



TOWN OF PORTOLA VALLEY

7:30 PM – Regular Town Council Meeting

Wednesday, March 24, 2010

Historic Schoolhouse

765 Portola Road, Portola Valley, CA 94028

REGULAR MEETING AGENDA

7:30 PM – CALL TO ORDER AND ROLL CALL

Councilmember Derwin, Vice Mayor Driscoll, Councilmember Richards, Mayor Toben, Councilmember Wengert

ORAL COMMUNICATIONS

(Time Estimate – 5 Minutes)

Persons wishing to address the Town Council on any subject may do so now. Please note however, that the Council is not able to undertake extended discussion or action tonight on items not on the agenda.

- (1) **PRESENTATION** by Ann Campbell, Superintendent to the Portola Valley School District, with a report on District Goals
- (2) **PRESENTATION** by Tim Hanretty, Assistant Superintendent to the Portola Valley School District and Rashmi Menon, Consultant to the Portola Valley School District, with Sustainability Projects Overview

CONSENT AGENDA

(Time Estimate – 5 Minutes)

The following items listed on the Consent Agenda are considered routine and approved by one roll call motion. The Mayor or any member of the Town Council or of the public may request that any item listed under the Consent Agenda be removed and action taken separately.

- (3) **Approval of Minutes – Special Town Council Meeting of March 10, 2010**
- (4) **Approval of Warrant List – March 24, 2010**

REGULAR AGENDA

(Time Estimate – 75 Minutes)

- (5) **Report** on Emergency Preparedness in Portola Valley
There are no written materials for this item.
 - (a) Fire Chief Armando Muela with a report from March 20-21, 2010 “Assessing Wildfire Hazards in the Home Ignition Zone” workshop
 - (b) Update from CERPP with Current Status of CERPP and Future Endeavors
- (6) **Discussion and Council Action – Proposed Conceptual Changes to Solicitation Ordinance**

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(Time Estimate – 45 Minutes)

- (7) **Report from Staff – Information regarding False Security Alarm research**
- (8) **Reports from Commission and Committee Liaisons**
There are no written materials for this item.

WRITTEN COMMUNICATIONS

(Time Estimate – 10 Minutes)

- (9) **Town Council Weekly Digest – March 12, 2010**
- (10) **Town Council Weekly Digest – March 19, 2010**

ADJOURNMENT

ASSISTANCE FOR PEOPLE WITH DISABILITIES

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Town Clerk at (650) 851-1700. Notification 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting.

AVAILABILITY OF INFORMATION

Copies of all agenda reports and supporting data are available for viewing and inspection at Town Hall and at the Portola Valley Library located adjacent to Town Hall. In accordance with SB343, Town Council agenda materials, released less than 72 hours prior to the meeting, are available to the public at Town Hall, 765 Portola Road, Portola Valley, CA 94028.

SUBMITTAL OF AGENDA ITEMS

The deadline for submittal of agenda items is 12:00 Noon WEDNESDAY of the week prior to the meeting. By law no action can be taken on matters not listed on the printed agenda unless the Town Council determines that emergency action is required. Non-emergency matters brought up by the public under Communications may be referred to the administrative staff for appropriate action.

PUBLIC HEARINGS

Public Hearings provide the general public and interested parties an opportunity to provide testimony on these items. If you challenge any proposed action(s) in court, you may be limited to raising only issues you or someone else raised at the Public Hearing(s) described in this agenda, or in written correspondence delivered to the Town Council at, or prior to, the Public Hearing(s).

UNAPPROVED MINUTES

TOWN COUNCIL SPECIAL MEETING NO. 786, MARCH 10, 2010

Residents joined Councilmembers, staff and members of the project team for a reception to celebrate the LEED platinum award for the Town Center project

ROLL CALL

Mayor Toben called the meeting to order at 7:30 p.m. and led the Pledge of Allegiance. Ms. Howard called the roll:

Present: Councilmembers Derwin, Driscoll, Richards and Wengert, and Mayor Toben
Absent: None
Others: Dep. Town Planner Vlastic, Public Works Director Young, Town Attorney Sloan, Town Manager Howard, Planning Manager Lambert, SuRE Coordinator de Garneau, and Asst. Town Manager McDougall

PRESENTATION: Leadership in Energy and Environmental Design (LEED) Platinum Award

Councilmember Driscoll gave a presentation on how the Town Center project was able to achieve the points necessary for LEED platinum certification. He discussed the mission of the U.S. Building Council, number of LEED accredited professionals, and number/size of projects participating in LEED. Using slides, he discussed points earned under each of the LEED major categories: 1) site selection; 2) water efficiency; 3) energy and atmosphere; 4) materials and resources; 5) indoor environmental quality; and 6) innovation and design process. He said the citizens gave \$17 million to the project, noting that the donations increased as the project became greener and greener. He described the fundraising efforts, volunteers involved in the project since 1998, Town staff efforts, the design team, and the budget. He introduced project team members and gave special thanks to C.R. Hodgson.

Larry Strain, lead architect, said when his firm was hired, it was clear that the Town wanted a really green, low-impact Town Center. There had been some objections to using LEED because the Council thought it would be a distraction to go after LEED points; they wanted every dollar to go into green features. But, LEED was not the goal; the goal was the green building. After a lot of discussion, he recommended that the Town pursue LEED because of the rigorous process to make sure all the features were implemented and built. It was a way of organizing the project, following through, and making you look at a wide variety of green goals. Contractors also had a clear idea of what was expected. It had been a bit of a shock to learn that the Town wanted to go for LEED platinum, but it was great. Most of the points to obtain LEED platinum started out in the "maybe" category, and then turned into "yeses." The best thing about this project was that it brought the Town together as a community. He thanked the project team, the construction team, and the Town representatives for making the project turn out so well.

Dan Geiger (Executive Director, Northern California Chapter, U.S. Green Building Council) said the world was in some serious trouble right now with some serious crisis including the economic crisis, energy crisis, and a multifaceted environmental crisis. This was a deeply transformative period. The problems could be tackled and solved or not. One of the things that could be done was green building. Buildings were responsible for about 40% of carbon emissions in the United States and 70% of energy use. Green building was something that had been done at the Town Center. He discussed the reduced operating costs of green buildings, use of local materials, water and energy conservation, reduction of waste and benefits to the economy. The points were a tool to help you get where you wanted to go and make sure you did it right. The first letter in LEED was leadership. What this project represented fit the standard for leadership that was needed everywhere to transcend the crisis the world faced. These kinds of projects were a metaphor for how things needed to be changed as a society. This project worked because there was an integrated team, and in this case, the whole community was part of the team. Many people would come to use and

enjoy this healthy space over the years. He commended everyone involved for making this happen. He presented the Mayor with the LEED platinum award.

Mayor Toben asked that a group photo be taken of everyone present who had anything to do with this project as well as those who enjoyed it.

ADDITION OF URGENCY ITEM [8:15 p.m.]

Ms. Howard asked that a storm drain pipe replacement at Golden Oak Drive/Alpine Road be added to the agenda as an urgency item. By motion and second, the item was added to the agenda by a vote of 5-0.

ORAL COMMUNICATIONS

Bill Lane, Westridge, said he wanted to recognize Councilmember Driscoll for his role in the Town Center project. Councilmember Driscoll did something every day to move the project ahead. To see this lovely site developed had been a very rewarding experience.

Mark Pham, Census Bureau, said he wanted to raise awareness about the importance of the census. Temporary jobs would be available, and he would forward more details.

CONSENT AGENDA [8:20 p.m.]

By motion of Councilmember Derwin, seconded by Councilmember Wengert, the items listed below were approved with the following roll call vote:

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

- (2) Warrant List of March 10, 2010, in the amount \$312,859.99.
- (3a) Second Reading by Title, Waive Further Reading, and Adoption of Ordinance No. 2010-383 Adding Chapter 15.32 [Water Conservation in Landscaping] to Title 15 [Buildings and Construction] of the Portola Valley Municipal Code.
- (3b) Second Reading by Title, Waive Further Reading, and Adoption of Ordinance No. 2010-384 Adding Chapter 15.30 [Indoor Water Conservation] to Title 15 [Buildings and Construction] of the Portola Valley Municipal Code.
- (4) Change to Emergency Preparedness Committee Charter.
- (5) Resolution No. 2482-2010 Denying the Claim of Devin Kruse.

REGULAR AGENDA

- (1) Minutes of the Town Council Meeting of 2/24/10 (Removed from Consent Agenda)

Councilmember Driscoll submitted changes to the minutes of the 2/24/10 meeting. By motion and second, the minutes were approved as amended by a vote of 5-0.

- (6) Proposed "Green Building" System for Portola Valley [8:25 p.m.]

Mr. Vlastic reviewed the staff report of 3/4/10 and recommendations from the Planning Commission and ASCC subgroup for a green building system for the Town. With this proposal, the Town would encourage people in a very specific and organized way to look at their own projects the way the Town had looked at the Town Center. Using slides, he discussed: 1) key objectives of a green building system; 2) makeup of the subgroup; 3) Town actions to date in support of sustainability and a reduction in GGE; 4) experience with

BIG checklists; 5) reasons for using the BIG checklist system for residential projects; 6) point thresholds; 7) certification process; 8) cost; 9) new residence projects and residential additions tracked since 4/1/09 (Table 1, staff report); 10) educational component; and 11) the Town's leadership in sustainable and green building. He said this system was not static; there would be changes at the State level and changes within BIG and LEED. He showed examples of projects with green exterior and interior elements. He discussed the GreenPoint Rated Checklist attached to the staff report.

Mayor Toben acknowledged the work of the subgroup to develop this recommendation, and introduced members present. He said this was the product of a great deal of thought and care in order to make serious headway on the Town's commitment for achieving AB 32 goals. The recommendation was to have an ordinance with accompanying resolutions that would implement green design standards for the community. A system such as this could be done cost effectively with an array of options and choices that owners could mix and match to achieve their own synergies.

Councilmember Driscoll said the difference between BIG and LEED was that LEED had a certification structure similar to a referee who decided whether you received points or not. BIG was more of a voluntary program. He was somewhat concerned about the burden it would place on staff who would have to decide whether to accept the points that people could get. He asked if there had been any discussion about producing the guidelines for the staff so they could make judgments. Responding, Mr. Vlasic said the subgroup discussed the issue. The recommendation for new houses and major remodels and additions was to use the certified raters so that it wouldn't put a burden on staff. Staff would do the normal building inspections. When Cal Green came in in January of 2011, there would be new burdens for building inspection for minimal code requirements. The building officials in various counties and cities were trying to work with the California Energy Commission to understand exactly how they would be doing the inspections to accomplish those things. In terms of BIG and the rating system for a new house or major remodel, there had been some initial discussion about getting staff trained to do that and charge a fee, but the concern was that the staff in Town was just not big enough to handle that. Ms. Lambert added that staff had been using the checklist for over a year and everyone felt comfortable with it. People who came in also understood it quite well.

Referring to Table 1, Councilmember Wengert said the majority of current projects listed met the proposed threshold. She asked what had been gleaned from those projects that didn't meet the threshold. Responding, Mr. Vlasic said in those instances, the desire to have a sustainable, energy efficient environment was something that people resonated with when they found out more about it. When homeowners started a project, they looked at the cost and the ability to accomplish a lot of these things at a fair cost tradeoff. Now, the architects were telling them that this was better in the long term because of energy savings. Most clients responded to that.

Councilmember Derwin felt the homeowners might have thought differently if the system had been mandatory. Mr. Vlasic agreed, noting that when a number of the projects were built, the audit would probably result in higher points; architects were somewhat conservative up front. Budgeting was a factor, but architects were trying to do more. Responding to Councilmember Derwin, he said the total floor area of the projects had been looked at. In terms of the points, all of the numbers shown reflected the basement as well. If you wanted a big basement that pushed to the maximum allowed possible floor area, you would have to be more aggressive in terms of the sustainable design of the project.

