

TOWN COUNCIL MEETING NO. 797, JULY 28, 2010

ROLL CALL

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

Present: Councilmembers Maryann Derwin and Ann Wengert, Vice Mayor Ted Driscoll and Mayor Steve Toben

Absent: Councilmember John Richards

Others: Angela Howard, Town Manager
Howard Young, Public Works Director
Tom Vlastic, Town Planner
Sandy Sloan, Town Attorney
George Mader, Town Planning Consultant
Sharon Hanlon, Town Clerk

ORAL COMMUNICATIONS

None

- (1) Presentation – Robert Gay, District Manager, San Mateo County Mosquito and Vector Control District

Mayor Toben welcomed Joe Fil, who represents Portola Valley on the San Mateo County Mosquito and Vector Control District's Board of Trustees, and District Manager Robert Gay. Mr. Fil, who chairs the District's Strategic Planning Committee, said that mosquitoes – which can produce 400 million offspring in a single season – transmit not only West Nile virus and malaria, but also dengue fever, encephalitis viruses, Rift Valley fever and neuroinvasive disease, which can cause permanent disability and even death. Mosquitoes are vectors for animal diseases as well, including Western equine encephalitis and canine and feline heartworm.

Mr. Gay spoke of the evolution of the San Mateo County Mosquito and Vector Control District and its current priorities.

Mr. Gay said that California's Anopheles mosquito, the malaria vector, is present in Portola Valley, where it thrives in slow-moving fresh water creeks, ponds and streams, particularly with vegetation. Portola Valley also has salt marsh mosquitoes, which travel 20 kilometers for blood meals. The urban house mosquito is the type that vectors the West Nile virus.

There have been West Nile virus cases in Santa Clara County this year, but so far none in San Mateo County. The District monitors carefully, though, taking blood samples every other week from a sentinel chicken flock at Searsville Lake to check for the virus. Mosquitoes caught in CO₂ traps and dead birds are tested as well.

The District also tests ticks – about 1,200 per year, most of them taken from parks and along trails during the January-June period – for Lyme disease spirochetes. About 1-3% of ticks test positive; when they do, the District post signs about the presence of ticks along with information about personal protective measures. They also put up warning signs when small deer mice they capture in hantavirus and plague surveys test positive. In addition, Mr. Guy explained that the District's rodent surveillance activities include

technicians monitoring tens of thousands of bait stations in sewers for rodent activity. The District cannot go into residents' homes for any sort of pest control, but from the outside technicians do help homeowners determine where roof rats may be living, how they get in and out, what they're feeding on and what they're drinking. The District also performs free ground-nesting yellowjacket control services, Mr. Guy said, noting that these insects are particularly aggressive in September. Finally, he said, the District also plays a role in controlling invasive cordgrass, which is a concern in many of the tidal areas and shorelines they already patrol for mosquitoes.

Mayor Toben thanked Mr. Gay for the substantive presentation, praising the District's for its important public health services. He said that we are fortunate to have such a well-managed and proactive agency carrying on this largely under-reported work.

Vice Mayor Driscoll asked where the District obtains its funds. Mr. Gay named a number of sources: 1) \$3.74 special tax passed when the first ERAF (Educational Revenue Augmentation Funds) hit; 2) \$0.0000185505 from each \$1 of ad valorem property taxes; 3) a benefit assessment of \$15 per single-family equivalent in areas where there are no ad valorem property taxes; 4) service fees from agencies that don't pay taxes but breed mosquitoes – such as sewage treatment plants. They pay \$50 an hour plus the price of materials for treatment, or about \$2,800 a year.

In response to a question from Councilmember Wengert about the volume of calls the District receives from citizens, Mr. Guy explained that the number dropped dramatically when the District took a proactive rather than reactive stance. The West Nile virus changed the whole nature of mosquito abatement in California, he said, comparing it to battling malaria in the early 1900s.

CONSENT AGENDA [8:05 p.m.]

By motion of Vice Mayor Driscoll, seconded by Councilmember Derwin, Items 3 and 4 were approved with the following roll call vote:

Aye: Councilmembers Maryann Derwin and Ann Wengert, Vice Mayor Ted Driscoll and Mayor Steve Toben

No: None

(3) Warrant List of July 28, 2010 in the amount of \$101,633.82

(4) Recommendation by Assistant Town Manager – Response to June 7, 2009-2010 Grand Jury Report

(a) Adoption of a Resolution of the Town Council of the Town of Portola Valley Determining and Establishing the Appropriations Limit for 2010-2011

REGULAR AGENDA [8:10 p.m.]

