

TOWN COUNCIL MEETING NO. 625, MAY 28, 2003

ROLL CALL

Mayor Driscoll called the meeting to order at 8:06 p.m. and led the Pledge of Allegiance. Ms. Howard called the roll:

Present: Councilmembers G. Comstock, K. Comstock, Davis and Merk, and Mayor Driscoll
Absent: None
Others: Town Planner Mader, Town Administrator Howard, Town Attorney Sloan, and Dir. Admin Services Powell

ORAL COMMUNICATIONS: None.

(1) Presentation by Palo Alto Housing Corporation (PAHC)

Marlene Prendergast, Executive Director, gave a presentation on the Palo Alto Housing Corporation. She provided a history of the organization, noting that the mission was to foster low and moderate income housing in every way possible--primarily in Palo Alto. PAHC was a non-profit, affordable housing developer with the primary activities of constructing rental housing and/or acquiring apartment buildings in Palo Alto in need of major rehabilitation and making them permanently affordable. She described the properties in Palo Alto which ranged in size from a single-family house to a 106-unit project. PAHC property managed all of its properties, and staff included site managers, maintenance personnel, etc. PAHC also administered the City of Palo Alto's inclusionary zoning program that required developers to contribute a certain percentage to a lower income range. That function included keeping the waiting list, administering sales and resales, determining eligibility, etc. She described the Birch Court 45-unit condominium project built in 1985. It included some BMR units, some market rate units, and some "attainable" housing in the sense of being affordable to middle class people. She described four school site projects which had been turned into residential subdivisions, including BMR housing. She said the units had been built in a way that they didn't look any different than the big houses next door; they were sold and resold under PAHC management. The units were retained in affordability by deed restrictions that limited the appreciation on resale.

As for Blue Oaks, Ms. Prendergast said she had had conversations with Town Planner Mader and Sandy Sloan over the years as various affordable housing ideas surfaced in Town. She was familiar with the site, the PUD provisions, and land use requirements. She was also very aware of the desire to serve people who lived or worked in the Town. In the last year, she said some preliminary analysis of the 8-unit project had been done in terms of the target market of moderate income and the costs of a suitable development for the area. The costs would be high and in the neighborhood of \$390,000 per unit--even if the land was free. Questions which needed to be addressed included: 1) the homeowners' association; 2) the exact location of the BMRs; 3) deed restrictions; and 4) insurance, due to lawsuits about defects in construction, etc. While she had not done a lot of recent research about home-ownership programs, she knew that there were federal and State programs as well as some limited programs available through banks in terms of financing; these usually aimed at lower income and restricted prices to around \$250,000. More exploration would also need to be done to determine what might be available in terms of down payment assistance. Given the projected cost of a Blue Oaks project, at this point, it should be determined whether the target market (i.e., teachers, librarians, fire fighters, etc.) was interested and what the salaries are. If there was not enough interest, it would need to be determined if the Town wanted to go beyond that and identify who else might be interested and what their resources were for purchasing. She noted that this was a very small project and that hundreds of people would not need to be found; however, eligible people would need to be identified to

serve

the Town's purpose. She introduced Board members David Easton and Mark Moragne who had also looked at how a project might play out and whether it would serve the Town's purposes.