Responding to Ed Wells, Naranja Way, Mayor Toben said there was a separate program underway to support and encourage homeowners to undertake energy audits of their existing houses. A series of programs would be offered to encourage homeowners to undertake green-ups of their homes. There would be a variety of measures—some were expensive and would take a long time to pay back in energy offsets, and others could allow a fairly quick recapture of energy savings. He noted that the Town had just enrolled in a program that would provide financial incentives to enable very cost effective selection of, for example, photovoltaics.

Virginia Bacon, Golden Oak Dr., said she just had a home performance audit that raised a lot of issues that she hadn't been prepared to deal with. It was important to make homeowners understand where they might

have an opportunity to do something. It was also important to consider earthquake safety when you remodeled. Often, the home could be strengthened. She would like to see something like that added as a component of how existing homes were dealt with. She suggested there be a roundtable where people could share their experiences about how to solve some of these problems. There should be a way to keep up because the technology was changing so dramatically. With respect to the point system, she asked how remodels were handled when you already had a certain amount of points. Responding, Mr. Vlasic said the points would be related to the specific project that you requested a permit for. With an existing house with a very small addition, it would likely be identified as an "elements" project. The subgroup recommended using the checklist for the specific changes that you would be making, and you would get points associated with that. You wouldn't get points associated with the existing house if there were no changes associated with it. If a whole heating system was changed within the house, it might be considered a whole house project. It would depend on the nature of the project itself. Under the BIG program, a whole house project would go through the GreenPoint Rated process. You could also get an elements certification that was not mandated. If you wanted the BIG brand that some people used to market the house, you could elect to do a kitchen remodel or bath remodel and get the brand for it. Ms. Bacon said a lot of people felt strongly about this but at the same time, there was an equal reaction to the amount of regulation that homeowners were put through today. There should be some way to make small changes to existing residences. Mr. Vlasic said for smaller projects such as an addition under 400 sf, use of the checklist was voluntary and there was self-certification. The Town wanted to encourage people to do more but not to make it a burden at the smaller level. Responding to Ms. Bacon, he said if a building permit for a project went through and it had BIG certification, that would show up in the Residential Data Report.

Responding to Craig Breon, Mayor Toben said the former Climate Protection Task Force was being reconstituted into a standing committee. As the new functions of that committee were discussed, there was some talk about recruiting people in Town who could help with the measurement question to determine whether the Town was heading towards its goals. There were all kinds of tools the Town was considering that could track progress. The Town needed to hold itself accountable for the progress made or not made. If things weren't working, they needed to be changed. Mr. Breon said how the metrics were done and how they were publicized to other communities had the potential for much larger impacts. Mr. Vlasic added that for BIG certified projects, BIG was putting together their climate calculator. When they certified the project, they would give you data on projected cost savings for that level of Build It Green. Whether that would be perfectly meshed with what the Town was doing was a question. But, at least there would be data that would be generated on the project.

Linda Yates said this could be agenda item number one for the Sustainability Committee. Rocky Mountain Institute was very interested in what the Town was doing. They had a green cities group. There were a lot of resources you could use to look at the total package. It was important to continuously tell people that the Town had a Sustainability Element and underneath that were various programs. People needed to be reminded that this was a total package in order to add credibility to what the Town was trying to do.

Councilmember Richards said he was totally behind the concept and the approach that the subgroup had taken. He felt cost to the homeowners was a valid concern. He thought this process had some flexibility and could be adapted as the green building industry changed. One of the most difficult things would be the validation of everything from new homes to remodels. He had seen some projects that were not done well or correctly. It would be important that the BIG raters really did their jobs and did not just pass off their brand. Other than that, he wanted to move ahead with what was proposed.

Councilmember Wengert agreed that this was a part of a very large package that the Town needed to put forward as quickly and impressively as possible. The subgroup had done a terrific job getting to this point. She was very much in favor of the approach. Relative to the cost issue, she felt that if someone could afford to remodel, there was an obligation to do it in a way that was responsible and sustainable. Smaller projects fell outside of that and were much more manageable. This community should take a leadership role in figuring this out. With respect to the longer term, the BIG checklist needed to be evolutionary enough to make sure the Town was requiring enough points. New technology could be worth "x" points and be an easy improvement to make. The committee overseeing this would need to be very alert to what changes were happening and how the Town could adapt and continue to push forward in a very responsible way.

Otherwise, she felt this was a terrific first start.

Councilmember Derwin thanked everyone who had been working on this set of recommendations since 2006. She agreed that the Town needed to hold itself accountable to what was being proposed and that progress had to be measured. More importantly, the Town had to remain true to its values and committed to the goals even when the political winds were blowing in the opposite direction. There was a movement right now in the State to suspend AB 32 and SB 375. The Town had to remain very strong in these times to reach the goals.

Councilmember Driscoll said systems like what was proposed were a work in progress that would need to be refined as the Town moved forward. It seemed to hit some kinds of designs more than others. It appeared to be tough on basements. On the other hand, a few years ago the Town learned that the FAR had somewhat of a hole on the subject of basements; this system was a patch for that. He was very comfortable with what was proposed. He was a little concerned that the self-certification aspect might put the staff in an uncomfortable position; good guidelines would need to be developed. If there were flaws after the system was implemented, it could be fine-tuned. Additionally, he thought this could be paired with a reduction of FARs across the board. The more points the project received over the threshold, they could receive some FAR back. That would make it a positive encouragement as opposed to a negative encouragement. People could be given back larger homes if they did them greener. He agreed that what was proposed was a very good first step.

Mayor Toben said he liked the suggestion to have a base ordinance referencing schedules or attachments that would enable adjustment over time. Several comments had been made about the rapid change that was taking place in the industry and in the understanding of energy systems, water systems, materials, etc. The Council had made a firm commitment with respect to conservation and had an energy agenda. Everyone who voted for that expected it to have some real muscle behind it. What was proposed made good on the commitment. Good data had been collected over the last couple of years to show that the direction that the residents were moving was very consummate to the Town's direction. The Council was responding to the best instincts of the citizens and taking it one step further down that road and getting it codified.

Referring to the staff report (p. 4), Mayor Toben asked about the distinction between new construction and remodels. The new home construction program set the floor area at 3,000 sf. There was a reference to Chapter 7A for the definition of "new building." But, he didn't know what to do with a situation where there was a 5,000 sf home in Town that the owners wanted to tear down and rebuild at 4,000 sf. It would be new construction but was essentially a major remodel. The definition didn't indicate whether he was looking at a 50-point project or a 180-point project. The application of Chapter 7A needed to be clarified when a fairly substantial project was not technically a new home construction. Responding, Mr. Vlasic said the definition talked about the walls that were touched and the percentage of the walls. In the scenario Mayor Toben outlined, it would be a new house. Mayor Toben said the language should be clarified. A new building was defined in Chapter 7A as a new structure or a substantial addition/remodel. Mr. Vlasic said he would review it.

Mayor Toben confirmed that it was the sense of the Council to proceed with an ordinance with an accompanying schedule or resolution.

(7) FY 2009-2010 Street Resurfacing Project [9:15 p.m.]

Mr. Young reviewed the staff report on the street resurfacing project for FY 2009/10. Responding to Mayor Toben, he confirmed that the design work would take place prior to 7/1/10. Responding to Ms. Bacon, he described the Pavement Management System where the Town went out every four years and ranked every street. That was entered into the computer along with data on the age of the street, last resurfacing treatment, etc. That was how the current list of streets was selected.

Councilmember Driscoll moved approval of Resolution No. 2483-2010 Authorizing the Town Manager to Enter Into a Letter Agreement with Nichols Consulting, CHTD., for FY 2009/2010 Street Resurfacing

Design. Councilmember Richards seconded, and the motion carried 5-0.

(7a) Storm Drain Pipe Replacement [Added to agenda as urgency item] [9:20 p.m.]

Mr. Young reviewed his memo of 3/10/10 on the urgent storm drain pipe replacement at Golden Oak Drive and Alpine Road. Responding to Councilmember Driscoll, he said the pipe was inspected because tree rounds had been dumped in a ditch, which clogged the center of the drain under the street. Corrosion was found, and the pipe was at the end of its life. The road needed to be closed for public safety.

Councilmember Wengert moved to authorize the Town Manager to execute the Town's standard short form agreement with Casey Construction, Inc., with a contract amount not to exceed \$22,714 with a 15% contingency. Councilmember Derwin seconded, and the motion carried 5-0.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(8) Appointment to Conservation Committee [9:25 p.m.]

Referring to the Chair's email, Mayor Toben appointed Ann Kearney to the Conservation Committee. By motion and second, Council unanimously concurred. Councilmembers discussed the on-line application form.

(9) Approval of Charter and Appointment of Members to the Portola Valley Sustainability Committee

Ms. de Garreaux reviewed the staff report of 3/10/10 on the charter and appointment of Sustainability Committee members and Council liaison. Ms. Yates said Virginia Bacon would also like to serve on the Committee.

Councilmember Driscoll moved to: 1) approve the charter; 2) appoint members listed in the memo with the addition of Virginia Bacon; 3) appoint Councilmember Derwin as the Council Liaison; and 4) assign the Council liaison as Chair of the Committee. Councilmember Richards seconded, and the motion carried 5-0.

(10) Reports from Commission and Committee Liaisons [9:30 p.m.]

(a) Trails Committee

Councilmember Driscoll said the Committee discussed who would serve as Chair. The Committee would like the Council to agendize the location of the hitching post at the Town Center.

(b) League of California Cities

Councilmember Derwin said at the last meeting, the group discussed water from Hetch Hetchy to the Bay Area. The League also wanted to suspend AB 32 and SB 375.

(c) Council of Cities

Councilmember Derwin said the meeting was held at the airport, and there was a tour. John Martin gave a presentation on the airport and future plans. They also discussed noise issues. She encouraged Councilmembers to attend Council of Cities meetings.

(d) ASCC

Councilmember Derwin said the ASCC continued its review of the house on Buck Meadow Drive with a great deal of grading; they figured out a way to feather the dirt and off load less. There was also discussion of a request to remove 250 redwood trees from a property up for sale. If the redwoods were removed, the view of a huge house would be opened up, and the neighbors were concerned. There would be a field trip to the site next Friday at 2 p.m.

(e) Ad-hoc Spring Down Master Plan Committee

Councilmember Wengert said the various visions for the property were tabulated, and the consensus was to preserve it in a natural state. The group discussed desirable features, paths and trails, trees and plantings, etc. The pond was manmade, and a hydrologist/biologist would be consulted for options. There was also a consensus that a dog park would probably not be appropriate at this location. There was not much interest among the group in a community garden at Spring Down.

(f) Planning Commission

Councilmember Richards said the Commission discussed the Antonio Court project and tradeoffs of leaving a substantial amount of excavated dirt on site as opposed to trucking it away. In this case, it made sense to leave it on site. There was concern about the large increase in the amount of grading since the Commission's preliminary review of the project. The Commission also discussed the update of the geology maps, what should be allowed in fault setbacks, and the 50% rule.

(g) Emergency Preparedness Committee

Mayor Toben said the Committee discussed the draft Safety Element. He noted that there would be a joint meeting with the Woodside Town Council on March 31, 2010. There would be a report from CERPP and the Woodside Fire Protection District.

WRITTEN COMMUNICATIONS [9:40 p.m.]

(11) Town Council 2/26/10 Weekly Digest

(a) Legal Battle Over Fence in Monte Sereno

Referring to the article in the *San Jose Mercury News* on 2/17/10, Councilmembers discussed how the situation could have been handled more appropriately.