(2) Minutes of Regular Town Council Meeting of July 14, 2010 – approved as amended 4-0
[Removed from Consent Agenda]

By motion of Vice Mayor Driscoll, seconded by Councilmember Derwin, the minutes were approved as amended 4-0

(5) Public Hearing – Recommendation by Public Works Director Establishing an Underground Utility District on Alpine Road

- (a) Adoption of a Resolution of the Town Council of the Town of Portola Valley Establishing an Underground Utility District on Alpine Road between Nathhorst Avenue and the Town Limit at Ladera (Resolution No. 2499-2010)

Mayor Toben invited Mr. Young to introduce the item. Mr. Young explained that the Exhibit A map, which delineates the outer limits of the proposed Underground Utility District, was put together so that Portola Valley will be able to get into PG&E's queue for design of the Town's undergrounding project. Once this district is in place, no utility will be able to install new overhead equipment within its boundaries. About 40 residential parcels are in this vicinity; about six have service laterals that would require conversion.

PG&E Rule 20A allows the Town Council to decide whether Portola Valley covers the cost of such conversions out of its Rule 20A allocation or requires the homeowners to pay. The Rule 20A allocation would apply to installation for a maximum of 100 feet of underground cabling/wiring past the right of way (at approximately \$100 per foot) and up to \$1,500 for panel conversion. The maximum within those constraints would be \$11,500. The Town Council would not make this decision until after PG&E determines what actual costs should be for the scope, at which time the resolution would be amended based on Council's decision. He said that when the resolution comes back to the Town Council for its decision about any funding allocation for homeowners, it also will establish a date by which all parties and properties must be ready to connect – AT&T, Comcast, PG&E and all the residents. Mr. Young emphasized that this project is in its infancy, so there will be changes as the design is developed and finalized.

Mayor Toben pointed out that it would be at least 2014 before design work begins, and 2017 before the work might be done. In response to Mayor Toben, Mr. Young explained that the \$100 per foot is a construction estimate, so it might well escalate by the time construction begins. The cost of the panel conversion, too, could exceed \$1,500 in the future.

Councilmember Wengert asked whether Mr. Young had a sense of the average distance that would be involved in undergrounding on the 40 parcels. He said that it is all over the board, but did not think many would exceed 100 feet, inasmuch as the right-of-way is rather wide.

Councilmember Wengert asked whether there is an inflation provision for the \$11,500 maximum, in that it may be 7 to 10 years before the work is done. Mr. Young said he did not believe so. The Town's Rule 20A funds, however, accrue at the rate of about \$30,000 a year.

Having followed recent discussions about cellular service facilities, Councilmember Derwin wanted to understand whether any new technology that emerges would be permitted on poles in the proposed district. Mr. Young said that is an issue he will discuss with the Town Attorney, because he does not feel it would be fair to give exemptions to wireless operators. Replacing old equipment is permissible, but additional equipment is problematic. At this time, there are three telecommunications towers in the proposed district.

Town Planner Vlasic pointed out that AT&T recently applied for approval of installation of two new antennae on one of the poles in the proposed district. Mayor Toben, noting the lengthy delay before design even begins, asked whether the prohibition on new installations could be postponed until design work begins. Mr. Young said that was acceptable to him, as long as the Town informs utilities upfront what's coming down the line. Ms. Sloan said she also believes we could negotiate around it. Mr. Vlasic said State law mandates a 10-year life for a use permit for a wireless facility barring any substantial land use reasons, but he believes that the existence of an undergrounding district would be a substantial reason for a shorter term.

At the June 9, 2010 Town Council meeting, Vice Mayor Driscoll brought up the idea of talking with Stanford about the C-1 trail improvements in the proposed district to share costs, avoid digging up the area twice and maybe getting Portola Valley moved up in PG&E's queue to take advantage of the trail work. He asked if that idea went anywhere. Mr. Young said that it did not, because the Stanford project is

on one side of the road and the undergrounding will be on the other, where they hope to dig in the dirt rather than under the asphalt. Vice Mayor Driscoll said he thinks we're missing an opportunity to save some money. Recalling how long it took to get the trail agreement finalized, Attorney Sloan said that getting Stanford's cooperation would probably be problematic. Mayor Toben suggested that the discrepancy in timing would be a deal-breaker in any case, because the trail work will begin soon.

