

TOWN COUNCIL MEETING NO. 600, MARCH 27, 2002

ROLL CALL:

The meeting was called to order by Mayor Davis at 8:00 p.m. Mayor Davis led the Pledge of Allegiance. Ms. Howard called the roll:

Present: Councilmembers G. Comstock, K. Comstock, Driscoll and Merk, and Mayor Davis  
Absent: None  
Others: Town Attorney Sloan, Town Administrator Howard, and Deputy Town Clerk Hanlon.

ORAL COMMUNICATIONS

Lincoln Moses, 274 Corte Madera, said it had been found that 68% of death row cases between 1975 and 1993 had been overturned for things like incompetent lawyering, the prosecution holding back evidence that would have benefitted the accused, improper instructions to the jury, etc. Such considerations had led the American Bar Association to call for a moratorium while careful study was done on what could and should be done about the death penalty. The Menlo Park city council passed a resolution urging the CA legislators to promote a moratorium, and the Board of Supervisors of Santa Clara County forwarded a similar resolution. He asked that the Council take a position.

CONSENT AGENDA

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

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

- (1) Minutes of Town Council Meeting of February 27, 2002, with Councilmember Driscoll abstaining.
- (2) Warrant List of March 13, 2002, in the amount of \$124,717.16
- (3) Warrant List of March 27, 2002, in the amount of \$131,853.99.
- (4) Resolution No. 1979-2002 Approving and Authorizing Execution of a Master Agreement and Program Supplement to the Administering Agency-State Agreement for State Funded Projects in the Town Between the Town and the State of California, per Director of Administrative Services's memo of 3/14/02.

REGULAR AGENDA

- (5) Notice of Completion - Lighted Crosswalk on Portola Road Project (Removed from Consent Agenda)

Councilmember K. Comstock said the Trails Committee was concerned about the stanchion placed in Portola Trail for the crosswalk. He understood that the correct standards had been applied, but he preferred to: 1) approve the completion of the project; and 2) have staff see if an alternate placement was possible or it could be made more visible.

Responding to Mayor Davis, Ms. Howard said Town staff and the acting engineer had reviewed the

placement, and it was the consensus that the stanchion was in the appropriate place to keep children out of the roadway. The trail also widened at that place. Responding to Councilmember G. Comstock, Councilmember K. Comstock said the Trails Committee's concern was that it was located in a wide-open, flat space and appeared to be in the middle of the trail. He suggested Ms. Howard work with the Trails Committee on a solution. Councilmember Merk suggested adding a couple of ballards which would make it more visible as well as protect it.

Councilmember Merk said he was also concerned about the placement of the warning sign for southbound traffic on Portola Road. Currently, it was placed just south of the entrance to Brookside Drive such that it reduced the sight distance which was already limited. He felt the sign should be put before the entrance to Brookside Drive and before the redwood tree; cars coming around the corner and across the bridge could not see the sign until they were right on top of it.

Noting that the matter before the Council was whether the specifications had been met, Mayor Davis suggested approving the notice of completion and then following up on the concerns expressed. By motion of Councilmember G. Comstock, seconded by Councilmember K. Comstock, Council passed (5-0) Resolution No. 1978-2002 Accepting as Completed the Lighted Crosswalk on Portola Road, Project #2000-PW04, and Authorizing Final Payment Concerning Such Work, and Directing Town Clerk to File Notice of Completion. Mayor Davis asked Ms. Howard to work with the Trails Committee and Traffic Committee and report back.

(6) Adoption of Animal Control Chapter of Municipal Code

Ms. Howard said the San Mateo County Civil Grand Jury's 2000-2001 Final Report included a recommendation that the Town adopt the County's Pet Overpopulation Program Ordinance. Staff had reviewed the Town's outdated ordinance and presented options to the Council on February 13. Council's direction was included in the proposed amendments to the Animal Control Chapter of the Municipal Code. Additionally, Section 6.04.100.C relating to the hearing process for designating animals as dangerous had been revised to address concerns raised by a resident. Referring to her memo of 3/21/02, she reviewed the proposed changes and additions which would bring the Town in compliance with the County's requirements for pet population control.