(b) GreenWaste Tour

Referring to Ms. de Garmeaux's memo of 2/22/10, Councilmembers discussed availability for the tour dates.

(12) Town Council 3/5/10 Weekly Digest

(a) Principal for a Day

Referring to Mr. Burchyns's email of 2/18/10, Mayor Toben said the event at Ormondale School would be rescheduled. He would work with Principal Jennifer Warren on the event.

(b) Town Storm Drain System and Maintenance

Referring to Mr. Young's memo of 2/16/10, Councilmember Driscoll noted that many of the culverts in Town were approaching the end of their life span. He suggested the Town evaluate all the storm drains, rank them, and budget for their repair/replacement. Additionally, some of the storm drains taken over from the County did not have easements. Councilmembers agreed a more pro-active approach was appropriate.

(c) Correspondence About Grove Court Fence

Referring to Jon Silver's letter dated 3/4/10 and attachments, Mayor Toben said the request was to create a committee to examine the fence episode on a Grove Court property. Referring to the special counsel's

letter, he said Mr. Anderson's comments were directly responsive to Mr. Silver. He was disinclined to create a committee and do as requested. The matter had been thoroughly addressed by Town staff at substantial expense in attempting to intervene in what was fundamentally a private matter. He did not feel it was an appropriate use of the Town's resources to undertake a process like this. Councilmember Wengert concurred.

Councilmember Driscoll said when something like this was called into question, typically the person calling it into question had standing in the issue. This was a citizen raising a concern about the general behavior of the Town. If the Chair of the Historic Resources Committee or one of the involved landowners had brought this forward, he would be more receptive. Mayor Toben noted that the Town Historian had been on the scene and had not registered any objections to the way the project was being rolled out. He asked staff to draft a response for his signature to Mr. Silver that captured some of these comments.

(d) Nominees for Grand Jury Service

Referring to the invitation from the Grand Jury Judge of 3/1/10 to submit nominees for Grand Jury service, Mayor Toben said this was an opportunity to think about Town residents who might serve well on the Grand Jury. He asked for nominations. Councilmember Wengert said she would draft the letter to the Grand Jury Judge.

(e) Invitation to HIP Housing Annual Luncheon

Responding to Mayor Toben, Councilmember Derwin said she would attend the luncheon.

ADJOURNMENT: 9:50 p.m.

Mayor

Town Clerk

INVOICE APPROVAL LIST REPORT - DETAIL WITH GL DIST
MARCH 24, 2010

Date: 03/17/2010
Time: 3:03 pm
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TOWN OF PORTOLA VALLEY

Vendor Name	Invoice Description1	Ref No.	Discount Date	
Vendor Name Line 2	Invoice Description2	PO No.	Pay Date	
Vendor Address	Vendor Number		Due Date	
City	Bank	Check No.	Check Date	Discount Amount
State/Province Zip/Postal	Invoice Number			Check Amount

ABAG PLAN CORPORATION	Douglas Legal, 2/28-3/6/2010	10564	03/24/2010	
			03/24/2010	
PO BOX 2050	0006		03/24/2010	
OAKLAND	BOA	43100	03/24/2010	0.00
CA 94604-2050	9181100307			4,153.88

GL Number	Description	Invoice Amount	Amount Relieved
05-54-4182	Town Attorney	4,153.88	0.00

Check No.	43100	Total:	4,153.88
Total for	ABAG PLAN CORPORATION		4,153.88

ALMANAC	February Advertising	10565	03/24/2010	
			03/24/2010	
PO BOX 1610	0048		03/24/2010	
MENLO PARK	BOA	43101	03/24/2010	0.00
CA 94302				1,044.00

GL Number	Description	Invoice Amount	Amount Relieved
05-64-4320	Advertising	1,044.00	0.00

Check No.	43101	Total:	1,044.00
Total for	ALMANAC		1,044.00

AT&T	February Statements	10566	03/24/2010	
			03/24/2010	
PO BOX 989048	441		03/24/2010	
WEST SACRAMENTO	BOA	43102	03/24/2010	0.00
CA 95798-9048				262.18

GL Number	Description	Invoice Amount	Amount Relieved
05-64-4318	Telephones	262.18	0.00

Check No.	43102	Total:	262.18
Total for	AT&T		262.18

MATTHEW AVERY	C&D Refund, 118 Solana	10567	03/24/2010	
			03/24/2010	
2530 FILLMORE STREET #1	453		03/24/2010	
SAN FRANCISCO	BOA	43103	03/24/2010	0.00
CA 94115				5,000.00

GL Number	Description	Invoice Amount	Amount Relieved
96-54-4205	C&D Deposit	5,000.00	0.00

Check No.	43103	Total:	5,000.00
Total for	MATTHEW AVERY		5,000.00

NANCY BAGLIETTO	Refund of B&BBQ Auction	10601	03/24/2010	
			03/24/2010	
143 BROOKSIDE DRIVE	419		03/24/2010	
PORTOLA VALLEY	BOA	43104	03/24/2010	0.00
CA 94028				2,200.00

GL Number	Description	Invoice Amount	Amount Relieved
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INVOICE APPROVAL LIST REPORT - DETAIL WITH GL DIST
MARCH 24, 2010

Date: 03/17/2010
Time: 3:03 pm
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Vendor Name	Invoice Description1	Ref No.	Discount Date	
Vendor Name Line 2	Invoice Description2	PO No.	Pay Date	
Vendor Address	Vendor Number		Due Date	
City	Bank	Check No.	Check Date	Discount Amount
State/Province Zip/Postal	Invoice Number			Check Amount

05-52-4146	Community Events Committee	2,200.00	0.00	

	Check No.	43104	Total:	2,200.00
	Total for	NANCY BAGLIETTO		2,200.00

CLEANSTREET	February Litter/Street Clean	10570	03/24/2010	
			03/24/2010	
1937 W. 169TH STREET	0034		03/24/2010	
GARDENA	BOA	43105	03/24/2010	0.00
CA 90247-5254	59721			1,425.55
GL Number	Description	Invoice Amount	Amount Relieved	
20-60-4262	Street Sweeping & ROW Mowing	614.65	0.00	
20-60-4266	Litter Clean Up Program	810.90	0.00	

	Check No.	43105	Total:	1,425.55
	Total for	CLEANSTREET		1,425.55

COPYMAT	DesGuidelines, Earthquake P/Cd	10568	03/24/2010	
			03/24/2010	
1918 EL CAMINO REAL	0046		03/24/2010	
REDWOOD CITY	BOA	43106	03/24/2010	0.00
CA 94063-2113	61425,61453			321.20
GL Number	Description	Invoice Amount	Amount Relieved	
05-64-4308	Office Supplies	122.36	0.00	
05-64-4310	Town Publications	198.84	0.00	

	Check No.	43106	Total:	321.20
	Total for	COPYMAT		321.20

FEDEX	Ship Charges	10600	03/24/2010	
			03/24/2010	
P.O. BOX 7221	0066		03/24/2010	
PASADENA	BOA	43107	03/24/2010	0.00
CA 91109-7321	5-725-07039			70.95
GL Number	Description	Invoice Amount	Amount Relieved	
05-64-4308	Office Supplies	70.95	0.00	

	Check No.	43107	Total:	70.95
	Total for	FEDEX		70.95

GARY FITZER	Reimb for Tool Purchase	10571	03/24/2010	
			03/24/2010	
765 PORTOLA ROAD	447		03/24/2010	
PORTOLA VALLEY	BOA	43108	03/24/2010	0.00
CA 94028				17.45
GL Number	Description	Invoice Amount	Amount Relieved	
05-60-4267	Tools & Equipment	17.45	0.00	

	Check No.	43108	Total:	17.45
	Total for	GARY FITZER		17.45

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Vendor Name	Invoice Description1	Ref No.	Discount Date	
Vendor Name Line 2	Invoice Description2	PO No.	Pay Date	
Vendor Address	Vendor Number		Due Date	
City	Bank	Check No.	Check Date	Discount Amount
State/Province Zip/Postal	Invoice Number			Check Amount

CYNTHIA HAMILTON	Reimb for Holiday Party	10572	03/24/2010	
			03/24/2010	
99 HILLBROOK DRIVE	414		03/24/2010	
PORTOLA VALLEY	BOA	43109	03/24/2010	0.00
CA 94028				437.77

GL Number	Description	Invoice Amount	Amount Relieved
05-52-4147	Picnic/Holiday Party	437.77	0.00

Check No.	43109	Total:	437.77
Total for	CYNTHIA HAMILTON		437.77

JORGENSON SIEGEL MCCLURE & FLEGEL	February Statement	10573	03/24/2010	
			03/24/2010	
1100 ALMA STREET	0089		03/24/2010	
MENLO PARK	BOA	43110	03/24/2010	0.00
CA 94025				9,071.75

GL Number	Description	Invoice Amount	Amount Relieved
05-54-4182	Town Attorney	8,025.50	0.00
96-54-4186	Attorney - Charges to Appls	1,046.25	0.00

Check No.	43110	Total:	9,071.75
Total for	JORGENSON SIEGEL MCCLURE &		9,071.75

KDSA CONSULTING LLC	March Spam Filtering	10574	03/24/2010	
			03/24/2010	
1600 OSGOOD STREET	555		03/24/2010	
N. ANDOVER	BOA	43111	03/24/2010	0.00
MA 01845	9882			75.00

GL Number	Description	Invoice Amount	Amount Relieved
05-64-4311	Internet Service & Web Hosting	75.00	0.00

Check No.	43111	Total:	75.00
Total for	KDSA CONSULTING LLC		75.00

KLEINFELDER, INC.	ARRA Road Project Testing	10575	03/24/2010	
	Final Invoice		03/24/2010	
P.O. BOX 51958	922		03/24/2010	
LOS ANGELES	BOA	43112	03/24/2010	0.00
CA 90051-6258	87762			636.50

GL Number	Description	Invoice Amount	Amount Relieved
65-68-4505	CIP ARRA Eng/Inspections	636.50	0.00

Check No.	43112	Total:	636.50
Total for	KLEINFELDER, INC.		636.50

MARY LACHAPELLE	Key Deposit Refund	10576	03/24/2010	
			03/24/2010	
1135 MADISON AVENUE	858		03/24/2010	
REDWOOD CITY	BOA	43113	03/24/2010	0.00
CA 94061				25.00

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Vendor Name Line 2	Invoice Description2	PO No.	Pay Date	
Vendor Address	Vendor Number		Due Date	
City	Bank	Check No.	Check Date	Discount Amount
State/Province Zip/Postal	Invoice Number			Check Amount

GL Number	Description	Invoice Amount	Amount Relieved
05-56-4228	Miscellaneous Refunds	25.00	0.00

Check No.	43113	Total:	25.00
Total for	MARY LACHAPELLE		25.00

JEFF MORGAN	Road Fee Refund	10577	03/24/2010	
			03/24/2010	
110 WILLOWBROOK DRIVE	565		03/24/2010	
PORTOLA VALLEY	BOA	43114	03/24/2010	0.00
CA 94028				3,952.00

GL Number	Description	Invoice Amount	Amount Relieved
65-00-4377	Refund of Bldg Fees	3,952.00	0.00

Check No.	43114	Total:	3,952.00
Total for	JEFF MORGAN		3,952.00

NEXTEL COMMUNICATIONS	February Field Cellular	10578	03/24/2010	
			03/24/2010	
P.O. BOX 4181	0200		03/24/2010	
CAROL STREAM	BOA	43115	03/24/2010	0.00
IL 60197-4181				153.46

GL Number	Description	Invoice Amount	Amount Relieved
05-64-4318	Telephones	153.46	0.00