Mayor Toben inquired about the nature of notification to affected owners, asking whether they were informed about the potential costs to them or some ballpark figure. He wanted to ascertain that everyone understands it is not a trivial financial undertaking. Mr. Young said the notice said only that homeowners might be liable for costs, depending on the direction the Council took. Observing that homeowners might have paid more attention to a number, Mayor Toben also asked whether there is a sense of how much the design work will take of the Rule 20A funds. Mr. Young estimated in general terms, design is typically 15% of a project and our project is about half a million dollars.

Councilmember Wengert asked whether any advance communication with residents in the area to get their thoughts about the idea of undergrounding had taken place. Cable Committee Chair, Ken Lavine, indicated that the entire reason for establishing this undergrounding district is to get Portola Valley into the PG&E queue. The area mapped out is much larger than it ultimately will be. In Area A, there are currently no laterals to homes or businesses. In Area B, there are three. Once some design work is done, it will be easier to judge costs per linear foot and which of the two areas (A or B) makes more sense. At that time, more information and real numbers would be available to give to residents. By then, residents might even have addressed the issue themselves, since current regulations already require undergrounding during substantial remodels.

Mayor Toben said that Mr. Young made a good point about the essential purpose being getting in line at PG&E. The Council's action tonight would not commit to anything other than creating the district. If in the long run the project proves not viable for any reason, the district could be dissolved.

Mr. Lavine said that in discussions with PG&E, he learned that counties also get Rule 20A funds and seem to have more funds than they do projects. The PG&E representative suggested that it would be worthwhile for Portola Valley to partner in some way with Santa Clara County, which abuts Area A at the far end of Alpine Road.

Mayor Toben opened the public hearing.

Diana Raines, Alpine Road, lives in one of the three Area B homes with laterals and is concerned about the bottom line, about residents having to pay for the conversion, and being penalized and discriminated against for living in that section of Alpine Road. She said that she and her husband are both retired, and object to the prospect of having to pay \$10,000 or more, no matter how much they like the idea of undergrounding. When Vice Mayor Driscoll said that he didn't hear that residents *would* be paying for it; they *could* be. Ms. Raines responded that if she were told that the Town will cover the cost, she would say, "Go for it." Mayor Toben said that undergrounding experiences in other communities suggest that sometimes homeowners see value in getting this done even if they shoulder some of the cost, because undergrounding enhances property values and improves reliability in terms of not worrying about trees falling on overhead utility lines.

Mayor Toben explained that the part of the rationale for looking at Alpine Road is safety, because it is so heavily traveled and people run into poles. Furthermore, since it is less densely populated, fewer properties would be affected. Ms. Raines said that she has no trees on her property that would take down lines or a pole. Mr. Lavine said only three homes do not already have utilities undergrounded. Mayor Toben pointed out that many of Ms. Raines' neighbors have already incurred this expense because the Town requires undergrounding when homeowners do substantial remodeling. He assured Ms. Raines that if this plan goes forward, there will be many opportunities to make her feelings known, because the conversation is at a very early stage.

Mike Mangiatini of Atherton, a real estate representative with AT&T Mobility, heard about the project and wanted to learn more. He said his company has a couple of projects in the planning stages, including an intended attachment to a utility pole in Area A. He said that it sounds as if Portola Valley is open to allowing equipment modifications or upgrades at existing sites, and even adding a new site at its own risk. That being the case, he said that his company would support it. In fact, he said that the whole industry probably would be supportive. For now, he said, at a minimum, his company wants to be able to modify and upgrade an existing site, and will go to the Planning Commission with this project soon. The project involves switching out two existing antennae with a new model and adding some ground equipment. Mr. Mangiatini said that he anticipates more similar projects over the next 5 to 10 years.

In reference to Ms. Raines' concerns, Mr. Lavine said that during the process of investigating undergrounding over the past several years, he's learned that Palo Alto – which has an aggressive long-term undergrounding program – has a mechanism to fund underground work for homeowners in exchange for a lien or a claim on the property. The city funds are then reimbursed when the property is sold. Mayor Toben said the existence of such a program suggests that a variety of mechanisms could be considered if property owners were to be obligated to have undergrounding work done.

Mayor Toben closed the public hearing and brought the matter back to the Council for discussion.