David Easton noted that the Board Development Committee, which was made up of people in development, real estate, architecture, construction and finance, had discussed this project in a number of meetings based on information received from Ms. Sloan and Mr. Mader. He explained the process of developing a preliminary program for a project. Based on the information provided, the units in Blue Oaks would be about 1,500 sf in order to keep the cost down. The total development would be about 12,000 sf. Parking was looked at, as was access to the units and common space. Using that preliminary program, costs were developed based on square foot projections and construction type. On this particular site, issues of grading, placement of the homes on a sloping site, placement of the structures around the trees, and automobile and pedestrian access were all considerations. There was also the desire and need to fit into the existing neighborhood; some of the same materials used in the neighborhood would be used while trying to keep the cost down. The availability of utility connections, soil conditions, drainage, etc., were also issues. The cost was estimated at \$210/sf; that cost was used to develop all of the soft/project costs. The estimated \$390,000/unit cost was at the top of the 120% medium, which was within BMR consideration; above that, it was no longer considered affordable. Fees for architectural and engineering consulting, loans, permits, insurance, etc., were all included in the total project cost. If it was considered a feasible project--and this project was teetering--an architect and landscape architect would be hired to ensure the project fit into the site. The neighbors would be met with to solicit their concerns/ideas, which if possible would be incorporated into the design. Then, consultants would be engaged to look at the soil conditions, grading, drainage, etc., and a consultant would be retained to lay out the project. Once the basic design was developed, it would be taken to the Blue Oaks design committee as well as the ASCC for approval. In reading through the PUD, he noted that the design had to integrate with the natural topography in order to preserve the natural qualities of the Blue Oaks property. That was a concern PAHC could relate to and would like to pursue. Next, a contractor would be hired and the project built. He estimated that the project would take 1 year. PAHC had been very successful in the last 30 years in developing projects that required a creative approach to the site and financing affordable housing. The mission was to develop housing that fit well into the community while serving the future residents' needs for housing assistance. PAHC would also very much enjoy helping the Town with the project, which was a collaborative effort. The Town might be willing to forgive some of the fees and other things that might come up; donation of the land was a huge issue.

Mark Moragne added that the initial proposal was to build four buildings with 2 units per building. The cost was based on 1,500 sf units with 2-3 bedrooms. The overall project cost with \$390,000 per unit was roughly \$3,144,000 with the expectation that funding or loans would cover about 70% of that. The equity required would probably be about \$600,000.

Responding to questions, Ms. Prendergast or Mr. Easton said: 1) most of the PAHC projects were apartment rentals; about 45 condominium units and 8 duplex units had been built for sale; 2) multiple utility hookups was one of the issues that would need to be looked at in Blue Oaks; 3) the demand for this type of housing would need to be ascertained because the lenders would want to know; 4) that data would need to be achieved by a survey of the target population and those beyond that target; 5) there was some concern whether there would be a market for the projected cost; 6) PAHC could move forward with a survey with a little financial help from the Town; and 7) the latest market surveys PAHC conducted for tax credit projects cost about \$6,500-\$7,000; this type of survey might be a little more.

Town Planner Mader noted that a draft survey had been roughed out which laid out some of the questions

that would need to be addressed. The next step would be to get someone who did surveys on a regular basis to develop the questions further. Those who worked in the Town who would be interested and could afford these units would need to be identified.

Councilmember K. Comstock noted that the Council had discussed who the target people should be. Typically, it was felt that people who worked in the Town for government or public agencies should be given priority because they served the Town; the next group was people who worked in the Town such as teachers or administrative people. That could become very structured, and he asked if that was workable. Ms. Prendergast said some kind of priority system was pretty common. The preference in Palo Alto was for those who lived or worked in Palo Alto. If that didn't suffice, you went beyond that. In the recent past there had been a lot of interest in essential workers such as utility workers or safety personnel who had to come from outside when there was a crisis. PAHC worked with those kinds of preferences as long as there was a way to go further if those people weren't interested.

Councilmembers discussed who should be included in the survey. In addition to School District, Town and Fire District personnel, Town Planner Mader noted that there also had been some discussion of including people who worked in the businesses in Town. While the list would not be a huge number, he thought the list would probably number at least two hundred. He noted that it had been a concern all along about whether: 1) things could be built that served that market; 2) the people could afford it; 3) they wanted to live in Town under these conditions, etc. He agreed a survey was necessary in order to know how to move forward. He added that two survey firms had been contacted who might be interested. Mayor Driscoll noted that serving the needs of empty nesters, divorced people, etc., had also been discussed. He thought the questionnaire could potentially be sent to the entire Town. Town Planner Mader recommended that if the questionnaire was sent only to targeted people, it should be made widely known in Town that information about this type of program was available at Town Hall.

Councilmember Davis said he was concerned that those who could readily afford these units might immediately fill up the demand list. Ms. Prendergast confirmed that some restrictions on income would be necessary if the project was to comply with the Housing Element requirement. Mayor Driscoll noted that a retiree could have potentially low income on paper but in fact have a net worth of millions of dollars. Ms. Prendergast said there were ways to figure that out. Responding to Councilmember Davis, she said occupancy restrictions from all kinds of regulatory sources applied when building rental housing. The theory was that since affordable housing was a scarce resource, a single person could not rent a 3-bedroom apartment. If it was rental housing, in some cases families were transferred around if they were no longer in the right size units. A family would generally not be affected when their children moved out if they were in for-sale housing.