Check No.	43115	Total:	153.46
Total for	NEXTEL COMMUNICATIONS		153.46

LYNN J NOBLE	February Transcription	10579	03/24/2010	
			03/24/2010	
P.O. BOX 342	0103		03/24/2010	
LOS GATOS	BOA	43116	03/24/2010	0.00
CA 95031-0342				1,737.00

GL Number	Description	Invoice Amount	Amount Relieved
05-54-4188	Transcription Services	1,737.00	0.00

Check No.	43116	Total:	1,737.00
Total for	LYNN J NOBLE		1,737.00

OFFICE EQUIPMENT FINANCE SERV	March Copier Lease	10580	03/24/2010	
			03/24/2010	
P. O. BOX 790448	472		03/24/2010	
ST. LOUIS	BOA	43117	03/24/2010	0.00
MO 63179	145536553			456.45

GL Number	Description	Invoice Amount	Amount Relieved
05-64-4312	Office Equipment	456.45	0.00

Check No.	43117	Total:	456.45
Total for	OFFICE EQUIPMENT FINANCE SE		456.45

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Vendor Name	Invoice Description1	Ref No.	Discount Date	
Vendor Name Line 2	Invoice Description2	PO No.	Pay Date	
Vendor Address	Vendor Number		Due Date	
City	Bank	Check No.	Check Date	Discount Amount
State/Province Zip/Postal	Invoice Number			Check Amount

PENINSULA DIGITAL IMAGING	Blueprints	10581	03/24/2010	
			03/24/2010	
599 FAIRCHILD DRIVE	0135		03/24/2010	
MOUNTAIN VIEW	BOA	43118	03/24/2010	0.00
CA 94043	183989			27.91

GL Number	Description	Invoice Amount	Amount Relieved
05-64-4308	Office Supplies	27.91	0.00

Check No.	43118	Total:	27.91
Total for	PENINSULA DIGITAL IMAGING		27.91

PERS HEALTH	April Health Premium	10599	03/24/2010	
			03/24/2010	
VIA EFT	0108		03/24/2010	
	BOA	43119	03/24/2010	0.00
				13,573.59

GL Number	Description	Invoice Amount	Amount Relieved
05-50-4086	Health Insurance Medical	13,573.59	0.00

Check No.	43119	Total:	13,573.59
Total for	PERS HEALTH		13,573.59

ARMANDO PRADO	Community Hall Deposit Refund	10582	03/24/2010	
			03/24/2010	
333 WILLOWBROOK	436		03/24/2010	
PORTOLA VALLEY	BOA	43120	03/24/2010	0.00
CA 94028				400.00

GL Number	Description	Invoice Amount	Amount Relieved
05-56-4226	Facility Deposit Refunds	400.00	0.00

Check No.	43120	Total:	400.00
Total for	ARMANDO PRADO		400.00

RON RAMIES AUTOMOTIVE INC	Fuel, Jan 1-15	10583	03/24/2010	
			03/24/2010	
115 PORTOLA ROAD	422		03/24/2010	
PORTOLA VALLEY	BOA	43121	03/24/2010	0.00
CA 94028				238.39

GL Number	Description	Invoice Amount	Amount Relieved
05-64-4334	Vehicle Maintenance	238.39	0.00

Check No.	43121	Total:	238.39
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RON RAMIES AUTOMOTIVE INC	Fuel, Jan 16 - Feb 28	10584	03/24/2010	
			03/24/2010	
115 PORTOLA ROAD	422		03/24/2010	
PORTOLA VALLEY	BOA	43122	03/24/2010	0.00
CA 94028				494.05

GL Number	Description	Invoice Amount	Amount Relieved
05-64-4334	Vehicle Maintenance	494.05	0.00

Check No.	43122	Total:	494.05
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Vendor Name	Invoice Description1	Ref No.	Discount Date	
Vendor Name Line 2	Invoice Description2	PO No.	Pay Date	
Vendor Address	Vendor Number		Due Date	
City	Bank	Check No.	Check Date	Discount Amount
State/Province Zip/Postal	Invoice Number			Check Amount

Total for RON RAMIES AUTOMOTIVE INC 732.44

SAN MATEO COUNTY HR DEPT	Excel Classes, Rodas	10569	03/24/2010	
			03/24/2010	
455 COUNTY CENTER	610		03/24/2010	
REDWOOD CITY	BOA	43123	03/24/2010	0.00
CA 94063	C110-0015			120.00

GL Number	Description	Invoice Amount	Amount Relieved
05-64-4326	Education & Training	120.00	0.00

Check No. 43123 Total: 120.00

Total for SAN MATEO COUNTY HR DEPT 120.00

ANDREAS SCHLOTTER	C&D Refund	10585	03/24/2010	
			03/24/2010	
315 GOLDEN OAK DRIVE	425		03/24/2010	
PORTOLA VALLEY	BOA	43124	03/24/2010	0.00
CA 94028				1,000.00

GL Number	Description	Invoice Amount	Amount Relieved
96-54-4205	C&D Deposit	1,000.00	0.00

Check No. 43124 Total: 1,000.00

Total for ANDREAS SCHLOTTER 1,000.00

SCHWAAB INC	Stamps (2)	10586	03/24/2010	
			03/24/2010	
PO BOX 3128	0120		03/24/2010	
MILWAUKEE	BOA	43125	03/24/2010	0.00
WI 53201-3128	Y90565,Y90342			94.77

GL Number	Description	Invoice Amount	Amount Relieved
05-64-4308	Office Supplies	94.77	0.00

Check No. 43125 Total: 94.77

Total for SCHWAAB INC 94.77

SHELTERBELT BUILDERS INC	Native Landscape Maint	10587	03/24/2010	
	October 1 - Feb 28		03/24/2010	
1207 - 10TH STREET	338		03/24/2010	
BERKELEY	BOA	43126	03/24/2010	0.00
CA 94710	0916-03			2,633.00

GL Number	Description	Invoice Amount	Amount Relieved
05-66-4342	Landscape Supplies & Services	2,633.00	0.00

Check No. 43126 Total: 2,633.00

Total for SHELTERBELT BUILDERS INC 2,633.00

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Vendor Name	Invoice Description1	Ref No.	Discount Date	
Vendor Name Line 2	Invoice Description2	PO No.	Pay Date	
Vendor Address	Vendor Number		Due Date	
City	Bank	Check No.	Check Date	Discount Amount
State/Province Zip/Postal	Invoice Number			Check Amount

SPARTAN ENGINEERING	Service to Alarm System	10590	03/24/2010	
			03/24/2010	
540 PARROTT STREET	0095		03/24/2010	
SAN JOSE	BOA	43127	03/24/2010	0.00
CA 95112	21811			362.50

GL Number	Description	Invoice Amount	Amount Relieved
05-66-4346	Mechanical Sys Maint & Repair	362.50	0.00

Check No.	43127	Total:	362.50
Total for	SPARTAN ENGINEERING		362.50

STAPLES	February Statement	10588	03/24/2010	
			03/24/2010	
STAPLES CREDIT PLAN	430		03/24/2010	
DES MOINES	BOA	43128	03/24/2010	0.00
IA 50368-9020	7972-3100-0030-6219			418.87

GL Number	Description	Invoice Amount	Amount Relieved
05-64-4308	Office Supplies	418.87	0.00

Check No.	43128	Total:	418.87
Total for	STAPLES		418.87

SWRCB	STOPP/NPDES Permit Fees	10591	03/24/2010	
ACCOUNTING OFFICE			03/24/2010	
ATTN: AFRS	599		03/24/2010	
SACRAMENTO	BOA	43129	03/24/2010	0.00
CA 95812-1888	WD-0015697,SW-0012576			4,149.00

GL Number	Description	Invoice Amount	Amount Relieved
05-62-4288	NPDES Stormwater Program	4,149.00	0.00

Check No.	43129	Total:	4,149.00
Total for	SWRCB		4,149.00

THERMAL MECHANICAL, INC	HVAC Service	10592	03/24/2010	
			03/24/2010	
425 ALDO AVENUE	955		03/24/2010	
SANTA CLARA	BOA	43130	03/24/2010	0.00
CA 95054	PM-43451			1,395.00

GL Number	Description	Invoice Amount	Amount Relieved
05-66-4346	Mechanical Sys Maint & Repair	1,395.00	0.00

Check No.	43130	Total:	1,395.00
Total for	THERMAL MECHANICAL, INC		1,395.00

TOWN OF ATHERTON	Dinner Meeting, Derwin	10589	03/24/2010	
Attn: Theresa Dellasanta			03/24/2010	
91 ASHFIELD ROAD	710		03/24/2010	
ATHERTON	BOA	43131	03/24/2010	0.00
CA 94027-3897				40.00

GL Number	Description	Invoice Amount	Amount Relieved
05-64-4327	Educ/Train: Council & Commissn	40.00	0.00

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Vendor Name Line 2	Invoice Description2	PO No.	Pay Date	
Vendor Address	Vendor Number		Due Date	
City	Bank	Check No.	Check Date	Discount Amount
State/Province Zip/Postal	Invoice Number			Check Amount

Check No.	43131	Total:	40.00
Total for	TOWN OF ATHERTON		40.00

TOWNSEND MGMT, INC	ARRA Street Insp, Feb 2010	10593	03/24/2010	
P.O. BOX 24442	609		03/24/2010	
SAN FRANCISCO	BOA	43132	03/24/2010	0.00
CA 94124	200050-02-10			600.00

GL Number	Description	Invoice Amount	Amount Relieved
65-68-4505	CIP ARRA Eng/Inspections	600.00	0.00

TOWNSEND MGMT, INC	February Applicant Charges	10594	03/24/2010	
P.O. BOX 24442	609		03/24/2010	
SAN FRANCISCO	BOA	43132	03/24/2010	0.00
CA 94124				3,040.00

GL Number	Description	Invoice Amount	Amount Relieved
96-54-4194	Engineer - Charges to Appls	3,040.00	0.00

TOWNSEND MGMT, INC	Shawnee Pass Drainage	10595	03/24/2010	
P.O. BOX 24442	609		03/24/2010	
SAN FRANCISCO	BOA	43132	03/24/2010	0.00
CA 94124	20054-02-10V			1,140.00

GL Number	Description	Invoice Amount	Amount Relieved
20-54-4192	Engineer Services	1,140.00	0.00

Check No.	43132	Total:	4,780.00
Total for	TOWNSEND MGMT, INC		4,780.00

TREE SPECIALIST	Tree Removal at Golden Oak	10596	03/24/2010	
1198 NEVADA AVE	839		03/24/2010	
SAN JOSE	BOA	43133	03/24/2010	0.00
CA 95125	030410			1,000.00

GL Number	Description	Invoice Amount	Amount Relieved
20-60-4264	ROW Tree Trimming Program	1,000.00	0.00

Check No.	43133	Total:	1,000.00
Total for	TREE SPECIALIST		1,000.00

WOLFPACK INSURANCE	April Dental/Vision	10597	03/24/2010	
SMALL BUSINESS BENEFIT PLAN	0132		03/24/2010	
BELMONT	BOA	43134	03/24/2010	0.00
CA 94402				2,138.40

GL Number	Description	Invoice Amount	Amount Relieved
05-50-4090	Health Ins Dental & Vision	2,138.40	0.00

Check No.	43134	Total:	2,138.40
Total for	WOLFPACK INSURANCE		2,138.40

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Vendor Name Line 2	Invoice Description2	PO No.	Pay Date	
Vendor Address	Vendor Number		Due Date	
City	Bank	Check No.	Check Date	Discount Amount
State/Province Zip/Postal	Invoice Number			Check Amount
ELIZABETH WRIGHT	Winter Instructor Fee	10598	03/24/2010	
			03/24/2010	
147 HEDGE ROAD	620		03/24/2010	
MENLO PARK	BCA	43135	03/24/2010	0.00
CA 94025				1,011.20

GL Number	Description	Invoice Amount	Amount Relieved
05-58-4246	Instructors & Glass Refunds	1,011.20	0.00

Check No.	43135	Total:	1,011.20
Total for	ELIZABETH WRIGHT		1,011.20

Total Invoices: 38

Grand Total:	64,916.82
Less Credit Memos:	0.00
Net Total:	64,916.82
Less Hand Check Total:	0.00
Outstanding Invoice Total:	64,916.82

TOWN OF PORTOLA VALLEY
Warrant Disbursement Journal
March 24, 2010

Claims totaling \$64,916.82 having been duly examined by me and found to be correct are hereby approved and verified by, me as due bills against the Town of Portola Valley.