Vice Mayor Driscoll said that Portola Valley needs to get into the PG&E queue. He favors establishing the district, but because he does not want it to be a burden on isolated individuals, he said he will go on the assumption that as part of the economics of the decision the Town includes the cost of covering the expense for the property owners. In other words, he said, we don't do it if we can't afford to assist them or subsidize their individual burdens.

Mayor Toben said that Vice Mayor Driscoll articulated a principle that individual property owners should not be unduly burdened financially, and wondered how that principle should be expressed in the resolution. Vice Mayor Driscoll said that he would not change the wording of the resolution itself, but make a motion that incorporates that principle. He would like to start the ball rolling with the good intention of furthering Portola Valley's undergrounding program but with the express provision that it not unduly burden individual homeowners.

Councilmember Wengert said that she sees a very clear first step – get in the queue. However the matter ultimately is resolved, this is a good first step. She said when the time comes to define the specifics of that project, fairness and the wishes, desires, needs and abilities of affected homeowners will be at the top of the list of considerations. She said she is uncomfortable prescribing that in tonight's action, but it is appropriate to take the first step.

Councilmember Derwin asked whether this resolution assures AT&T that they can make modifications to equipment on power poles. Attorney Sloan said no, the modifications can be made only if they are approved. The Telecommunications Act requires use permits issued for wireless facilities to have 10 years' duration barring overriding significant land use issues. In this case, we could say, "This is an area where we have plans, so we'll issue a permit for 7 years." Mr. Mangiatini said that he agrees, and AT&T is fully prepared to cooperate.

Councilmember Derwin also addressed the issue of the undue burden on homeowners, in part because there are no provisions for escalating construction costs; \$100 per foot could become \$200 per foot; \$1,500 could become \$3,000. She said she is not comfortable simply offering reassurances without some language in the resolution. Vice Mayor Driscoll said that the motion could be couched in such a way as to provide guidance to a future Town Council. Councilmember Derwin asked if the present Council could do anything that would be binding. Mayor Toben said that it would be up to a future Council to resolve that issue.

Councilmember Wengert asked whether a 10-year conditional use permit that is already in existence in this corridor would be grandfathered in. Mr. Vlasic says there are none.

Vice Mayor Driscoll moved to Adopt the Resolution of the Town Council of the Town of Portola Valley Establishing an Underground Utility District on Alpine Road between Nathhorst Avenue and the Town Limit at Ladera (Resolution No. 2500-2010) for the purpose of taking the first step toward design work. The Council wants to 1) avoid inflicting undue financial burden on individual homeowners to upgrade and underground service laterals; 2) clarify that new installations on existing poles will be negotiated on a case by case basis with utilities understanding that their time on a conditional use permit will be limited. Councilmember Derwin seconded and the motion carried 4-0.

- (6) Public Hearing – Recommendation by Town Planning Consultant – Consideration of a Resolution approving the Revisions to the Amendment to the Safety Element of the Town’s General Plan as directed at the July 14 Council meeting [9:05 p.m.]
 - (a) Adoption of a Resolution of the Town Council of the Town of Portola Valley Adopting a Revised Safety Element as an Amendment to the General Plan and Adopting a Negative Declaration for the Amendment (Resolution No. 2501-2010)

Mayor Toben recused himself and Vice Mayor Driscoll took the gavel.

Mr. Mader said that in making the changes since the prior Town Council meeting, he tried to minimize identification of specific localities and generalize more. Councilmember Wengert said that it was very artfully done, particularly Section 4140a.

Vice Mayor Driscoll opened the public hearing.

Mr. Toben, who lives at 12 Santa Maria Avenue in the Woodside Highlands neighborhood, said that he appreciated the opportunity for input and thought the work is very well done.

Vice Mayor Driscoll closed the public hearing.

Councilmember Wengert moved to Adopt the Resolution of the Town Council of the Town of Portola Valley Adopting a Revised Safety Element as an Amendment to the General Plan and Adopting a Negative Declaration for the Amendment (Resolution No. 2501-2010). Councilmember Derwin seconded and the motion carried 3-0 (Mayor Toben absent for this item).

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS [9:08 p.m.]

Mayor Toben returned to the dais.

