

TOWN COUNCIL MEETING NO. 631, SEPTEMBER 10, 2003

ROLL CALL

Mayor Driscoll called the meeting to order at 8:02 p.m. and led the Pledge of Allegiance. Ms. Howard called the roll:

Present: Councilmembers G. Comstock and Merk, and Mayor Driscoll
Absent: Councilmembers Davis and K. Comstock
Others: Town Planner Mader, Town Administrator Howard, Town Attorney Sloan, Dir. Admin Services Powell, and Planning Manager Lambert

ORAL COMMUNICATIONS

Steve Hedlund thanked the Council for the restoration of Rossotti Field.

Tony Vertongen, a representative of the Portola Valley soccer club, said the restoration of the field had been necessary, and the field looked wonderful.

Ms. Howard added her thanks to Mr. Young for his efforts on the restoration project.

CONSENT AGENDA

By motion of Councilmember Merk, seconded by Councilmember G. Comstock, the consent agenda items listed below were approved by the following roll call vote:

Ayes: Councilmembers G. Comstock and Merk, and Mayor Driscoll
Noes: None.

- (1) Warrant List of August 27, 2003, in the amount of \$108,740.32.
- (2) Resolution No. 2078-2003 Approving and Authorizing Execution of an Agreement Between the Town and Townsend Management Inc. (Construction Inspection), per Dir. Admin Services memo of 8/29/03.
- (3) Resolution No. 2079-2003 Accepting the Completed Rossotti Field Renovation Project (#PW2002-06) and Authorizing Final Payment Concerning Such Work, and Directing Town Clerk to File a Notice of Completion, per Dir. Admin Services memo of 8/28/03.

REGULAR AGENDA

- (4) Minutes of the Town Council Meeting of August 27, 2003 (Removed from Consent Agenda)

Councilmember Merk submitted changes to the minutes of the Special and Regular Town Council meeting of August 27, 2003. By motion of Councilmember Merk, seconded by Councilmember G. Comstock, the minutes were approved as amended by a vote of 3-0.

(5) Zoning Ordinance Amendments to Temporary Buildings and Uses

Town Planner Mader reviewed the staff report on the zoning ordinance amendments for temporary buildings. He said the objective of the amendments was to allow temporary occupancy of a trailer for a limited period of time while someone was having their home remodeled.

Referring to the amendments (section #10, p. 2), Councilmember Merk asked at what point the security would be forfeited and what the mechanism was that would make that happen. Responding, Ms. Sloan said the security would be the guaranteed removal. If it was not removed by that date, the Town would have the authority to draw on it. Like any enforcement action, she said she would first write a warning letter indicating that the temporary dwelling needed to be removed in 10 days. If it was not removed, she would discuss it with the Council. Responding to Councilmember Merk, she said as written, there would not be any cost to the applicant until it was discussed with the Council. Councilmember Merk said he found that problematic and suggested there be a per day fee for each day after the 10-day period in order to get the unit removed.

Mayor Driscoll opened the public hearing. There were no comments, and the hearing was closed.

Responding to Ms. Sloan, Councilmember Merk said he was not sure what amount would be an appropriate fee. But, he wanted to make sure it would not be easy to keep the trailer past the deadline. Mayor Driscoll said the fee should be more expensive than a local hotel room.

Councilmember G. Comstock suggested \$250/day starting on the 11th day. He said the ordinance was terrific, but he did not think 12 months was long enough. He also thought it should apply to teardowns and new construction, but he would not argue it.

Ms. Sloan referred to section #1 of the amendments and pointed out that the existing language for all structures and uses had always said that it was up to twelve months unless the time period was extended by the Council. The Planning Commission specifically wanted to leave that in but not apply that extension to the temporary dwelling unit. Town Planner Mader noted that that had been discussed at some length. The ASCC and Planning Commission felt very strongly about the time limitation. He noted that the term "remodel" was not defined in the amendments or even in the Building Code. Webster's listed "to reconstruct" as a synonym. During discussions, it had been suggested that a remodel was not a teardown; how far you could go towards a teardown was a question. Additionally, one of the critical things would be for the ASCC to be pretty certain that it was a feasible project within a one-year period. They might ask for a construction schedule, etc., to give them some confidence.

Referring to the amendment, Ms. Sloan pointed out that the ASCC would set a termination date (e.g., 9 months). Reading section #10, she pointed out that the requirement was for removal by the termination date or 10 days after the occupancy was approved. Mayor Driscoll suggested the penalty start after the termination date or 11 days after the approval. Responding to Councilmember Merk, Ms. Sloan said it was the earlier of the termination date or occupancy approval. She confirmed that someone could ask for an extension of the termination date up to a year.