Date _____

Angela Howard, Treasurer

Motion having been duly made and seconded, the above claims are hereby approved and allowed for payment.
Signed and sealed this (Date) _____

Sharon Hanlon, Town Clerk

Mayor



6

MEMORANDUM

TOWN OF PORTOLA VALLEY

TO: Mayor and Members of the Town Council

FROM: Sandy Sloan, Town Attorney

DATE: March 16, 2010

RE: SOLICITATION ORDINANCE

RECOMMENDATION: Discuss potential modifications to the ordinance amending Chapter 5.40 [Solicitation] of Title 5 [Business Taxes, Licenses and Regulations] of the Portola Valley Municipal Code, which was introduced in the spring of 2009.

BACKGROUND: On May 13, 2009, the Town Council reviewed changes to the Town's solicitation ordinance proposed by the Town Attorney's office. At that meeting, the Town Council raised a number of questions and provided the Town Attorney's office direction regarding changes to the ordinance. As background, attached is the staff report and draft ordinance discussed at the May 13, 2009 meeting.

With respect to Section 5.40.040, permit exemptions, the Town Council questioned whether gathering signatures was specifically exempt. Generally, gathering signatures does not involve the request for any contribution and, therefore, such an activity would not be subject to the requirement to obtain a solicitation permit. An exception for gathering signatures could be specifically enumerated in this section. Town staff also raised a question as to whether the activities of local, state and federal government, e.g. workers conducting the census, would be exempt. Like signature gatherers, government census workers would not be selling goods or requesting money or donations and, therefore, they would be exempt from the solicitation permit requirement.

Section 5.40.050, permit application, allowed a single applicant to obtain a permit for multiple participants and required a copy of a valid identification only from the applicant. This was intended to address the situation where, for example, a Girl Scout Leader sought a permit for all the members of her troop to sell cookies. The Town Council questioned whether the application could require photo identification from the applicant and each participant over the age of 18 years. A question was also raised as to whether a solicitor could be asked during solicitation activities to show their photo

identification in addition to their solicitation permit, as identified in Section 5.40.090(A). After researching the question and discussing it with other cities, it appears there is no legal authority to include such provisions in the ordinance.

Section 5.40.050(C) requires an applicant to pay a fee for a solicitation permit. Staff has considered the amount of time that it will take to process and issue a solicitation permit and estimates that a Twenty Dollar (\$20) permit fee would cover staff time. A resolution setting the fee would be adopted separately from the solicitation ordinance.

Under Section 5.40.070, issuance of permit, the Town had 14 days to issue a solicitation permit after receiving an application. The Town Council questioned the need for this length of time. We recommend reducing the time to issue a solicitation permit from 14 days to 3 days. Because staff generally issues solicitation permits the same day the application is submitted, 3 days is more than adequate and this would allow some room for the unusual occasion where staff was simply not available to issue the permit on the day the application was received.

Section 5.40.090(E), limitations and prohibitions, set the acceptable hours for solicitation between 9:00 a.m. and 9:00 p.m. The Town Council questioned whether the solicitation hours could be reduced. Case law indicates that solicitors should have the opportunity to solicit when people are home in the evening from 7 p.m. to 9 p.m. *Alternatives for California Women, Inc. v. County of Contra Costa* (1983) 145 Cal.App.3d 436. Therefore, we do not recommend reducing the acceptable solicitation hours.

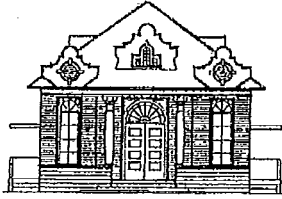
Town Council comments also included some minor modifications such as adding "volunteer" to the definition of "person" in Section 5.40.020(D); changing "for which" to "for whom" in Section 5.40.050(B)(3); and adding that the Town Manager may provide for a designee to examine the accuracy of the information in the application and sign the solicitation permit in Sections 5.40.060 and 5.40.080(B).

Solicitation is a complex area of the law involving the First Amendment and some attorneys take the position that local government may not require a permit under any circumstance. An alternative approach to the ordinance attached to this memo is to draft an ordinance that simply states that a solicitor shall not solicit at any residence where a "No Solicitation" sign appears. The ordinance could include a provision that violations are a misdemeanor, enforceable by the Sheriff's Department and punishable by a fine, such as Five Hundred Dollars (\$500). This approach would eliminate staff time involved in processing and issuing the permits. Using this approach, the Town could also discontinue maintaining the "No Solicitation List" as the requirement would instead be that those not wanting solicitors post a sign.

Police Commissioner Ed Davis also queried if the law of trespass could deal with the concern of unwanted visitors. The California Penal Code provides that if signs are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering the lands, a person who enters without permission is guilty

of trespass. Penal Code Section 602.8(a). However, Penal Code Section 602.8(c)(2) specifically provides an exception for those engaging in activities protected by the California or United States Constitution. The First Amendment protects the freedom of speech for those individuals entering property only for religious or political purposes. Therefore, even if unwanted, such visitors would not be guilty of trespass. Solicitors, with or without a permit, however, would be guilty of trespass, but could be restrained by a simpler "No Solicitation" sign as opposed to the display of no trespass signs at the required intervals and locations.

cc: Town Manager



MEMORANDUM

TOWN OF PORTOLA VALLEY

TO: Mayor and Members of the Town Council
FROM: Sandy Sloan, Town Attorney
DATE: April 2, 2009
RE: SOLICITATION ORDINANCE

RECOMMENDATION: Read title, waive further reading and introduce the ordinance amending Chapter 5.40 of the Portola Valley Municipal Code regarding solicitation.

BACKGROUND: The current solicitation ordinance in the Portola Valley Municipal Code was adopted in 1964. The law has changed dramatically in the past 40 years, providing increased protection for free speech—especially religious and political speech. The most notable First Amendment case involving solicitation is *Watchtower Bible & Tract Society of New York, Inc. v. Village of Stratton* (2002) 536 U.S. 150, in which the U.S. Supreme Court held that the municipality could not require those engaged in religious proselytizing, anonymous political speech and the distribution of handbills to first register, receive and display a permit. The Court, however, indicated when funds are solicited and the solicitation activity is not pure speech, a permit can be required and time, place and manner restrictions may be placed on the commercial speech, so long as they are content neutral. Time, place and manner restrictions are subject to scrutiny and must be narrowly tailored, serve a significant government interest and leave open ample alternative avenues of communication. In *Alternatives for California Women, Inc. v. County of Contra Costa* (1983) 154 Cal.App.3d 436, plaintiffs desired to solicit when people were home in the evening from 7 p.m. to 9 p.m. and the Court upheld plaintiffs challenge to the County's prohibition of solicitation between 7 p.m. and 8 a.m. holding that the County had less restrictive means to protect residential privacy and safety.

Accordingly, the attached ordinance amending Chapter 5.40 limits the requirement to obtain a permit to solicitation which includes selling or taking orders or requesting contributions. The ordinance places limits on solicitation to address complaints received by the Town regarding solicitors from residents concerned about their safety. Applicants for a solicitation permit must provide information about themselves and their planned solicitation which is subject to review and examination for accuracy. Solicitors

must carry their permits at all times. Solicitors are prohibited from soliciting where a "No Solicitation" sign is posted or at an address where an owner has notified the Town that they do not wish solicitation at any time. Aggressive solicitation, such as repetitive solicitation despite refusals or the use of profane language is also prohibited. Solicitation is prohibited after 9p.m. and before 9a.m. The ordinance also provides a revocation mechanism and an appeal process. The ordinance exempts religious or political speech which does not involve the solicitation of funds from the requirement to obtain a permit.

The proposed ordinance, Ordinance of the Town of Portola Valley Amending Chapter 5.40 [Peddlers and Solicitors] of Title 5 [Business Taxes, Licenses and Regulations] of the Portola Valley Municipal Code, is attached.

cc: Town Manager

ORDINANCE NO. 2009-

ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PORTOLA VALLEY AMENDING CHAPTER 5.40 [PEDDLERS AND SOLICITORS] OF TITLE 5 [BUSINESS TAXES, LICENSES AND REGULATIONS] OF THE PORTOLA VALLEY MUNICIPAL CODE

WHEREAS, the Town of Portola Valley desires to amend Chapter 5.40 [Peddlers and Solicitors] of Title 5 [Business Taxes, Licenses and Regulations] of the Portola Valley Municipal Code.

NOW, THEREFORE, the Town Council of the Town of Portola Valley does **ORDAIN** as follows:

1. Amendment of Code. Chapter 5.40 [Peddlers and Solicitors] of Title 5 [Business Taxes, Licenses and Regulations] of the Portola Valley Municipal Code is hereby amended to read as follows:

**CHAPTER 5.40
SOLICITATION**

5.40.010	Findings and purpose
5.40.020	Definitions
5.40.030	Permit required
5.40.040	Permit exemption
5.40.050	Permit application
5.40.060	Examination of application
5.40.070	Issuance of permit
5.40.080	Form of permit
5.40.090	Limitations and prohibitions
5.40.100	Revocation and violations
5.40.110	Appeal procedures

5.40.010 Findings and purpose. The provisions of this chapter are designed to constitute reasonable and content-neutral time, place and manner restrictions and limitations which allow persons and organizations ample opportunity to solicit contributions, opinions and support while protecting and promoting the public peace, health, safety and welfare of the residents of the town.

5.40.020 Definitions. For purposes of this chapter, the following terms shall have the following meanings:

A. "Applicant" means any person applying for a solicitation permit.

B. "Contribution" includes, but is not limited to, gifts, food, pledge, money, clothing, property, loan, donation, payment for subscription or other publication, or any other thing of value.

C. "Participant" means any person who obtains a solicitation permit under another applicant.

D. "Person" means any individual, partnership, corporation, or association, firm, company, society, organization, church, congregation, assembly, or league, and shall include any director, officer, trustee, receiver, assignee, agent, employee, or other similar representative thereof.

E. "Public place" means and includes all publicly owned and maintained streets, sidewalks, alleys, parks, grounds and buildings.

F. "Residence" includes any dwelling, house, building or other structure, designed or used in whole or in part for residential purposes and shall include any yard, walkway or driveway appurtenant to the structure.

G. "Solicitation" means the act of going from door-to-door or from place-to-place in the town or remaining in a fixed location and selling or taking orders for or offering to sell or take orders for goods, wares or merchandise or any other thing of value for present or future delivery or for services to be performed immediately or in the future or the making of any oral or written request for any contribution.

H. "Solicitation permit" means the permit from the town, which authorizes a person to engage in solicitation.

I. "Solicitor" means an individual who solicits.

J. "Town Manager" means the Town Manager and his or her designee.

K. "Vehicle" means a vehicle defined in California Vehicle Code Section 670, as it now reads or as hereafter amended.

5.40.030 Permit required. No person shall engage in solicitation in the town without first applying for and receiving a solicitation permit from the Town Manager authorizing such solicitation.