- (7) Reports from Commission and Committee Liaisons
 - (a) (C/CAG) City/County Association of Governments

Councilmember Derwin reported that she will be serving as Vice Chair of the Resource Management and Climate Protection Committee (RMCP), a subcommittee of C/CAG, with Woodside Councilmember Deborah Gordon as the new Chair. At its July 15, 2010 meeting, the group discussed adding a chamber of commerce member and will approach Google, Adobe and Whole Foods about a replacement for the large business slot. Members reviewed the economic and leadership sections. They also discussed San Mateo County becoming more aggressive in recruiting clean tech businesses. Portola Valley was mentioned often as a leader in green building. PG&E just hired some new people to help the cities with sustainability efforts, one dedicated to San Mateo County. Development of the Climate Action Plan template, which Sustainability & Resource Efficiency Coordinator Brandi deGarmeaux has been working on since last fall, is on track.

(b) Cultural Arts Committee

Councilmember Derwin reported that the Cultural Arts Committee debriefed on the very successful Music Night held at Town Center and is planning the next one, which is scheduled for Friday, August 27. They discussed damage to tiles at the children's playground and above the water fountain at the restrooms. The committee will hold its first Movie Night on Friday, August 20.

(c) Sustainability Committee

Councilmember Derwin reported that the Sustainability Committee met for the second time, with Sustainability & Resource Efficiency Coordinator Brandi deGarmeaux giving an update on the California First Program. She indicated that the program has been stalled by recent developments in Washington regarding PACE funding. Debbie Mytels from Acterra reported to the Sustainability Committee that the Acterra Green at Home High Energy Program still has not been given the contact from the California Energy Commission (CEC). She also talked about principles and techniques of community-based social marketing. The committee also discussed the pros and cons of Acterra's strategy to offer the 150 free home audits to residents.

(d) ASCC (Architectural and Site Control Commission)

The ASCC met to review a new residence on Antonio Court and a review of a remodel on Bow Way.

(e) Community Events Committee

Councilmember Wengert reported that the Community Events Committee is desperate for new members. At this point, there aren't enough people to run the silent auction at the Blues and BBQ event. Staff will place a notice on the Town website and the PV Forum.

(f) California Clean Tech Open

Vice Mayor Driscoll represented the Town at the California Clean Tech Open (CCTO) held in San Jose. He reported that Portola Valley was lauded repeatedly for being a leader.

(g) Conservation Committee

Vice Mayor Driscoll reported that at its July 27, 2010 meeting, the Conservation Committee discussed the need for a storage place for archival material – books, maps, open space preserves, etc. Committee members also asked what happened to the Open Space Preserves recommendations that they made to the Town Council last fall.

(h) Trails & Paths Committee/Safe Routes to School Coalition

Vice Mayor Driscoll said that he and Councilmember Derwin joined the July 28, 2010 Safe Routes to School Coalition group walk as part of a Trails & Paths Committee responsibility (but not a formal committee meeting). They discussed a second drop-off area for use by carpoolers only and trail improvements to get people off the roads. Ms. Howard reported that staff has a plan in place that they would like to complete before the school year begins and are looking at carpooling software to encourage people to carpool or walk together or ride bikes together.

(i) Firewise Advisory Committee

Mayor Toben reported on the July Firewise Advisory Committee meeting and is pleased about the sense of how serious members are about intensifying fire prevention work. Woodside committed an additional \$25,000 from its 2011 budget. Portola Valley committed \$5,000. He said that the committee is looking at

abatement work done by Los Trancos Water District and its program to help homeowners with financial support for SOD abatement. The August meeting will consist of close study of specific sites, based in part on the Moritz maps. By the September meeting, plans should be finalized for the expenditure of the fire prevention funds. The October meeting will feature a distilled version of the previously held weekend-long training program.

WRITTEN COMMUNICATIONS [9:35 p.m.]

(8) Town Council 7/16/2010 Weekly Digest

- (a) #2 – Memorandum to Town Council from Brandi de Garmeaux regarding Update on Energy Upgrade San Mateo County, the CaliforniaFIRST Program and the Status of PACE (Property Assessed Clean Energy) Financing – July 16, 2010

Staff will draft a letter in support of PACE financing for Town Council's consideration.

(9) Town Council 7/23/2010 Weekly Digest – None

CLOSED SESSION: [9:38 p.m.]

- (10) Real Estate Negotiations with Real Property Negotiator, Town Attorney and Town Manager; Government Code Section 54956.8, Parcel # 076-261-010, 900 Portola Road,

REPORT OUT OF CLOSED SESSION

No report

ADJOURNMENT TO CLOSED SESSION: 10:25 p.m.

Mayor

Town Clerk