After discussion, Ms. Sloan suggested adding the following to section #10: ("Removal Date"), which would earlier be a defined term. Then, a sentence would be added to read: "Additionally, if the temporary dwelling unit is not removed by the removal date, the applicant shall be fined \$250 for each day beyond the removal date."

By motion of Councilmember G. Comstock, seconded by Councilmember Merk, Ordinance No. 2003-____ Amending Section 18.36.030 [Temporary Buildings and Uses] of Chapter 18.36 [Uses Permitted in All Districts] of Title 18 [Zoning] of the Portola Valley Municipal Code was read by title and introduced by a vote of 3-0.

(6) Zoning Ordinance Amendments for Second Units

Town Planner Mader reviewed the staff report of 9/3/03 on the second unit ordinance amendments. Additionally, he said some information had been received on what the State expected. They wanted communities to use publicity to try to sell the idea of second units.

Mayor Driscoll opened the public hearing. There were no comments, and the hearing was closed.

Councilmember Merk moved first reading by title and introduction of Ordinance 2003-____, Amending Section 18.12.040 of the Municipal Code Regarding Second Units.

Councilmember G. Comstock said one of the points he tried to make when the Council first discussed this was that this was an avenue toward meeting BMR requirements over future years. He said 750 sf was an absolute minimum livable floor space on a BMR basis. The average family of three would have a hard time. He felt it would be a more people-oriented/BMR unit-oriented kind of ordinance if larger units were permitted. He suggested a limit of not over 1,000 sf if the acreage was large enough. He felt that if the lot on which this was to be built exceeded 2.5 acres, then 1,000 sf should be permitted.

Councilmember Merk said 750 sf was an historical number which the Town had used for a long time. He would feel more comfortable discussing that as a separate action. This amendment was developed to meet the change in the State law--not for a discussion of what was an appropriate size for second units in Portola Valley. Councilmember G. Comstock suggested the issue be agendized. After discussion, Mayor Driscoll asked that the issue be agendized for discussion with some background provided in a staff report.

Councilmember G. Comstock seconded the motion to read by title and introduce the ordinance to amend the code regarding second units. Mayor Driscoll called for a vote, and it passed 3-0.

(7) Settlement Between Los Altos Garbage Company and Town Regarding Franchise Agreement

Ms. Howard reviewed the staff report of 8/31/03 and the recommendation to approve the settlement offer of \$12,183 owed to LAGCo. Councilmember Merk moved to: 1) approve the settlement offer of \$12,183 as full and final settlement of revenues owed due to implementation of the yardwaste collection program under the previous franchise agreement with LAGCo; and 2) approve a budget transfer from "Contingency" to "Miscellaneous Expenses" to cover the expenditure. He thanked staff for their efforts in reducing the amount due.

Councilmember G. Comstock congratulated the staff and everyone involved in this process. Responding to G. Comstock, Ms. Howard said in addition to staff time, Mr. Gertman's work cost about \$4,000. She estimated that she spent probably 30-40 hours on it since December 2001. Ms. Powell said she estimated her time was about the same. Councilmember G. Comstock said he felt the Town did well in terms of the total cost versus what it could have been. Ms. Howard added that a lot had been learned from that particular franchise agreement, and the current agreement was very different.

Councilmember G. Comstock seconded the motion, and it passed by a vote of 3-0.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(8) Amendment to Design Guidelines for Story Poles

Ms. Howard reviewed Mr. Vlastic's memos of 9/4/03 and 8/28/03 on the proposed requirements and guidelines for story poles. Ms. Lambert noted that the guidelines would be provided to consultants, with a shorter version available for contractors.

Councilmember G. Comstock said story poles were clearly a major factor in appraising the significance of massing of proposed structures. Referring to the guidelines, he said "no PVC piping" was good. There had been a lot of Frank Gehry designs when they were portrayed with PVC piping. Additionally, Carter Warr's office came up with an innovation that more accurately delineated rooflines, simulated truss lines, etc. He asked if this proposal would push people in that direction. Responding, Ms. Lambert said it geared people more in that direction. She said that was a costly expense to the contractor/property owner. If staff investigated and thought more was necessary for the ASCC or the public, the applicant could be asked to do a little bit more. Additionally, applicants were asked to turn in a site plan showing what the points were for the story poles.

Councilmember Merk noted that the ASCC had discussed this twice and was very pleased with the proposed guidelines. By motion of Councilmember G. Comstock, seconded by Councilmember Merk, the story pole requirements and guidelines were approved by a vote of 3-0.