5.40.040 Permit exemption. The provisions of this Chapter shall not apply to: (i) solicitation made purely for evangelical, missionary, religious, political or other purposes which do not involve the solicitation of any contribution, or (ii) any organization's solicitation of its members or solicitations upon premises owned or occupied by the organization on whose behalf such solicitation is made.

5.40.050 Permit application.

A. An application for a solicitation permit shall be made to the Town Manager. The application shall be filed with the town at least fourteen (14) calendar days prior to the time at which the permit to conduct solicitation shall become effective. The Town Manager may, for good cause shown, allow the filing of an application within this fourteen (14) day period.

B. The application shall contain the following information:

1. Name, address and phone number of applicant; if multiple permits are sought under one applicant, the application must include the name of each participant;
2. A copy of valid identification, such as a driver's license or passport;
3. Name, address and phone number of the person for which the applicant plans to solicit;
4. The purpose of the solicitation;
5. Date(s) and time(s) of planned solicitation;
6. Make, model and license number of any vehicle applicant anticipates using in town in connection with the solicitation;
7. Convictions, if any, for misdemeanors or felonies of the applicant and each participant.

C. Applicant must pay the town's solicitation permit fee at the time of application.

5.40.060 Examination of application. The Town Manager shall examine relevant documents and materials to determine the accuracy of the information provided on the application for a solicitation permit.

5.40.070 Issuance of Permit.

A. The Town Manager shall either grant or deny the requested solicitation permit within fourteen (14) calendar days of the date the application is made. The solicitation permit shall be granted if the Town Manager finds all of the following facts:

1. All the statements made in the application are true; and
2. The applicant or participant has not been convicted of any crime reasonably related to door-to-door solicitation, including, but not limited to, crimes against persons or property or crimes involving the element of fraud.

B. In the event the Town Manager fails to act upon an application within fourteen (14) days of the date the application is made, the permit shall be deemed granted.

C. The Town Manager has no authority to, and shall not, grant, deny, suspend, revoke or refuse to renew any solicitation permit by reason of disapproval or disagreement with the philosophy, opinion, or belief of the applicant or permit holder.

5.40.080 Form of Permit.

A. Permits issued under this chapter shall bear the name, address and phone number of the person on behalf of whom the individual is soliciting; the permit number; the date issued; the dates within which the applicant or participant may solicit; and a statement that

the permit does not constitute an endorsement by the town or by any of its departments, officers or employees of the purpose of, or the person conducting the solicitation.

B. All permits must be signed by the Town Manager.

5.40.090 Limitations and prohibitions.

A. Each solicitor shall carry, at all times while engaged in solicitation in the town, his or her valid permit issued in accordance with this chapter and shall present such permit upon request.

B. No person shall solicit or attempt to solicit at any residence or any public place where there is a sign indicating "No Soliciting" or "No Solicitors". No solicitor shall solicit or attempt to solicit at a premises where the occupant has posted any other similar sign which indicates that the occupants do not wish to be solicited or in any other way have their privacy disturbed.

C. The town shall provide each applicant a copy of the list of addresses of town residents who have notified the town that they wish no solicitation at any time. Solicitors shall not solicit at any of the listed addresses.

D. Permits shall be valid for no more than fourteen (14) days and may be renewed once annually. A permit may not be issued more than one time in any six- (6) month period for any one organization.

E. No person shall solicit in any residential area or public place after 9:00 p.m. or before 9:00 a.m., unless such person has been requested or invited to do so by the owner or occupant of the premises.

F. No person shall engage in aggressive solicitation which includes, but is not limited to, approaching or following a pedestrian, repetitive solicitation despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic.

G. No solicitation permit issued, pursuant to this chapter, shall be transferred or assigned. Any attempted assignment or transfer shall be void and result in the immediate revocation of the solicitation permit.

5.40.100 Revocation and violations.

A. Revocation of Solicitation Permit. If the Town Manager has reason to believe that a solicitor has violated any of the limitations and prohibitions in the previous section or any other provision of this chapter, the Town Manager may revoke the solicitation permit. The Town Manager shall give notice of the revocation, effective immediately, by mail to the solicitor at the address on the permit application.

B. Surrender of Solicitation Permit. If a solicitation permit is revoked, pursuant to subsection A of this section, the person whose solicitation permit was revoked shall promptly surrender his or her solicitation permit to the Town Manager.

C. Violations. Violations of any provision of this chapter shall be punishable as a misdemeanor in accordance with Section 1.12.060 of this Code.

5.40.130 Appeal procedures.

A. Any person to whom the issuance of a solicitation permit has been denied or whose solicitation permit has been suspended or revoked, may appeal such decision to the Council by filing a written notice of appeal with the Town Manager within fifteen (15) days after the date of the notice of denial or revocation.

B. The Town Manager shall set the matter for appeal on the earliest regular Council meeting available, unless the appellant consents in writing to a later date.

C. The Council shall conduct a hearing on the appeal. The Town Manager and appellant shall have the right to call and examine witnesses, to impeach witnesses, and to rebut evidence. The hearing need not be conducted according to the technical rules relating to evidence. The decision of the Council shall contain findings of facts and determination of the issues presented.

2. Environmental Review. This ordinance is not a project for the purpose of the California Environmental Quality Act.

3. Effective Date; Posting. This ordinance shall become effective thirty (30) days after the date of its adoption and shall be posted within the Town of Portola Valley in three (3) public places.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

By: _____
Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney



MEMORANDUM

TOWN OF PORTOLA VALLEY

TO: Mayor and Members of the Council

FROM: Janet McDougall, Assistant Town Manager

DATE: March 24, 2010

RE: Discussion of Conceptual Changes to Solicitation Ordinance

Recommendation:

Following discussion, provide direction to Town Attorney and staff.

Issue Statement and Discussion:

Just prior to bringing back to the Council changes the Town Attorney made to the solicitation ordinance, staff began to discuss the ordinance's limitations, and apparent confusion and frustration on the part of residents who have contacted Town staff when solicitation or other contact for religious or political purposes that cannot be regulated has occurred. The decision was made to explore some alternatives to see if improvements could be made.

The Town's current ordinance requires those engaging in solicitation relating to sales of any kind or solicitation of monetary donations to first apply for and obtain a permit through the Town. While not included in the current ordinance, the Town, as a courtesy to residents, established a "Do Not Contact" list that residents may request to be placed on. Currently, there are 439 residences on the list. This list is provided to solicitors upon issuance of a permit, together with a request that those named on the list not be contacted, in deference to their wishes.

Confusion surrounding what the solicitation ordinance can and cannot regulate abounds. Many residents who have asked to be included on the "Do Not Contact" list erroneously believe that contacts made by religious organizations or those requesting signatures on a petition are considered solicitors and should be adhering to the "Do Not Contact" list. Members of religious organizations who are engaged in proselytizing are exercising their First Amendment right to free speech, provided they are not requesting monetary contributions. Similarly, those who are requesting signatures on petitions for political reasons are carrying out their efforts under constitutional protection. It is important to understand that the Town has absolutely no legal authority to require a permit in connection with these and other constitutionally protected activities.

Further complicating the issue is confusion on the part of residents concerning what they can and should do if they are contacted, despite their inclusion on the "Do Not Contact" list. Currently, residents whose names are included on the list often become frustrated when they are contacted by individuals soliciting money, and often contact Town Hall the following day to complain.

Exacerbating the overall problem is the fact that some solicitors do not abide by the Town's ordinance at all and undertake solicitation without applying for a permit. Town staff has no way of knowing when this occurs, and is usually made aware long after the solicitors have moved on.

Under the current strategy, the resident has three choices of recourse if they are contacted:

- If contacted by a solicitor (someone trying to sell something), the resident can ask that they leave; or
- The resident can immediately ask to see the Town issued permit. If no permit is produced and/or the solicitor refuses to leave, the resident should immediately contact the San Mateo County Sheriff's Office at the non-emergency number (650-363-4911 – not 9-1-1). A Sheriff's deputy can then be dispatched to look into the matter.
- If contacted by individuals distributing religious materials, requesting that they sign a petition, or any other type of contact that does not involve sales, and do not wish to be disturbed, the best course of action is for the resident to politely indicate that they are not interested and do not want to be disturbed. If the individual is persistent and will not leave, the resident should contact the Sheriff's Office non-emergency number to report an aggressive contact. A deputy can be dispatched to make contact with the individual.

The Town has operated under the current ordinance, adopted in 1964, together with the "Do Not Contact" list for a number of years. Based on the past few years of experience, Town staff has concluded that the "Do Not Contact" list, while well-intended, heightens residents' expectation that the Town can prevent all types of solicitation or contact, when that is not the case. This leaves residents and staff frustrated, as the residents believe the ordinance is not being enforced. In fact, because the "Do Not Contact" list is not part of the actual ordinance, contacts made in disregard of the list cannot be considered a violation.

It should be noted that other surrounding communities are currently struggling with a significant increase in problems relating to solicitation activities. A recent article in *The Daily News* discusses the challenges that other cities, such as San Carlos and Palo

Alto, are facing and what they are doing to address the problem. A copy of the January 28, 2010 article is attached as Exhibit "B".

Personnel from the San Mateo County Sheriff's Department have indicated not only a willingness, but an eagerness to work with the Town to send a strong message to solicitors that their conduct will be monitored and that there will be consequences if violations or abuses occur.

To that end late last year staff met with officials from the San Mateo County Sheriff's Office and Police Commissioner Ed Davis to discuss the problem, as well as alternatives that might result in less confusion, a higher level of enforcement, and an approach that will result in a sense of empowerment on the part of residents. As a result of that meeting, the following recommendations have been developed for Council consideration.

1. Involve law enforcement in the solicitation permit issuance process. It is believed this will accomplish two things:

- In most cities, solicitation permits are sought and obtained through the local police department, which lends credence to the permit process. By involving the Sheriff's deputies up front, solicitors who obtain a permit will have face to face contact with a uniformed law enforcement official as part of the permit issuance. This will send a clear message that the Town takes solicitation practices and protection of our residents seriously. We believe this will likely result in solicitors who are issued a permit adhering more closely to regulations and displaying proper conduct while undertaking their efforts in Portola Valley.
- The deputies assigned to Portola Valley will be aware of permits that have been issued (and perhaps more importantly, when none have been issued). While deputies are on patrol if they encounter solicitors or receive a call from dispatch that a resident has contacted them concerning a solicitor, they will be aware of permits that have (or have not) been issued and will have a copy of application materials which will provide them with more information that can aid them in determining the legitimacy of the solicitors they encounter in the field.

2. Eliminate the "Do Not Contact" list, with residents instead providing notification that they do not wish to be contacted through posting of a small, plaque placed in clear view at the property entrance or front door of the residence.

The notice could be as simple as the standard signage available at most hardware stores, attached as Exhibit "C", or modified as follows:

"Solicitors prohibited – PV Municipal Code §____. Violators
Subject to fine"

3. A public education campaign would be developed, designed to empower residents by clearly explaining the different kinds of contact they may encounter and specifically how they should address each type (i.e., religious proselytizing, solicitation involving sales, petition gatherers, etc.)

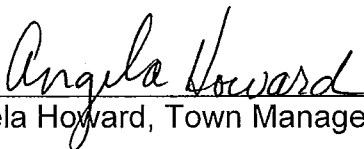
This education campaign would be carried out upon adoption of an updated ordinance and accomplished through a series of neighborhood meetings, development of an informational postcard, an article in the Portola Valley Post, and so forth.

It is believed that by having residents directly engaging with the Sheriff's Deputies concerning this issue, a sense of partnership would be created, and residents will feel a sense of empowerment and reassurance that they have more control over unwanted contact than exists today.