Mayor Davis said notice had been placed in *The Almanac* about the issue, but he was concerned that people might not be aware of some of the changes relating to cat licensing, neutering, etc. Councilmember K. Comstock noted that this was the introduction and first reading of the ordinance amendments by title and that there would be a second reading. Referring to section 6.04.300 (p. 14), Ms. Sloan said she added an amnesty period for cat licensing because it was a new requirement. She felt there would be plenty of time to advertise the requirement and for people to get licenses.

With respect to Section 6.04.100D (p. 8) and the hearings conducted for dangerous animal designation, Councilmember Merk felt it would be difficult to sit on a panel and tell your neighbor that his animal was dangerous. Responding, Ms. Sloan said when the Council discussed this topic, several choices had been presented. Personally, she recommended that the Town Administrator or Mayor select an independent person to make the determination; this was what Los Altos did. The Council, however, had been more comfortable with a panel of three. Secondly, she pointed out that the language stated that the panel could consist of the Mayor (or Mayor's designee), Town Administrator (or Town Administrator's designee) and one Councilmember. She said "...or Councilmember's designee" could be added. Additionally, a

Councilmember could decline to sit on the panel in which case the Mayor would have three other choices to pick from. The Town Attorney would also be present at this type of hearing and would write up the official findings and

determinations.

Responding to Councilmember G. Comstock, Ms. Sloan said the civil grand jury was appointed by the presiding judge in San Mateo County every year. The role of the civil grand jury was to be a watchdog of governmental agencies (e.g., water districts, fire districts, cities, towns). They usually had about 20 recommendations--many of which addressed more serious matters such as violations of the Brown Act, embezzling, etc. Last year, there were about 25 recommendations, and this subject was the only recommendation that applied to the Town. She pointed out that these were recommendations and that the Town did not have to do what was suggested--especially since there was nothing criminal implied. As Ms. Howard indicated, the only thing that the Grand Jury had strongly recommended was adding Chapter 6.12 re spaying and neutering to address the pet overpopulation problem. The rest of the proposed amendments resulted from staff reviewing the Town's ordinance and updating the provisions. She said the dangerous dog hearing came about because a resident had come to the Council and indicated that the Humane Society did not have a good idea about what went on in Portola Valley. Mayor Davis added that that was why the Council decided that members of the Town should make the decision.

George Stern, Portola Road, thanked the Council for following through on his suggestions for Section 6.04. He agreed with all of the recommendations made by the staff and suggested three more. First, he asked that the definition of dangerous animal in Section 6.04.010J.2 be modified to read: "An attack without provocation on another domestic animal or livestock...." According to the Humane Society's animal control officers, wild animals were protected under this section. They would designate as a dangerous animal any cat that killed a bird or mouse, dog that killed a rat or squirrel, or horse that kicked a coyote or raccoon without provocation. On the other hand, a representative from the Humane Society's Wildlife Services Department had informed him that she considered that--as well as his own case--obsessive and ridiculous. The animal control corps appeared to be on a self-aggrandizing mission which could not be contained unless something was changed along the lines he was suggesting. Secondly, he thought wildlife should be protected against habitually marauding pets that threatened enjoyment of nature. He suggested there be a reasonable addition to the Town's public nuisance laws or some other appropriate regulation to achieve the same. Third, while he was enthusiastic about the recommendation that hearings on dangerous animals would be handled locally, he would like to see some language added assuring that due process of law, as commonly understood, would be observed.

Ms. Sloan said it was up to the Council to decide whether to include the term "domestic." Additional language could also be added to indicate "without provocation on any animal over time" or "frequent attacks on wild animals." With respect to Mr. Stern's third point, she said it was fairly common in an ordinance to say "the hearing shall be conducted in an informal manner consistent with due process of law." If there were a lot of hearings, policies could be written on how the hearings would be conducted, etc., but she did not feel that was necessary for the ordinance. When a hearing was necessary, she felt something could be quickly drafted that both sides would find fair.

Councilmember Driscoll said he had seen, on many occasions, local packs of dogs run deer and kill fawns. He had some concerns about exempting wild animals from the ordinance as suggested by Mr. Stern. He said he could accept the "domestic" wording if there was language elsewhere that addressed packs of dogs running or harassing wild animals. Referring to the language in Section 6.04.010J.2, he noted that the dog in Mr. Stern's situation had been provoked. Mayor Davis agreed; a deer entering a house was real

provocation.

