaces needed to be examined. Responding to Councilmember Driscoll, Ms. Howard confirmed that releases had already been signed.

Town Planner Mader noted that in past discussions, phasing the closing down of uses had been discussed. It had already been decided to retrofit the library to a degree. Some of the structures might remain even while new buildings were being built.

Councilmember Driscoll suggested that the use of the modular buildings might also fall under item #1 [Toben list]. Responding to Councilmember Merk, Ms. Howard said she did not think there was enough time for staff to put together the additional information requested for the 2/9/04 meeting. Council agreed it should be continued to a date uncertain.

Ms. Howard confirmed that the first item on the draft agenda would be the geologic report, with four items under that. Responding to Ms. Howard, Vice Mayor Davis said he wanted to hear a summary presentation by staff on the conditions of the current buildings as the second agenda item. Council agreed. Ms. Howard confirmed that the third agenda item would be a discussion by Councilmembers Driscoll and Toben on the seven items on the Toben list: 1) the determination that the buildings must be abandoned; 2) a commitment to the location of the buildings; 3) what the project would encompass; 4) a general financing goal to not go into debt; 5) a commitment to a phased construction; 6) involvement of the community and commitment to the charrette process; and 7) approval of the RFQ for issuance.

Responding to Vice Mayor Davis, Ms. Sloan said Resolutions were normally prepared for the Council to act on. In this case, it was not necessary to do resolutions other than to approve the RFQ. She thought it would be better for the sub-committee do to a policy statement for the Councilmembers to take a voice vote on.

Council agreed to make the RFQ the fourth agenda item.

Responding to Councilmember Merk, Vice Mayor Davis confirmed that the financing would be discussed, including a discussion of fundraising, etc. Responding to Councilmember Driscoll, Councilmembers agreed that a summary of the efforts of the Town Center Advisory Committee and some of the history would be useful. Councilmember Driscoll said he would prepare a summary. Mr. Lane agreed that was important to include. He said Councilmember Driscoll and others had been very good at getting a lot of people involved. Responding to Councilmember Driscoll, Ms. Howard confirmed that those people had been invited to the 2/9/04 meeting.

After discussion, Council agreed to start the 2/9/04 meeting at 7 p.m.

(8) 2004 Committees

Referring to the list of Committee and Commission Memberships dated January 2004 (revised 1/28/04), Vice Mayor Davis made the appointments. Councilmember Merk moved concurrence, Councilmember Driscoll seconded, and the motion carried 4-0.

(9) 2004 Liaison Appointments

Responding to Councilmember Toben, Vice Mayor Davis said Mayor Comstock had worked on the list to match interests, rotate past liaisons, etc. Councilmember Toben said he was pleased with his assignments. Vice Mayor Davis appointed Council liaisons as shown on the January 2004 list. By motion of Councilmember Merk, seconded by Councilmember Driscoll, Council concurred with the appointments by a vote of 4-0.

WRITTEN COMMUNICATIONS

(10) Town Council 1/16/04 Weekly Digest

(a) Liability Insurance for MUR Events

Referring to Ms. Nerdahl's memo of 1/9/04, Councilmember Driscoll said he agreed with charging applicable MUR event holders directly for the cost of their liability insurance. Council agreed.

(b) Emergency Preparedness Committee Earthquake Exercise

Referring to the memo of 1/15/04 on the Emergency Preparedness Committee Earthquake Exercise, Councilmember Merk said he had been designated as the Council representative. Councilmember Driscoll said any calls to him should come to his cell phone.

(11) Town Council 1/23/03 Weekly Digest

(a) Retaining Wall Dispute - Connell and Holthaus Properties

Councilmember Driscoll referred to Annelise Connell's e-mail of 1/22/04 and the letter from Randy and Lynn Holthaus's attorney of 1/27/04 and asked for an update from Ms. Lambert. Ms. Lambert reviewed the history of the dispute. Ms. Sloan confirmed that Mr. Connell still did not object to the wall, but that Mrs. Connell did. Ms. Lambert said this was a private dispute between two private landowners with the Town involved because it was an illegal structure. If the Town demanded that the wall be removed, it would make the uphill

neighbors' property unsafe. Responding to Councilmember Driscoll, she confirmed that the contractor had incorrectly told the Holthauses that they did not need a permit to build the wall. Responding to Councilmember Driscoll, she said both sides' attorneys, Mrs. Connell (via telephone) and all of the consultants had met in October in an attempt to have them apply for a joint permit, which had been done. Unfortunately, the information that was submitted with the application was not sufficient and requests for additional information had been made by the Town Geologist and Plan Checker. She had a meeting with Mr. Holthaus this week to make sure everything was included in his package. Through their attorney, they had requested a 30-45 day time period to submit all of the information. She described the conflicting information that was being provided by each side.

Ms. Sloan confirmed that she did not think the Town needed to intervene at this point. It was an illegal structure and the Town was proceeding at the normal pace. She added that Ms. Lambert had very good success in working with applicants to resolve these types of things.

Responding to Vice Mayor Davis, Ms. Lambert said a short response to Mrs. Connell's e-mail had been drafted and would be included in the digest. The Town would continue to try to get the necessary information in order to make a determination. Responding to Councilmember Driscoll, she said: 1) the wall required a site development permit; 2) the wall accommodated the downhill property by providing additional parking; and 3) it might even need a variance.

Councilmember Toben suggested that the letter going out from the Town indicate the Council's endorsement of the staff's efforts. Councilmember Driscoll suggested indicating that the Council did not feel a need to intervene. Vice Mayor Davis suggested also indicating that Mrs. Connell's paraphrasing of the Town's policy was totally inaccurate.

(b) Stanford Trails

Referring to the letters from the Mayor to the County Supervisors on the Stanford C1 and S1 trails, Councilmember Driscoll noted that if the C1 trail was built in the location the Town wanted, it would not be in San Mateo County. He thought it was important to reiterate the Town's position with respect to the location of that trail. Councilmembers discussed the letters sent by the Town about this issue. Councilmember Driscoll suggested the Town be on the record very clearly with respect to the desired location of the trails. Councilmembers agreed. Councilmember Driscoll said he would ask the Trails Committee to draft a letter for the Mayor's signature.

ADJOURNMENT

The meeting adjourned at 10:33 p.m.

\_\_\_\_\_  
Vice Mayor

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