Responding to Mayor Driscoll, Mr. Easton said if the density could be increased on a site of equal size somewhere else, it would be a more affordable project. It also made sense to have affordable housing closer to services. Since the Blue Oaks units would be for sale, he did not think it was the wrong place for a project; the density, however, was restricted to 8 units. Mr. Moragne confirmed that the difficulty of the site had been factored into the cost, which was fairly high.

Responding to Councilmember G. Comstock, Ms. Prendergast described the 45-unit condo project built in the 1980's that included market rate units, 5 BMR units, and "discount" units; discount units were above BMR but discounted from market and served a higher income level. PAHC continued to administer the BMR and discount units in terms of resale, but the property was not managed because it was a homeowners' association. Responding to Councilmember G. Comstock, she said Palo Alto had about 160 units in its BMR program which started in 1974. Not all of the units had been built by PAHC. In terms of resale, PAHC had a contract with the city to administer that and kept a waiting list of those who were

potentially eligible. Appreciation of the asset was quite limited, which was a policy decision. Responding to Councilmember G. Comstock, she said the appreciation was 1/3 of the CPI from the time they bought it to the time they sold it; plus, they could recoup some expenses for substantial improvements, subject to depreciation. Ms. Sloan noted that these deed restrictions had been passed out to the Council about a month ago.

Responding to Mayor Driscoll, Ms. Sloan said at this point, the State required that every jurisdiction meet their housing requirements within its incorporated limits. Councilmember Davis added that there was a task force in San Mateo County that was proposing a more County/regional approach. Ms. Sloan added that the County Counsel was putting together a consortium to force the cities in San Mateo County to try and raise and pool money to increase affordable housing in the County. Town Planner Mader noted that the planning community had long advocated a system whereby communities band together and help put affordable housing together where it was most needed. Responding to Mayor Driscoll, Ms. Sloan said every city had a certain percentage of jobs that were occupied by people who qualified for this kind of housing, and the theory was that everyone should do their fair share to meet the need in their own jurisdiction. An area that was not incorporated was subject to the County's obligation.

Responding to Councilmember G. Comstock, Mr. Moragne reiterated that typical construction financing usually required some equity by the owners, which was projected to be about 30% of the construction value; for this project, that would be about \$630,000. Responding to Councilmember G. Comstock, Ms. Prendergast said monthly payments were projected based on 35% of income. It was more difficult to figure out the down payment. One idea was to look for home ownership programs that helped with down payments. Banks were now talking about helping home ownership, but what exactly that meant needed to be investigated. Responding to Ms. Sloan, she said people in the moderate income level could generally afford a 5% down payment for the PAHC projects; currently PAHC's highest prices were \$200,000-\$240,000. Responding to Councilmember G. Comstock, Ms. Sloan explained that if the developer constructed the units, they put in some of their own money and then got a construction loan from the bank. They could probably get 70% of the cost of construction as a construction loan. The housing corporation had to figure out where to get the other 30%, but it would not come from the future buyers. Ms. Prendergast added that a lender might also consider the value of the land itself which could be enormous.

Responding to Councilmember Merk, Ms. Prendergast said at this point, PAHC was not sure how the sale of the completed units would be handled. Mr. Moragne noted that real estate transactions were very complicated these days

Mayor Driscoll thanked the PAHC representatives.

CONSENT AGENDA

By motion of Councilmember Merk, seconded by Councilmember K. Comstock, the consent agenda item listed below was approved by the following roll call vote:

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

(2) Warrant List of May 28, 2003, in the amount of \$122,000.57.

REGULAR AGENDA

(3) Minutes of Town Council Meeting of May 14, 2003 (Removed from Consent Agenda)

Councilmember G. Comstock said during the presentation from Habitat for Humanity at the May 14, 2003, meeting, Mr. Moulton said the selling price of their homes was on the order of \$150,000. That statement was not in the minutes. After discussion, Ms. Howard suggested the minutes be pulled from the agenda, staff listen to the tape, and the minutes be brought back for approval at the next meeting. By motion and second, the approval of the minutes was continued to the next meeting.