Councilmember Merk agreed that in Mr. Stern's case, the dog had been provoked. The ordinance language said "without provocation" and he was comfortable with it as drafted. Councilmember K. Comstock suggested that if the word "domestic" was added in Section 6.04.010J.2, the phrase "...or repeated attacks

After discussion, Councilmembers decided to keep the language as drafted. Councilmember K. Comstock moved first reading of title, waive further reading, and introduction of Ordinance No. 2002-\_\_\_\_ of the Town Council of the Town Amending Chapter 6.04 (Animal Control), Repealing Chapter 6.08 (Animal Regulation Commission), Re-numbering Chapter 6.12 (Horsekeeping and Stables) to Chapter 6.08 and Adding Chapter 6.12 (Spaying, Neutering and Breeding) of the Portola Valley Municipal Code. Councilmember Merk seconded, and the motion carried 5-0.

(7) Repairs to Town Center Baseball Field

Ms. Howard reviewed her memo of 3/18/02 and recommendation that the Council enter into an agreement with United Landscape Services to repair the Town Center baseball field as soon as the earthquake trenching was complete. She added that \$10,000 would be transferred from the contingency fund to the field maintenance fund to help pay for the repair estimated at \$18,392.00. She verified for Councilmember Merk that the orientation of the field would not be changed.

By motion of Councilmember Driscoll, seconded by Councilmember Merk, Council adopted (5-0) Resolution No. 1980-2002 Approving and Authorizing Execution of an Agreement Between the Town of Portola Valley and United Landscape Services. Council thanked Ms. Howard for moving ahead on the repairs as quickly as possible. Responding to Mr. Pickering, Ms. Howard confirmed that only a portion of the cost would come out of the field maintenance budget.

(8) Town Geologist Authorization

Ms. Howard reviewed her memo of 3/19/02 on the Town Geologist's request for additional authorization to cover work completed in support of the ad hoc Geologic Setback Committee. As set forth in her memo, she reviewed the amounts requested and time frame in which the work was done, noting that she had not been unaware that the original authorization (\$2,200) had been exceeded until March. Responding to Councilmember K. Comstock, she said she could not recommend that the Council approve funding for work not previously authorized by the Council. If the Geologic Setback Committee needed to hold an additional meeting, she did, however, recommend the Council authorize \$1,000 to cover preparation and attendance.

Councilmember Driscoll said during the Committee meetings, the Town Planner and Town Geologist were occasionally tasked with bringing back additional information to help Committee members understand the complex issues involved. He felt they interpreted that as an authorization. He was troubled that the misunderstanding had not been discovered until three months after it happened. This was a process problem as well, and Cotton Shires was apparently not promptly billing for services. While this was an honest mistake, he said the process needed to be fixed.

Ted Sayre, Cotton Shires, agreed there had been some very late billing. The initial authorization was for four meetings--with .5 hours preparation for each meeting--and there had been requests for maps, etc., throughout the process. He felt that the budget authorized for the first four meetings covered those meetings and associated work; the problem was not coming forward and requesting an authorization after the first four meetings. He agreed proper accounting was essential.

Responding to Councilmember G. Comstock, Ms. Howard said this was not the first occasion this had happened with this contractor. Special language had been added to the 2000-2001 agreement requiring that: 1) there be no work performed without authorization by the Town Administrator; and 2) any unauthorized work by the consultant would not be reimbursed by the Town. Councilmember G. Comstock felt the contract wording was clear. Even if Mr. Cotton had been asked to do additional work during the meetings, that was

not a formal authorization. Councilmember Driscoll noted that Ms. Howard had attended the meetings.

Ms. Howard said part of the problem was the way the billing occurred. The initial purchase order had been issued with the assumption that that would cover at least four meetings. The initial billing was on November 21, 2001, for \$1,550 and only reflected one meeting and a lot of prep time. The second billing was not received until February 25, 2002, which was for \$2,297 (\$1,400 over the authorization), and included one meeting in January, one meeting in February, but not the meeting in December.

Councilmember K. Comstock noted that this same discussion had been held a short time ago relative to the Planning Commission. This was the same problem with the process. The Town had a responsibility to ensure it did not run over its budget, and so did its contractors. Everyone needed to be more disciplined. What had happened here reflected badly on both the Town and the contractor. He supported the Town Administrator's recommendation for what had contractually been agreed to.