4. Follow through with the highest degree of enforcement available. Through early involvement on the part of the Sheriff's Department in permit issuance and public education, much of the groundwork for more effective enforcement will have been laid. The current ordinance establishes violations of the ordinance as misdemeanors; it may be simpler to pursue them as infractions.

In summary, staff believes that by making the recommended changes, solicitors will be more likely to apply for the required permit and adhere to the ordinance.

Approved:



Angela Howard, Town Manager

Attachments: Exhibit "A" – Municipal Code Chapter 5.40
Exhibit "B" – *The Daily News* Article, 1/28/2010
Exhibit "C" – No Solicitors Sign

cc: Police Commissioner Ed Davis
Sandy Sloan, Town Attorney
Leigh Prince, Assistant Town Attorney

Capt. Mark Hanlon, Sheriff's Dept.
Lt. Larry Schumaker, Sheriff's Dept.

5.36.250-5.36.270

5.36.250 Administration. The county department of public health and welfare is authorized to issue rules and regulations in order to administer and carry out the purposes of this chapter.

(Ord. 1965-32 § 8, 1965)

5.36.260 Failure to renew permit - Penalty. Any establishment failing to obtain a renewal of permit by February 15th, will be penalized in the amount of fifty percent of the regular permit fee, which shall be in addition to the specified fee shown in Sections 5.36.120 through 5.36.150.

(Ord. 1965-32 § 9, 1965)

5.36.270 Violation - Penalty. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding ninety days, or by both such fine and imprisonment, and every day upon which a violation continues shall be deemed a separate offense and punishable as such.

(Ord. 1965-32 § 10, 1965)

CHAPTER 5.40

PEDDLERS AND SOLICITORS

Sections:

- 5.40.010 Definitions.
- 5.40.020 License-Required.
- 5.40.030 Application for license-Fingerprints required.

5.40.010-5.40.030

5.40.040 Application for license-Investigation-Approval.

5.40.050 License-Fees.

5.40.060 License-Certificate.

5.40.070 License-Certificate not transferable.

5.40.080 Peddling on public highways prohibited.

5.40.090 Stands or vehicles on public highways prohibited.

5.40.100 Hours for soliciting and peddling limited.

5.40.110 Exemption.

5.40.120 Violation-Penalty.

5.40.010 Definitions. For the purposes of this chapter, the words set out in this section shall have the following meanings:

A. "Peddle" means to sell and make immediate delivery, or offer for sale and immediate delivery, any goods, wares or merchandise in possession of the seller other than from a fixed place of business.

B. "Solicit" means to take orders, or endeavor to take orders for the sale, exchange, delivery of any goods, wares or merchandise not in the immediate possession of the seller.

(Ord. 1964-25 §§ 1.01 - 1.02, 1964)

5.40.020 License - Required. No person shall peddle any goods, wares or merchandise, or solicit orders for any goods, wares or merchandise, without first obtaining a license and paying the license fee therefor.

(Ord. 1964-25 § 1.03, 1964)

5.40.030 Application for license - Fingerprints required. Each application for a peddling or soliciting license shall be

accompanied by the fingerprints of the applicant upon a form issued by the police chief of the city.

(Ord. 1964-25 § 1.04, 1964)

5.40.040 Application for license – Investigation – Approval. A. Prior to the issuance of any license for soliciting or peddling, the council shall refer the application, together with the applicant's fingerprints, to the police chief of the city, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good. If as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the police chief shall endorse on such application his disapproval and the reasons for the same, and return the application to the city council, which shall notify the applicant that his application is disapproved, and that no license shall be issued.

B. If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the police chief shall endorse on the application his approval and return the application to the council.

(Ord. 1964-25 § 1.05, 1964)

5.40.050 License – Fees. The license fee for each peddling or soliciting license issued pursuant to the provisions of Sections 5.40.010 through 5.40.110 shall be the sum of twenty-five dollars per day, payable in advance.

(Ord. 1964-25 § 1.12, 1964)

5.40.060 License – Certificate. Upon issuance of a license the town clerk shall issue to each licensee a copy of the license for each individual licensed under the provisions of Sections 5.40.010 through 5.40.110. The certificate shall bear the number of the license in figures plainly discernible. Such

certificate shall be carried constantly by the licensee and shall be displayed to any person requesting evidence of the issuance of a license.

(Ord. 1964-25 § 1.06, 1964)

5.40.070 License – Certificate not transferable. No certificate issued under the provisions of Sections 5.40.010 through 5.40.110 shall be used at any time by any person other than the one to whom it was issued.

(Ord. 1964-25 § 1.07, 1964)

5.40.080 Peddling on public highways prohibited. No person shall peddle any goods, wares or merchandise on any portion of the right-of-way of any public highway of or in the city.

(Ord. 1964-25 § 1.08, 1964)

5.40.090 Stands or vehicles on public highways prohibited. No person shall erect, place or maintain any stand, vehicle or any object on any portion of the right-of-way of any public highway of or in the city for the purpose of peddling therefrom.

(Ord. 1964-25 § 1.09, 1964)

5.40.100 Hours for soliciting and peddling limited. It is unlawful for any person to peddle or solicit before the hour of nine o'clock a.m. of any day, or after the hour of five o'clock p.m. of any day, Monday through Friday.

(Ord. 1964-25 § 1.10, 1964)

5.40.110 Exemption. The provisions of Sections 5.40.010 through 5.40.110 as to requirement of a license do not apply to:

A. Merchants having a fixed place of business in the city;

B. Employees of such merchants having a fixed place of business within the city;

C. Farmers selling farm products produced by them;

D. Persons coming within the provisions of Ordinance 1964-21 of the town, adopted September 16, 1964;

E. Any commercial traveler whose business is limited to goods, wares and merchandise sold or dealt in at wholesale in this state.

(Ord. 1964-25 § 1.11, 1964)

5.40.120 Violation – Penalty. Any person violating any of the provisions of Sections 5.40.010 through 5.40.110 or knowingly or intentionally misrepresenting to any officer or employee of this city any material fact in procuring the license or permit provided for in this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars or by imprisonment in the city jail for a period of not more than six months, or by both such fine and imprisonment.

(Ord. 1964-25 § 2.01, 1964)

CHAPTER 5.44

PRIVATE PATROLS

Sections:

- 5.44.010 Private patrol defined.
- 5.44.020 Permit—Required.
- 5.44.030 Permit—Application.
- 5.44.040 Permit—Application—Registration fee.
- 5.44.050 Permit—Application—Investigation.
- 5.44.060 Permit—Application—Notice of hearing
- 5.44.070 Hearing—Issuance of permit

The Daily News
1/28/10

PALO ALTO

Magazine solicitors knocked by police

Teen salespeople linked
to crimes; employers elude
law with shady tactics

BY WILL OREMUS
Daily News Staff Writer

At 5:39 p.m. on Jan. 6, on the 300 block of Louis Road, Palo Alto police arrested a 19-year-old woman from St. Clair Shores, Mich., who was selling magazines door-to-door. She had already been warned and cited for soliciting without a permit, a violation of Palo Alto's municipal code.

So this time, the officers took her into custody and booked her into Santa Clara County Main Jail in San Jose.

It might sound like a harsh penalty just for selling magazines, but police Sgt. Wayne Benitez said the department is trying to send a message to the young woman's employer.

Magazine solicitation, Benitez explained, isn't always as benign as it sounds. In many cases the salespeople have been linked to other, more serious crimes. And often they're victims of exploitation themselves, lured from troubled homes with promises of easy money by fly-by-night companies that treat them poorly and cut them loose if they don't perform.

The problem isn't new, but authorities in at least two Peninsula cities said it seems to be on the rise. As in Palo Alto, police in San Carlos said they're starting to get tougher on offenders in hopes of stemming the practice.

Preying on sympathy

Solicitation scams are an issue across the county, said Gene O'Neil, president of the Northern California chapter of the Better Business Bureau. The bureau received some

SOLICITORS

From page A1

1,100 complaints nationwide about door-to-door magazine solicitors last year and advises consumers to "just say no" when they knock on the door — no matter how sympathetic they may feel.

"These kids — they're generally high school, college kids, although sometimes adults — they show up with an emotional appeal for a good cause," he said. "They want to go to college, help the family with medical bills, they're supporting the troops in Iraq. So even if you don't want a magazine, you might buy one to help these guys out."

O'Neil knows this from experience. He said he gave in once, several years ago, and bought three magazine subscriptions from a teen from Louisiana who said he needed money to go to Louisiana State University, which happened to be O'Neil's alma mater.

A year later it occurred to O'Neil that he had never received any of the magazines he paid for. He followed up, and the company said it was still processing the request. Eventually, he said, the magazines began arriving — along with a flurry of calls from telemarketers referencing his recent magazine purchases.

Ugly underbelly

But spotty service is only part of the problem, O'Neil added.

"There's an uglier underbelly to this business," he said. "The kids a lot of times are brought in from other parts of the country and they're promised \$500, \$600 a week. The ads can be outrageous: 'Don't worry about anything. We pay for everything.' Then the poor kid from Louisiana gets out here and they charge him for everything — room and board, transportation — so no matter how much he makes, he never goes home with a penny."

Some of the young salespeople themselves have complained to the Better Business Bureau, O'Neil said. They have reported that their employers offer them only a van to sleep in. If they don't sell enough magazines, the van may take off without them, leaving them to fend for themselves in a strange town.

Then there's the crime element. O'Neil said there have been scattered reports of solicitors stealing items from people's

homes while the residents get them a drink of water; occasionally a solicitor is charged or convicted of a more serious crime. And the organizations that hire them may misuse customers' credit card information.

But tracking the crooked businesses can be problematic, because they generally don't operate in the same states where they're incorporated.

"As soon as they feel the heat, they move," O'Neil said.

The issue got some local attention in 2004, when three serious crimes by solicitors on the Peninsula were reported within a single week. One solicitor was arrested in Palo Alto for allegedly breaking into a home and stealing credit cards. One was nabbed in Los Altos on suspicion of shoving a resident who refused to make a purchase. And in Menlo Park, a 17-year-old girl said a magazine salesman sexually assaulted her.

Police losing patience

San Carlos police Chief Greg Rothaus highlighted the issue this week in his annual report to the city council on crime trends. Reports of solicitors without permits have ballooned from 112 three years ago to 233 last year, while arrests have risen from 12 to 22.

"The problem with illegal solicitation is that it is too often used as an opportunity to commit more serious crimes," Rothaus wrote. "We have taken a strong enforcement approach to this activity and issue citations whenever possible."

Until recently, Palo Alto has not taken such a hard line. But Benitez said he's getting fed up.

"You have people that are from out of state out there working the streets, coming up to houses, finding out who's home and who's not home," he said. "And unfortunately, when we get complaints on magazine solicitors, it's not uncommon in the next day or two to find stolen items" reported by residents of the neighborhood.

About a month ago, Benitez said, he warned a solicitor who was selling without a permit.

"I told him, 'Hey, this is the reason (for the warning). I hope you don't think we're being too heavy-handed. But every once in a while you guys come through and there's a burglary right after,'" Benitez recalled.

Apparently that gave the young man an idea, he said.

"He had two hours left before he was being picked up. And in that time he actually went into a house and stole jewelry, about a block away from where I had stopped him. He did exactly what I said we were suspicious of."

The young man was arrested on suspicion of burglary.

Not all criminals

Not every jurisdiction requires a permit for solicitors. Bill Larson, spokesman for the Stanford University Department of Public Safety, said door-to-door sales are allowed on campus. But he still encourages residents to ask for identification and call police if they're suspicious.

"Generally they're cooperative," Larson said of the salespeople. "They know people call in on these things. There's been media attention to the fact that sometimes solicitors are not legitimate, and people are worried about crime and whatnot. Whether that's a fair label, I don't know. It does happen, but there are also burglars out there who don't solicit magazines."