(9) Reports from Commission and Committee Liaisons

(a) Newsletter

Councilmember Merk said he would be happy to continue as liaison for the Newsletter.

(b) Planning Commission

Councilmember G. Comstock said the Planning Commission focussed on a request for a business occupancy of space over in the commercial center area. The principle issue revolved around some of the wording in the ordinance which said that a physical therapy operation should be limited to not more than 3,000 sf of floor space. These folks want to put in two operations. They've got one now that's 2,000+ sf, and they want to have another one that's of similar size. One of them was directed toward physical therapy and the other one would be dedicated to physical fitness. One of the issues was whether it was appropriate for one organization to have more than 3,000 sf. One question was whether the distinction between fitness training and therapy was of great enough distinction to merit treating this as two businesses. Another question was whether these two businesses should have distinctly different names. The Pacific Therx people preferred to operate under one name. The nature of the equipment they use seemed to indicate that there is a high degree of similarity. He said they might have clients moving from one unit to the other-- maybe even under the guidance of the same trainer or therapist. It was kind of a sticky wicket and Chairman Breon and his troops did an admirable job of trying to find appropriate words to work around it and stay within the letter if not the spirit of the ordinance. He did not want to argue strongly one way or the other on it, but rather to report that it was an interesting question.

Town Planner Mader said the question of whether the regulations regulated a business or a use had been

discussed. The ordinance talked mostly about uses. When the floor area limits were established, there had been some discussion of whether it pertained to a business that might have various things going on within it and how to control that. In this case, the distinction between the two activities was that the therapy operation was hands-on therapy that used lighter equipment. As the applicants explained, the fitness operation used heavy equipment for clients who were in a fitness program--either supervised or not. They could also have a membership to use the facilities. The Commission was warm to the idea, but the technicalities had been discussed. There was also some discussion of whether it was an appropriate use for the drugstore space and whether it would work well with the other uses there. Additionally, it was believed that the high percentage of their clients was local. The total square footage would be a little over 4,000 sf in two locations. They wanted to keep the name Pacific Therx and use Pacific Therx Therapy and Pacific Therx Fitness to try to distinguish the functions.

Mayor Driscoll recalled that the choice of the floor area limits was an attempt to approximate about how much was needed to meet local needs. Putting a limit on something like a physical fitness facility was difficult. If everyone went to the gym, a lot of gym space would be needed. On the other hand, that use would clearly be used by residents.

Mr. Lane described some of the services provided by Pacific Therx's physical therapy. Based on his experience, he felt the use catered to local residents. The business was also well staffed and well managed. He felt there was a definite distinction between therapy and fitness. Responding to Councilmember Merk, he confirmed that the therapy performed was with a prescription from a doctor. In that case, Councilmember Merk said he saw the uses as very distinct. Town Planner Mader said he had had therapy there for several things, and it had always been with a doctor's prescription.

(b) Blues and Barbecue Committee

Councilmember Merk said the Committee was well organized and preparing for the upcoming event.

(c) ASCC

Councilmember Merk described a piece of Town property on Alpine Road that was being used as a staging area for a project on Bear Gulch Road. It was unsightly, and he was uncomfortable with it. Mayor Driscoll said he too noticed the area and commented that the dirt pile was gone as of this evening. Ms. Sloan confirmed that an encroachment permit should have been obtained. Town Planner Mader said the ASCC would have reviewed the construction staging for this project. He was not aware of an encroachment permit and noted that this was not a permanent access/connection. Councilmember Merk said a temporary access was a lot different from a staging area. Ms. Howard said she would follow up.

(d) Frog Pond

Mayor Driscoll said a call had been made to the School District about the encroachment at the soccer field, which was followed by a meeting. There was no disagreement about what needed to be fixed. The School had been very responsive and said they would move what was on the Town's property. Councilmember Merk confirmed that the concrete had been cut off right at the property line and it looked like they were preparing to move the sprinkler lines, etc. There was still a lot of dirt and quite a bit of broken asphalt, but he thought that would be temporary. Mayor Driscoll asked that Mr. Young continue to work with the School to ensure that what had been talked about was carried out. Ms. Howard added that the School had contacted the Conservation Committee and would be working with them on planting.

Councilmember G. Comstock described a photograph he took from the cyclone fence that ran along the

current trail from Alpine Road. He interpreted the yellow stakes to be surveyor's marks delineating the property line. Just by pacing off distances perpendicular to that line, he found that the line of fill had gone as much as 40-50' over the property line. Councilmember Merk said he measured 58' at the longest point. Councilmember G. Comstock said there were still some big piles of rubble, etc. He asked what kind of clean-up would be done so that all the dirt didn't wash down and inundate the frog pond. He thought there might need to be a retaining wall along there.