Mayor Davis said in the Planning Commission's situation, the planning consultant came forward before they ran out of money; in this case, the contractor ran out of money but went ahead and billed the Town for all of the work they did. *[Tape inaudible]*

Councilmember Driscoll noted that some of the work done was to bring the Town's GIS system up to speed. In this case, the Town Geologist's office put the Dickenson lines on the map which was very valuable; it was a capital as opposed to labor investment. He felt that charge should be reimbursed as being a positive addition to the Town. The contract was, however, pretty clear on labor hours that were billed late.

Responding to Mayor Davis, Mr. Sayre confirmed that his office had the Town's database and that the geologic information had been put in it. He did not think the electronic version had been returned to the Town. Mayor Davis said there did not appear to be specificity as to what was being asked of the Town Geologist. The Town had paid for 20, 30, or 40 hours of work, and he wanted to know what the deliverables were. Councilmember Driscoll said the updated geologic data set would be received--if it was paid for. Mayor Davis felt the contract was very specific on the way these transactions were supposed to happen.

With respect to the deliverables, Mr. Sayre said from the meeting on March 19, 2002, the e-mails indicated there was a charge for his office to prepare proposals for formal update of the Geology Map, Movement Potential Map and creation of the new fault setback map. The work that had been done so far would be part of those products. Since the work had been done, it would not be part of the estimate. Ultimately, the agreement for the map work would specify what the deliverables (maps, electronic files, etc.) would be.

Councilmember Driscoll noted that part of the recommendation from the Geologic Setback Committee was that this data all be updated on the Geologic Map; there would be a proposal associated with getting that done. He confirmed with Mr. Sayre that the \$1,000 requested for doing that work would be included in the proposal. Councilmember Driscoll suggested waiting until the proposal was approved to pay for that work.

Councilmember Merk said he was uncomfortable with the fact that the contract hadn't been followed and the billing hadn't been forthcoming. He noted, however, that the information that the Town would be getting as a result of the Committee would be extremely valuable to the Town and residents. He was not comfortable with taking that information and not paying for it. He did not think the contractor should absorb the \$6,316 for the work already done that was of value to the Town--even if it was not billed properly.

Mayor Davis said this was not about the competency of the Town Geologist or the efforts of the Committee. It related to the way in which the Town controlled and worked with its consultants. His concern was over the

expenditure of public money without some minimal form of documentation on what had been asked, what would be delivered, when it would be delivered, etc.

As Chair of the Committee, Councilmember Driscoll said he had had no idea how much money had been submitted as a proposal by the Town Planner and Town Geologist or been given any updates. He felt the Town's internal process in managing these things needed some work. He had not been involved in the budget process; he had been tasked with running a committee and getting a result. The consultant was obviously not thinking about money either. The question was what to do about it.

With respect to the \$3,560 for the creation of the base map, Mr. Sayre said it was his understanding that this was what the Committee had asked for for the meeting on March 19, 2002. While apparently not authorized to do the work, it would have been very difficult to come to the meeting without having anything to move that process forward. A judgement had been made internally to do the work that his office had been directed to do. He had hoped to get an answer on the request for the \$3,560 in order to do the work before the meeting on March 19, but apparently two weeks was not a long enough turnaround time. Ms. Howard noted that Mr. Sayre had been informed that the total amount was over her authorization limit and that it would have to go to the Council.

Councilmember K. Comstock felt the Council had expressed its concerns clearly. But, he felt there still might be some confusion about what the Town would be getting, the costs, etc. More information was needed, and he suggested continuing the item.

Mayor Davis suggested Cotton Shires provide a formal estimate for getting the geologic data on the GIS system. Hopefully the money that had been expended and would be expended would be included in that. If the Town agreed to the number, the consultant would be compensated for that work in a formal way. Until then, he wanted to hold it in abeyance.

Responding to Mayor Davis, Councilmember Driscoll said the lines had been plotted on the GIS system but the data set had not been provided to the Town; plotted maps had been provided to the Committee. Additionally, he said the database belonged to the Town and not the consultants. When they added something, it belonged to the Town by definition. He suggested the Town staff work with the consultant to rectify these issues. He agreed the item should be continued. Councilmember K. Comstock noted that Mr. Sayre had not been the primary party involved. Mayor Davis agreed that this was another reason for continuing the item.