(4) Amendments to the General Plan and Zoning Ordinances Relating to the Nathhorst Triangle Area
(Removed from Consent Agenda)

Jon Silver, 355 Portola Road, said he wanted this item removed from the Consent Agenda because there was some misinformation being put out about this issue that needed to be corrected. Specifically, there were statements on the Portola Valley Citizens for Low Density website that were potentially misleading. For example, there was a false statement that indicated the property included in the rezoning of Nathhorst had been put under an almost 4-year building moratorium. While, he had informed that group more than four months ago that this was not a correct statement, it was still being publicly disseminated. Additionally, a new statement had appeared that indicated that the Town Planner had conceded it would be difficult for the Town Council to reject a future application for similar rezoning of immediate neighboring lots. The reason for his petition and the Town undertaking this zoning reexamination was because it was felt that there was too much commercially and office zoned land in Town to serve local needs. But, the other side of the coin was equally important. A key principle of the Town's General Plan was that there was commercial and office zoned land that was necessary to serve local needs. If too much office or commercial land was rezoned for housing, the Town would lose a very important resource in meeting the goals of the General Plan to provide services so that people did not need to drive out of Town to meet essential services. To equate the rezoning of unneeded, undeveloped commercial land for a modest number of small residences with a rezoning of the land that was currently being used to serve local needs was not an apt comparison. This misinformation had been put out, and he wanted it corrected while the matter was still before the Town. He submitted a printout of what was on the website.

Councilmember K. Comstock said there had been a lot of meetings on this subject with a lot of information presented. That point had passed, and the Council made a decision. Mr. Silver's concern had been heard and discussed, and he felt the Council had the necessary information to proceed. To start getting into additional dialogue was not fair to those who assumed that the deliberations had been concluded. He was not interested in revisiting these arguments.

Bob Adams said while he was not responsible for comments on the website about the moratorium, he did not know why his group kept being told that it had lies on its website. There were facts to back up almost all of the statements. Mr. Silver refused to look at them. With respect to the comment made by the Town Planner, he had been in the room when he made that comment. If someone wanted to argue the point, he suggested the tape be played so that everyone could hear it. While he agreed with Councilmember K. Comstock that this was wasting time, he did not want to leave something out there that was inflammatory without having someone respond.

Ms. Sloan noted that State law prohibited a general law city like Portola Valley from having a moratorium for more than 2 years. The moratorium was for 2 years.

Mr. Silver said this item was on the agenda. To say that it was unfair to discuss it further because people hadn't been noticed was not appropriate. Also, he considered Bob Adams to be a friend and he had no desire to extend inflammatory comments. He was not aware of the offer to see factual information and was not aware that that offer had been refused. He would be happy to look at anything. While he was sure no

one intended to deceive anyone, he felt Mr. Mader's comments had not been properly understood, which was why he wanted to provide an opportunity for a response. He was afraid this would remain an item of controversy.

Mayor Driscoll asked for a motion. Councilmember K. Comstock moved Second Reading of Title, waive further reading, and Adoption of Ordinance No. 2003-350 Amending Title 18 (Zoning) of the Municipal Code

by Adding Chapter 18.15 [S-R (Special Residential District Regulations)], and Amending Section 18.44.060 [Residential Planned Unit Development Requirements and Housing in S-R Districts], Chapter 18.48 [Parcel Area, Open Space and Bulk-Basic Requirements] and Section 18.50.050 [Planned Unit Developments]. Councilmember Davis seconded, and the motion carried 5-0.

Councilmember K. Comstock moved Second Reading of Title, waive further reading, and Adoption of Ordinance 2003-351 Amending Section 18.08.010 [Zoning Map Adopted] of Title 18 [Zoning] of the Portola Valley Municipal Code. Councilmember Davis seconded, and the motion carried 5-0.

(5) GreenWaste Recovery Rate Adjustment

Ms. Powell reviewed her memo of 5/15/03 on the annual GreenWaste Recovery franchise agreement rate adjustment. As indicated in the memo, she said a revision to the franchise agreement would be forthcoming to provide a CPI adjustment formula that reflected the composting method used by GreenWaste.