For Palo Alto, permits help the city sort out the scammers from legitimate solicitors, such as Girl Scouts or political campaigners, Assistant City Attorney Donald Larkin said.

The city would prefer to go after the companies that run the scam instead of the individual salespeople, he said. But they're notoriously hard to track down.

"There's only been one case I can remember that we've been able to definitively identify the employer, and then we couldn't prosecute them criminally because of their location," Larkin said. "But we did call them and tell them their employees were getting arrested."

That leaves the city to go after people like the 19-year-old Michigan woman, who never revealed the company she was working for even after her arrest. She is scheduled to be arraigned Feb. 22. But she was released on bail soon after her arrest, and there's a chance she won't show up, Larkin acknowledged.

If that's the case, local police won't be heading to Michigan to track her down, he said. But if she ever does show up back in town, she could face a warrant for failure to appear.

*E-mail Will Oremus at
woremus@dailynewsgroup.com.*

Exhibit "C"

NO SOLICITORS

Auto Collants • Auto Collants • Auto Collants



MEMORANDUM

TOWN OF PORTOLA VALLEY

TO: Mayor and Members of the Town Council
FROM: CheyAnne Brown, Planning & Building Assistant
DATE: March 24, 2010
RE: Information regarding False Alarm Research

BACKGROUND:

At the request of the Town Council, the Town's staff sought to answer the following questions through analysis and discussion with the San Mateo County Sheriff's Office:

1. What is the prevalence of false alarms within the Town of Portola Valley?
2. What do neighboring communities do regarding false alarms?
3. Does the Town need to implement a false alarm ordinance?
4. If need is determined, what is the proposed process and what revenue can be expected?

ANALYSIS:

For the past three years, an average of 403 false alarm calls were recorded and represented **59%** of total calls investigated by the Town's contracted law enforcement, the San Mateo County Sheriff's Office. (see Attachment 1)

A survey of neighboring areas was conducted, eight municipalities in total (including the Town of Woodside that is also patrolled by the San Mateo County Sheriff Office).

1. Six of eight municipalities have enacted a false alarm ordinance.
 - a) Five of these six have ordinances that allow for one 'free' false alarm within the year; with varying fees collected for each repeat offense thereafter.
 - b) Two municipalities admittedly no longer enforce the ordinance or collect fees.
 - c) Two municipalities enforce false alarm ordinances through the municipalities law enforcement, others use Staff.
2. In some cases the right is reserved for law enforcement to no longer respond to calls at a certain address that has an extreme number of false alarms.

- a) The San Mateo County Sheriff's Office does not support the idea of punishing repeat offenders by placing them on a 'no response' list.

If the Town were to implement a false alarm ordinance, the Sheriff's Office suggests use of a triplicate carbon copy form to document the false alarm calls; this would be the easiest solution for their staff to use. It would allow for a copy for the offender, the Sheriff and the Town. After logging the false alarm, an Officer would then deliver a copy to the Town and no other work would be required by the Sheriff's Office. Town staff would handle informing the offender and processing of the service charge.

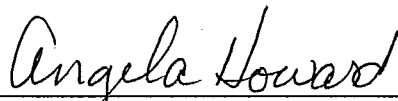
As reported by other municipalities that coordinate billing and notification, required staff time to enforce the false alarm ordinance would be manageable and would eventually level off as the number of repeat offenders was reduced.

As far as financial gain, the Town is unable to forecast potential revenue without further analysis of Sheriff's records to determine number of repeat offenders.

RECOMMENDATION:

It is agreed that any reduction in false alarms is helpful to the Sheriff's Office and the overall safety of the community. However, Staff is not in support of a fee-based false alarm ordinance at this time. Town Staff recommends monitoring repeat offenders and working to educate residents in order to reduce false alarms. This would require ongoing coordination with the San Mateo County Sheriff's Office to identify which residents have multiple offenses as well as minimal staff time and resources to keep track and make contact with offenders.

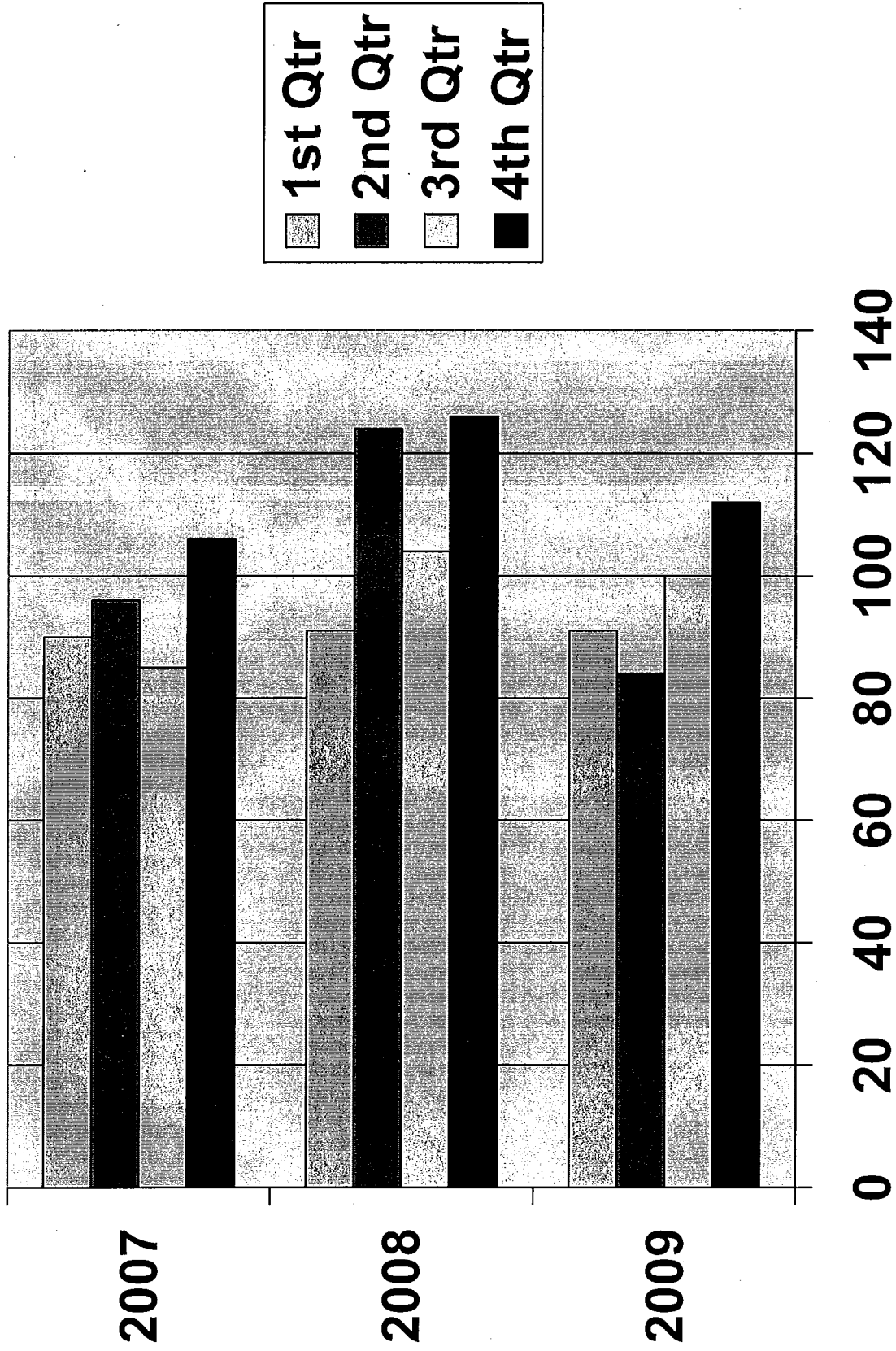
Approved: _____


Angela Howard, Town Manager

Attachments

- Attachment 1: Town of Portola Valley False Alarms

Attachment 1
Town of Portola Valley False Alarms



*Data obtained from the San Mateo County Sheriff's Office Crime Reports
Numbers include both Residential & Commercial False Alarms

TOWN COUNCIL WEEKLY DIGEST

Friday – March 12, 2010

- ☐ 1. Memorandum to Council and Commissioners from Sharon Hanlon regarding Ethics Training – March 10, 2010
- ☐ 2. E-mail to Council from Brandi de Garneau regarding Tour of GreenWaste MRF and Z-Best – March 5, 2010
- ☐ 3. E-mail to/from Sandy Sloan and Howard Young from/to Rick Friedman regarding 4860 Alpine Road Encroachment Permit – March 9, 2010
- ☐ 4. Memorandum to Leslie Lambert from Larry Anderson reviewing Fence Permit Provisions/Follow-up to Mr. Silver's Letter of March 4, 2010 – March 20, 2010
- ☐ 5. Agenda – Special ASCC Field Meeting – Friday, March 12, 2010
- ☐ 6. Agenda – Parks & Recreation Meeting – Monday, March 15, 2010
- ☐ 7. Agenda – Regular Planning Commission Meeting – Wednesday, March 17, 2010
- ☐ 8. Agenda – Emergency Preparedness Committee Meeting – Thursday, March 18, 2010
- ☐ 9. Action Agenda – Regular ASCC Meeting – Monday, March 8, 2010

Attached Separates (Council Only)

- ☐ 1. Invitation to attend The Grape Escape, A Culinary Caper on Saturday, May 22, 2010
- ☐ 2. Invitation to attend ABAG's Spring General Assembly and Regional Summit on Thursday, April 22, 2010
- ☐ 3. Invitation to attend San Mateo County Council of Cities' Dinner/Meeting on Friday, March 26, 2010
- ☐ 4. Invitation to attend the Cities for All Ages: Land Use Planning and Our Aging Population on Thursday, March 25, 2010
- ☐ 5. Invitation to attend Peninsula Coalition's 6th Annual Community Honors Dinner on Thursday, May 6, 2010
- ☐ 6. League of California Cities' invitation to apply to serve on the Board of Directors
- ☐ 7. Invitation to attend SLAC's Public Lecture on March 23, 2010
- ☐ 8. Request from Tom Torlakson for support of campaign for State Superintendent of Public Instruction
- ☐ 9. Comcast California – February 2010
- ☐ 10. Shelter Network's Network News – Winter 2010
- ☐ 11. The Sequoian – March 2010
- ☐ 12. Information from San Mateo County Health System: "Building Health into San Mateo County Cities: Resources and Case Studies"

TOWN COUNCIL WEEKLY DIGEST

Friday – March 19, 2010

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- ☐ 1. E-mail to/from Sandy Sloan from/to Rick Friedman regarding 4860 Alpine Road Encroachment Permit – March 9, 2010
 - ☐ 2. Letter to Dan Garber from Denise Gilbert regarding Langenskiod Family Trust Project, File Number 041PT-2217 – March 18, 2010
 - ☐ 3. Agenda – Special Joint Planning Commission/ASCC Field Meeting – Monday, March 22, 2010
 - ☐ 4. Agenda – Conservation Committee Meeting – Tuesday, March 23, 2010
 - ☐ 5. Agenda – Historic Resources Committee Meeting – Thursday, March 25, 2010
 - ☐ 6. Agenda – Teen Committee Meeting – Friday, March 26, 2010
 - ☐ 7. Action Agenda – Regular Planning Commission Meeting – Wednesday, March 17, 2010

Attached Separates (Council Only)

- ☐ 1. Invitation to HIP Housing's Annual Luncheon Celebration on Friday, June 11, 2010
- ☐ 2. Invitation to the Ninth Annual North Fair Oaks Community Festival on Sunday, August 22, 2010
- ☐ 3. Entomology Report – February 2010