Councilmember Driscoll suggested the Town Administrator and Cotton Shires work out a conclusion to this particular issue, create a process for handling these things in the future, and clarify the digital map issue. Responding to Councilmember Merk, he confirmed that it was not clear at this point whether another Geologic Setback Committee meeting would be necessary; the additional \$1,000 might not be needed.

After discussion, Councilmember K. Comstock moved to defer payment at this time. Councilmember Driscoll seconded, and the motion carried 5-0.

Councilmember K. Comstock moved that staff work with the consultant on a proposal for the GIS work on the database. Councilmember Driscoll seconded, and the motion carried 5-0.

Councilmember Driscoll moved that the Town Administrator and consultant negotiate a settlement on the past expenditures. Councilmember Merk seconded the motion.

Mayor Davis questioned what criteria the Town Administrator should use in a situation where the consultant did work without authorization. He thought the Council had more flexibility in that area. Councilmember Driscoll said he disagreed with that characterization. He thought that Mr. Cotton felt the Committee had authorized him to do the work. As Chairman, he had asked that the map be produced for the next meeting. Mayor Davis said the Town Administrator had made it very clear to Mr. Cotton the last time this occurred, the authorization process had to be followed. Councilmember Driscoll felt there had been some ambiguity. When the GIS proposal came back, Mayor Davis said the Council, rather than the Town Administrator, should determine whether there should be some consideration given after the fact. Councilmember Driscoll offered to negotiate with Cotton Shires.

After further discussion, Councilmember Merk suggested subtracting \$3,560 from the total amount requested and paying the consultant 50% of the remaining overrun. Councilmember Driscoll seconded, and the motion carried 3-2 (opposed, Davis and K. Comstock).

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

##### (9) Reports from Commission and Committee Liaisons

###### (a) Parks and Rec Committee Memo Regarding Dogs on Recreational Fields

Ms. Howard said the Parks and Rec Committee had discussed the issue of dogs on recreational fields, and their comments were summarized in an e-mail from Bill Pickering dated 3/1/02.

Mr. Pickering noted that the Committee recommended placing signs on fields asking people to clean up after their pets. The signs currently said "No dogs allowed." Placing signs asking people to clean up after their pets or providing clean-up mitts at the fields would be inconsistent with the current signs. Responding to Councilmember Merk, Ms. Howard confirmed that there were signs on Ford and Rosotti's Fields. Responding to Councilmember Merk, Mr. Pickering confirmed that the Committee supported allowing dogs in the "park" which included the fields.

Councilmembers agreed that providing clean-up bags was advisable. Councilmember Merk also thought the Litter Ordinance should be looked at to ensure enforcement was addressed--and not just on Town property.

Jon Silver said the current signs were very urban-looking, and he hoped that the replacements would be more aesthetically pleasing. He felt having clean-up bags was advisable and that dogs should be kept off the playing field areas.

Councilmember K. Comstock suggested asking the Committee to provide wording for the modified signs. Councilmember Merk added that one member of staff who was on the fields quite a bit did not feel allowing dogs on the fields was a problem. He felt the current signs should be removed and clean-up mitts provided. Mayor Davis supported putting up signs that encouraged people to clean up after their pets. Mr. Pickering said the Committee would discuss the signs.

(b) Conservation Committee

Councilmember Merk said the Committee wanted to make some changes to its charter--including increasing membership by 1; a memo would be forthcoming.

With respect to the Garcia memorial, he said Al's Nursery would be donating a tree. The consensus from

those present at the meeting, including Mrs. Garcia, was that the tree should be a Red Twig Dogwood--a California native--and be planted at Triangle Park. He offered to work with the Conservation Committee on an appropriate location. He asked the Town Administrator to work with the Committee on funding for the plaque.

(c) Geologic Setback Committee

Councilmember Driscoll said the group was super and that the meetings had been very good. Deliberations had been concluded, and the Town Planner had prepared a summary memo which would be forwarded to the Council with background information. Overall, he said it was found that the position of the faults was more complicated than thought. Slight modification to the existing setback rules would be recommended and State regulations either adhered to or extended in certain areas. He summarized the recommendations that would be forthcoming from the Committee.

(c) Blues & Barbecue

Councilmember Merk said the event had been changed back to September 8.

(10) Status of Blue Oaks/Portola Valley Ranch Trails Easements

Councilmember K. Comstock stepped down from the Council because of his association with the Ranch's homeowners' association.