Responding to Councilmember G. Comstock, she reiterated that if the 1.09% rate increase turned out to be more than what would have been approved in the adjusted format, the appropriate amount could be reflected in future rate adjustments. Responding to Councilmember G. Comstock, she said there were other composting facilities that GreenWaste could haul the material to if Z-Best went under. Responding to Councilmember G. Comstock, she said the last financial statement for GreenWaste showed a profit.

Councilmembers discussed the positive response from residents to service provided by GreenWaste.

Councilmember K. Comstock moved adoption of Resolution No. 2054-2003, a Second Amendment to the Franchise Agreement Between the Town and GreenWaste Recovery, Inc., for Collection of Garbage, Recyclables and Yard Trimmings. Councilmember Davis seconded the motion. Councilmember Merk noted that Ox Mountain fees were high and that it might well be cheaper to transport the garbage to Z-Best. He was pleased that staff was pursuing this. Mayor Driscoll called for the question, and the motion carried 5-0.

(6) Not-for-Profit Funding Requests

Ms. Howard reviewed her memo of 5/19/03 on not-for-profit agency funding requests. She noted that there were a lot more requests than in previous years.

Councilmember Davis said he had always felt uncomfortable giving public money to organizations unless they were conducting specific services that were valuable to the Town; few of those on the list fell into that criterion including Joint Venture-Silicon Valley Network and Criminal Justice Council. Responding to Councilmember Davis, Ms. Howard confirmed that the Town had paid \$600 for an advertisement flier for Spring Ridge Histories, as requested by the Cultural Arts Committee. She had not wanted to give a cash donation to another organization without the Council's approval, and Ms. Sloan agreed.

Councilmember Merk said he also did not support funding the Joint Venture-Silicon Valley Network.

Additionally, from their literature, he did not feel that the Peninsula Policy Partnership was of any interest to the Town. He felt the Ombudsman Program of San Mateo was very important. CERPP should be funded as requested by the Emergency Preparedness Committee. With respect to Peninsula Habitat for Humanity, he suggested waiting to see if the Town would be working with that group. He felt Sustainable San Mateo County was good, as were Jobs for Youth and Second Harvest Food Bank. With respect to the Peninsula Conflict Resolution Center, he noted that the Town had only one case last year. Additionally, he said the Town in the past supported the San Mateo County Historical Society, and he thought \$500 was appropriate.

Overall, if CERPP was included in the Committee's budget, he thought a total of \$5,000 was appropriate, including \$900 for Spring Ridge Histories if in fact they really needed the additional money for the book; he suggested staff follow-up. Councilmember K. Comstock agreed with Councilmember Merk's choices.

Responding to Ms. Howard, Councilmember Merk confirmed his support for: 1) verifying the need for additional funding of Spring Ridge Histories; 2) Criminal Justice Council at \$500; 3) Ombudsman Program at \$1,500; 4) CERPP at \$2,000; 5) Sustainable San Mateo County at \$1,500, 6) Jobs for Youth at \$500; 7) Second Harvest Food Bank at \$500, and 8) San Mateo Historical Society at \$500. Peninsula Conflict Resolution Center at \$1,000 was still a question mark. Council concurred.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

- (7) Modification to Fundraising for Rossotti Field (Item taken up following item #4 on the agenda by motion and second)

Neil McKinnon, Parks and Rec Committee, reviewed the Committee's memo of 5/21/03 on the Rossotti Field renovation fund raising program and the suggestion to recognize donors who contributed \$200 or more with a laser inscribed brick to be installed in the walkway from the parking lot to the bleachers. Responding to Councilmember Merk, he said \$17.50 per brick included shipping and handling. He confirmed that the installation of the bricks would be on a concrete pad.

Councilmember Merk said he had two brick patios that received a lot of sunlight in the summer. In winter, they had to be power washed 3-5 times because something grew on them that made them very slippery. He was concerned that the Town might be installing something that might be a safety hazard. Mr. McKinnon said the brick chosen was the same brick installed at the Woodside Priory, which held up well. Councilmember K. Comstock and Town Planner Mader discussed other locations where the bricks had been used.

Responding to Mayor Driscoll, Mr. McKinnon said the placement of the inscribed bricks would be random. Responding to Councilmember G. Comstock, he said the Committee decided that this single category of donors was preferable to making a distinction for larger donors; it was set at a reasonably low level so that families could contribute.