Mayor Driscoll said the focus of the meeting was on identifying what the problems were rather than identifying the solutions. The School District would be working with Mr. Young and staff to find the right solutions. If necessary, those solutions could be brought back to the necessary committees to ensure they were appropriate. Councilmember G. Comstock suggested that his photograph that showed the situation be included in the minutes.

Mr. Lane said he was pleased to hear the result of the Mayor's meeting with the School District. This was early in the new superintendent's tenure. Given the letter that she wrote to *The Almanac* and assuming that the situation would be resolved, he thought a letter thanking her for the meeting and her public statement might be appropriate. Mayor Driscoll noted that he had spoken with the superintendent several times. When the solutions were agreed to, he would write a letter summarizing what was proposed. He agreed it was important to start out fresh and with a good relationship with the School. He asked to receive updates from Mr. Young on the progress periodically.

(10) Town Center

(b) Trenching over Property Line

Mayor Driscoll said he spoke with George Stern, who after consulting with one other co-owner, did not object to trenching over the property line as long as it was staked first and then left undisturbed when finished. Ms. Howard noted that the consultant thought only boring would be necessary beyond the property line. Responding to Councilmember G. Comstock, she said the estimate for the work was \$116,000. She noted that a copy of the proposal had been sent to the Town Geologist for review. After discussion, Mayor Driscoll suggested holding a special meeting to discuss the trenching as soon as all of the material was available. Council and staff discussed ways to avoid disturbing the soccer field.

WRITTEN COMMUNICATIONS

(11) Town Council 8/29/03 Weekly Digest

(a) Cotton Shires Peer Review Report

Referring to the letter of 8/25/03 from Cotton Shires, Mayor Driscoll said the Town had spent a great deal of money trenching and identifying a safe site for the Town Center. It appeared that the report recommended spending more money investigating the potential for liquefaction. After discussion, he asked Ms. Howard to follow up with the Town Geologist to clarify the recommendation.

(b) Trail Between Bow Way and Woodview Lane

Referring to Ms. French's letter of 8/26/03, Councilmember Merk said there had been an informal trail between Bow Way and Woodview Lane for years that was used by walkers. Recently, some horse riders

went in and did a lot of cutting. An offended property owner then barricaded his section of the trail. As with

the recent incident at Blue Oaks, he said Ms. French could pursue the issue of a prescriptive easement since this was not a Town trail. Ms. Howard added that the Trails Committee agreed this was not a Town trail.

(c) Bradley Method of Eliminating Exotics

Referring to the article on the Bradley method for eliminating exotics, Councilmember G. Comstock said this was important information. He wanted to see some kind of broader dissemination and suggested including it in the next newsletter. He suggested contacting the author to get permission and obtain a copy in digital form so that it could be put on the Website. Ms. Howard noted that the article was written in 1971.

Councilmembers discussed areas where the method could be used by individuals or coordinated through the Committee. Mayor Driscoll suggested asking the Conservation Committee to write something for the newsletter rather than pursue copyright permission.

(12) Town Council 9/5/03 Weekly Digest

(a) Photovoltaic and Solar Panels for PV Ranch

Referring to Ms. Howard's memo of 9/3/03, Mayor Driscoll said the Ranch Guidelines mandated that photovoltaic and solar panel applications go from the Ranch Design Committee to the ASCC. When advised, the ASCC said they did not need to see these applications that had already been reviewed by the PVR Design Committee. ASCC review would only be required if requested by staff. For Councilmember Merk, Ms. Howard confirmed that if it went to the ASCC, the applicant would have to pay the fee. Responding to Mayor Driscoll, Town Planner Mader said the \$250 deposit covered review by the Planner's office to ensure consistency with the Ranch PUD, looking at the plans, seeing it in the field, talking with Town staff, etc. Ms. Howard confirmed that Mr. Vlasic thought it would take 1.5-2 hours. Town Planner Mader said he did not think the deposit was unreasonable. Mayor Driscoll said the Town was interested in encouraging solar. He discussed requirements at the Ranch. Councilmember G. Comstock suggested that the Town obtain a copy of the Ranch Guidelines.

(b) Sheriff's Contract for Services

Referring to the Woodside Councilmember's letter of 8/27/03 on the Sheriff's contract, Ms. Howard said the information had not come in soon enough from the Sheriff's department to agendaize the item for this evening's meeting. Mayor Driscoll asked Ms. Howard to convey to the Sheriff's office that the Council could not act until the draft contract and additional information was received.

ADJOURNMENT

The meeting adjourned at 9:23 p.m.

Mayor

Town Clerk