Ms. Sloan reviewed her letter of 2/15/02 to the Assistant Attorney for the Ranch regarding the usage restrictions for the newly installed trails on the Ranch property that connected to the trails in the Blue Oaks subdivision. Noting that phone calls had not been returned from Ms. Hardt-Mason, she asked the Council's assistance in determining whether this information had been communicated to the Ranch.

Ms. Howard said a copy of Ms. Sloan's letter had been forwarded to the Ranch Manager a week ago, and she telephoned her the previous day. Apparently, the attorney had indicated that what had been proposed was a good recommendation and that the issue would be agendized for the Board meeting of April 15. Additionally, she said Nancy Azzopardi indicated that she felt their attorney would recommend accepting the offer from the Town.

Mayor Davis and Councilmember Driscoll noted that there seemed to be different ideas about what had been recommended and the different positions taken. Ms. Sloan suggested widely distributing her letter.



Councilmember Merk thought all three of the trail restrictions proposed were okay--even if not the best solution.

Councilmember K. Comstock rejoined the Council.

(11) Request to Purchase Emergency Supplies

Ms. Howard reviewed her memo of 3/18/02 on the Emergency Preparedness Committee's request to purchase supplies and tools to be kept at Town Center in preparation for emergency and disaster events. She said the cost of the materials was estimated at \$5,630, and the Committee would be working with Ms. Powell to find the least expensive sources. She noted that an existing container had been located to store the supplies. Councilmember Merk added that the Committee wanted to have at Town Hall something

similar to the containers placed around Town by the fire department because people would be likely to come to the Town Center in an emergency.

Councilmember Comstock moved approval of the expenditure of up to \$5,630 for the purchase of the emergency preparedness supplies and tools requested by the Committee. Councilmember Merk seconded, and the motion carried 5-0.

(12) Council Consideration of Resolution Supporting Non-Town Related State and Federal Policies

Mayor Davis said Councilmember K. Comstock had requested a resolution on the death penalty be discussed by the Council. He (Davis) said he was not comfortable with this type of resolution and wanted the Council to discuss the issue and come up with a policy statement that addressed issues that were outside of the local government of the community. He felt residents should be encouraged to communicate directly with their elected representatives at the various levels of State and federal government. He had not run on these types of issues, and he did not feel he could speak for the community in that regard--even if he felt strongly about the issue itself.

Councilmember Driscoll said it was his understanding that not speaking on these types of issues was the policy. He did not recall that the Council had acted on any issue of national/political importance but had occasionally taken a position on a purely charitable issue. He did not think he had been elected to pass judgement on, for example, the death penalty--even if he agreed with sentiments expressed.

Councilmember K. Comstock said the death penalty was an issue of broad concern to a lot of people. While the Council wasn't responsible for putting the legislation in place, he thought the Council ought to have an opportunity to address it. With respect to a policy, he felt there were times when it would be appropriate and/or desirable for the Council to take a position on a particular issue that was outside of its legislative reach. For example, there might be a bond issue on the State ballot that would include funds that would be distributed on a pro rata basis to all communities for improved parks, etc. Those were Statewide issues that the Town would have a selfish interest in. Probably not everyone in the community would agree with increasing State indebtedness, but he felt support for some things might be appropriate. He felt trying to come up with a policy that defined the "keep out" zones would be difficult. While it might be easier for national political issues, it might not be quite so easy for Statewide issues and even less clear-cut for things going on in the County. But, speaking out against something that would be bad for the Town could be defended. He ran for office to represent the best interests of the community. He added that he was pleased that the Council had taken a position on the library funding issue with the State. Whatever the Council

decided, he hoped that there was some flexibility for those times when the Council should speak up about something that would impact the community. With respect to the death penalty, he felt this was one issue that had merit. The material he read on the death penalty seemed to support the idea that it didn't do very much to deter crime. Other material suggested that an unconscionable percentage of innocent people were executed because of faulty legal procedures, etc. In terms of the population in Town, he did not think removal of the death penalty would have much effect on crime rates in Town. But, removal of the death penalty might save the life of one or more of our citizens who ended up unjustly sentenced to death. On that basis, he was inclined to support the idea of registering the Town's opposition.