Responding to Ms. Howard, he said the funds for the bricks would be raised before the bricks were purchased. Responding to Mayor Driscoll, he said no minimum had been set to trigger purchase of the bricks. He did not think it would be difficult to cover the cost of the brick project.

Responding to Councilmember G. Comstock, Mr. McKinnon said the Committee had asked each of the soccer leagues that used the fields to make a solid contribution; the leagues represented a mix of both Portola Valley residents and non-residents. Responding to Councilmember G. Comstock, he said all the organized users were aware of the fundraising; those groups represented about 95% of the field users.

Council concurred with the Committee's suggestion.

(8) Reports from Commission and Committee Liaisons

a. Conservation Committee

Councilmember Merk said Marge DeStaeblar indicated that the Committee held a good meeting with the home owners and fuel management consultant for Blue Oaks. Additionally, the Committee was concerned about the drainage at the Ranch frog pond next to the school. Ms. Howard said Mr. Young would investigate.

(9) Appointment to Parks and Rec Committee

Referring to Ms. Powell's memo of 5/20/03 on the Parks and Rec Committee's recommendation to appoint SallyAnn Reiss to the Committee, Mayor Driscoll made the appointment. Council unanimously concurred.

(10) Waste Management of Local Food Establishments

Ms. Powell said the Council had expressed an interest in reducing the amount of polystyrene/take out containers at local food establishments, as set forth in her memo of 1/31/03. Environmental Planning Consultants (EPC) did a comprehensive review of waste management issues at the five local food establishments. At this point, it was recommended that the businesses be allowed sufficient time to implement EPC's suggestions and then check back in another six months to see if overall waste management had been improved. With the downturn in the economy, she did not think it was a good time to be imposing additional burdens on these small concerns.

Councilmember K. Comstock discussed take-out containers used by Whole Foods, which were all recyclable. Ms. Powell said Whole Foods had an advantage because they were able to buy these containers in bulk and get a considerable cost savings from the distributor. The small establishments in Town would end up paying more for the product. Responding to Councilmember G. Comstock, she said the Town was in the process of using up the already-purchased cups that were not compostable; the new products would be compostable.

Referring to the staff report, Councilmember Merk noted that EPC felt there was a perception that extra time would be required to use compostable serve ware. He thought more education was needed. Referring to EPC's report, he said it was unfortunate that for some of the businesses, all cardboard was being disposed of as trash. Additionally, he noted that one business felt that the prices of these products would need to be the same or lower before they would consider making a change. As the report indicated, there was a significant range in price for some of these products; one kind of cup might cost \$.05 and another \$.23. He noted that at Portola Square, both garbage and recyclables were put into one bin, which was used by the entire complex. He felt there should be one bin for compostables and one bin for recyclables. Ms. Powell noted that this study focussed on the food purveyors. The Town could have significantly greater impact on the overall waste management stream by visiting all the businesses. Responding to Councilmember Merk, she said she did not know if John's Valley Foods had made any changes in their packaging as indicated in the conclusion section of EPC's report (p. 6).

Mayor Driscoll asked about the rates for commercial pickup and whether there was the same incentive to recycle that there was for private residents. Ms. Powell confirmed that businesses had to pay separately for recycling. Mayor Driscoll thought the Town should try to institute a parallel process and provide some incentives for businesses to recycle. He asked staff to do some investigating.

WRITTEN COMMUNICATIONS

- (12) Town Council 5/16/03 Weekly Digest: None
- (13) Town Council 5/23/03 Weekly Digest
- (a) Neighborhood Clean-up Day

Responding to Councilmember K. Comstock, Ms. Powell confirmed that the Sheriff would be providing traffic control and that the parking lot would be set up differently from last year. She noted that it was also very difficult to estimate what the demand would be. Responding to Ms. Sloan, Councilmember Davis said last year people were asked for their addresses to ensure that they were Town residents.

- (b) Parkside Grill Alley

Referring to Ms. Lambert's letter of 5/22/03 in response to complaints about the alley behind the Parkside Grill, Councilmembers and staff discussed possible solutions to the ongoing problem.

ADJOURNMENT

The meeting adjourned at 10:10 p.m.

Mayor

Town Clerk