Mayor Davis said there were many in the community who would feel there were many self-evident problems being faced by the federal and State government that could be addressed. However, at some point, there would be disagreement. He felt it took some degree of arrogance on his part to step in and say he thought he knew how people would vote on, for example, abortion. He did not think that this was what the Councilmembers had been elected for. People should be told the phone numbers of people they could call.

He agreed the Councilmembers had been elected to step in when the State started talking about issues that affected the community, but he questioned where to draw the line.

Lincoln Moses, Corte Madera Rd., said the administration of the death penalty was the issue--not the death penalty itself. They had done so badly that it was a matter of public concern. He asked whether the Town had any authority over police matters. If so, that was included in this problem of an unfairly administered matter. You could be in favor of the death penalty and also in favor of a moratorium. Responding to Mr. Moses, Councilmember Merk said the Town contracted with the County Sheriff for police activities, and the Town had very little control over what they actually did.

Jon Silver, 355 Portola Road, said it was his understanding that it was the Town's policy not to pass resolutions about issues that did not have a direct impact on the Town. Residents had direct ways to send their messages to the State and federal government without spending hours in debate before the Town Council. In terms of administering the Town's policy, the question was what did have an impact on the Town. He felt the Council should routinely take positions on bills before the State legislature that would affect land use planning, etc. Arguments could be made on exactly what the Council decided to take a position on, and it might not always be clear. He felt the Town had been well served by not charging out in all kinds of areas. On the other hand, he was sympathetic to the Town's obligation as a community to not be afraid to take a stance. He discussed issues in the past that the Town had taken a position on. Additionally, he discussed this issue with the Planning Commission Chairman who suggested that the Town could sponsor--if a requisite number of citizens came forward with a petition--a Vermont-style meeting dedicated to an issue of public concern. The Mayor or a Councilmember could moderate a meeting with speakers on various sides of the issue. After an informed discussion and a vote, the Town could forward the results of the Town meeting to State or national leaders. He reiterated, however, that he was not anxious to see Town elections decided by issues like stem cell research, sending troops to Afghanistan, etc.

Eileen Drath, 136 Trinity Lane, said the five Councilmembers were her first link to the ladder climbing up to the officials who represented her. She thought it was the Council's thoughtfulness and consideration that would make a difference in the lives of the residents. She did not want to compartmentalize cases but wanted the Council to see that everything that it did was connected to the residents and their lives.

Councilmember Merk said he felt strongly that the Town should not do this kind of thing. He did not think it was the Council's job. While he personally was against, for example, the death penalty, he preferred the

Vermont-style town meeting. He was not comfortable being asked to pass judgement on these issues and did not feel it was something that he should be voting on.

Councilmember K. Comstock said it sounded that Councilmembers were uncomfortable committing the Council as an organization to views held personally. With respect to the death penalty, he said it was clear that there was not a consensus that members wanted the Council to speak on the subject. Councilmember Driscoll added that it appeared that the Council was in favor of a moratorium, but was not prepared to pass a resolution. Mayor Davis reiterated that Councilmembers were not averse to expressing individual views.

#### WRITTEN COMMUNICATIONS

(13) Town Council 3/1/02 Weekly Digest

(a) Planning Budget

Ms. Howard noted that the status of the 2001-2002 Planning Program budget was set forth in her memo of

2/16/02. She said a copy of the memo had been forwarded to the Planning Commission as requested.

(b) Styrofoam Use by Town Businesses

Referring to Councilmember Merk's memo of 3/1/02, Ms. Howard said staff had suggested, as a first step, contacting the businesses in Town that used styrofoam and educating them on alternatives. Councilmember Merk agreed. Mayor Davis suggested getting a report from Greenwaste Recovery on the extent of the problem. If the Town started with a voluntary educational approach, a feedback system would be helpful in determining next steps.

(c) Photovoltaic Generation Incentives

Councilmember Merk referred to his memo on photovoltaic generation incentives. He felt it would be worthwhile to come up with incentives for residents to install photovoltaics in appropriate locations. He suggested asking the Planner's office to see what other municipalities were doing. Ms. Howard suggested staff look into the matter. Councilmember Driscoll suggested that the ASCC see any proposal prior to it coming to the Council. Responding to Mayor Davis, Councilmember Merk explained the State and federal credits/deductions available. He discussed the chart attached to the memo and the reflectivity of some of the materials used.

Councilmember G. Comstock discussed an installation in Town of a photovoltaic shingle-type system. He recommended the ASCC require applicants to indicate what their plans were for use of photovoltaics or if none, explain why they did not plan to use it. Councilmember Driscoll said he would prefer to state the preference for photovoltaics in the Design Guidelines. Councilmember K. Comstock suggested preparing informational materials for applicants/design teams who might not have expertise in that area. Council agreed staff should see what other municipalities were doing.

(14) Town Council 3/8/02 Weekly Digest

(a) San Mateo County Report - Shared Vision 2010

Referring to his memo, Councilmember K. Comstock reviewed data of interest from the San Mateo County -

Shared Vision 2010 Report.

(b) State Grant Reimbursement Funding Update

Ms. Howard reviewed Ms. Powell's memo of 3/6/02 on grant funds from the State.

(15) Town Council 3/15/02 Weekly Digest

(a) Donation for Playground Equipment

Referring to Mr. Ingemanson's letter of 3/12/02, Ms. Howard noted that a donation of \$100,000 had been made for new playground equipment, contingent on raising \$400,000 for the project.

(b) Town Center Post - Spring 2002 Issue

Councilmember Merk said he felt the latest issue of the Post represented a lot of paper, work and money for very little information. He questioned why this and the Newsletter were both necessary. Additionally, most of

the information in the Post could be obtained from Town Hall or on the Web site. Ms. Howard noted that this was expected to be the last issue of the Post because all of the information would be available on the Web site. Ms. Powell noted that the State had in the past criticized the Town for not having public education about pesticide control; the Post had been used as a vehicle to get the information out.

Councilmember G. Comstock said he found the Post professionally done and felt it would be of particular interest to people who hadn't been in Town very long and might stimulate them to more civic participation. Councilmember Merk agreed it was nicely laid out, but felt there was not a lot of real information.

Responding to Mayor Davis, Councilmember G. Comstock said the next meeting with the contractor on the Web site was scheduled for the first part of April. He had some concern about the budget aspect and how easy or difficult it would be for Town staff or volunteers to put the information into the Web display. He said he would report back to the Council after the meeting.

(16) Town Council 3/22/02 Weekly Digest

(a) Teen Committee Request to Repair Fields

Referring to the Teen Committee's letter to the Council of 3/15/02, Councilmember K. Comstock complimented the Teen Committee and said he felt the document was diplomatic and elegant. Councilmember Merk said he would convey the compliment. Responding to Mayor Davis, Councilmember Merk said the Teen Committee had discussed the fields with the Parks and Rec Committee. Additionally, he noted that the Teen Committee had put a lot of energy into a teen center which was not likely to materialize at this point.

(b) New Solid Waste Provider for the Town

Councilmember K. Comstock referred to the announcement of the Town's new solid waste provider and asked about distribution. Ms. Powell said copies were available at Town Hall. Greenwaste would be starting a series of publications on April 15. Councilmember Merk said a lot of good education over time

would be needed to help people understand the changed and expanded waste streams.

(17) Letter from John Else

Councilmember Merk asked about the status of Jon Else's letter. Responding, Ms. Sloan said she had had a meeting with Mr. Else to discuss his concerns. A letter to the Council would be forthcoming as soon as she heard from Mr. Else's insurance company.

(18) Conference on Planning Preparedness, Recovery, Response and Mitigation

Responding to Councilmember Merk, Ms. Howard said she did not have money budgeted for conference attendance but could include that type of thing in the budget. Mayor Davis agreed some of these conferences could be worthwhile for members of Commissions/Council. Responding to Mayor Davis, Councilmember Merk said he would find out more about the upcoming conference in Los Angeles that he was interested in. Councilmember K. Comstock added that conference material might be available for those who did not attend.

(19) Budget Tracker

Councilmember G. Comstock reviewed reports he prepared to track budget expenses throughout the year. He said he would like to have a one or two page report that could be generated automatically to provide an overall picture of what was really happening on a monthly basis. He discussed the amount of time necessary to create and update the reports.

Responding to Councilmember Driscoll, Ms. Howard said the accounting package used by the Town would not print out a report in the format suggested by Councilmember G. Comstock. Councilmember Driscoll said he was concerned about additional staff time it might take to generate the reports. Mayor Davis suggested staff think about some type of executive summary that could track the budget.

ADJOURNMENT

The meeting was adjourned at 10:58 p.m.

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Mayor

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Town Clerk