

TOWN COUNCIL MEETING NO. 807, JANUARY 12, 2011

Vice Mayor (Acting Mayor) Maryann Derwin called the meeting to order at 7:31 p.m. and led the Pledge of Allegiance. Ms. Howard called the roll.

Present: Councilmembers John Richards, Steve Toben and Ann Wengert; and Vice Mayor Maryann Derwin

Absent: Mayor Ted Driscoll

Others: Angela Howard, Town Manager
Janet McDougall, Assistant Town Manager
Sharon Hanlon, Town Clerk
Sandy Sloan, Town Attorney
Tom Vlastic, Town Planner
Karen Kristiansson, Senior Planner
Stacie Nerdahl, Administrative Services Officer

ORAL COMMUNICATIONS

Town Attorney Sloan noted that Item 5, noticed as a Public Hearing and described correctly, should have been placed under Public Hearings rather than on the Consent Agenda.

CONSENT AGENDA [7:32 p.m.]

- (1) Minutes of Town Council Meeting of December 8, 2010 [*removed from Consent Agenda*]
- (2) Ratification of Warrant List of December 22, 2010 in the amount of \$84,380.38
- (3) Ratification of Warrant List of January 12, 2011 in the amount of \$103,844.85
- (4) Recommendation by Assistant Town Manager – COPS Funding 2010-2011
 - (a) Adoption of a Resolution of the Town Council of the Town of Portola Valley Continuing the Supplemental Law Enforcement Services Fund Through Citizens Options for Public Safety Program and Maintaining a Separate Budget Account for 2010-2011 Fiscal Year (Resolution No. 2511-2011)

By motion of Councilmember Richards, seconded by Councilmember Wengert, the Consent Agenda (Items 2, 3 and 4) was approved with the following roll call vote:

Aye: Councilmembers Richards, Toben and Wengert and Vice Mayor Derwin

No: None

- (5) Recommendation by Town Attorney – Adopt Ordinance Amending the Conflicts of Interest Code [*removed from Consent Agenda*]

REGULAR AGENDA [7:35 p.m.]

- (1) Minutes of Town Council Meeting of December 8, 2010 [*removed from Consent Agenda*]

By motion of Councilmember Toben, seconded by Councilmember Richards, the minutes were approved as amended 3-0-1 (Councilmember Wengert abstaining).

PUBLIC HEARING

(5) Recommendation by Town Attorney – Adopt Ordinance Amending the Conflicts of Interest Code [moved from Consent Calendar]

(a) First Reading of Title, Waive Further Reading, and Introduce an Ordinance of the Town Council of the Town of Portola Valley Amending the Appendix to Chapter 2.36 [Conflicts of Interest] of Title 2 [Administration and Personnel] of the Portola Valley Municipal Code (Ordinance No. __)

Ms. Sloan indicated that 2004 was the last time Portola Valley amended its Conflicts of Interest ordinance. Some position names have changed since that time, the consultant disclosure category has been clarified, and formatting changes introduced.

Vice Mayor (Acting Mayor) Derwin invited Councilmembers' questions and comments, and opened and closed the public hearing with no one coming forward. She brought the matter back to the Council. Councilmember Wengert moved the introduction of the Ordinance of the Town Council of the Town of Portola Valley Amending the Appendix to Chapter 2.36 [Conflicts of Interest] of Title 2 [Administration and Personnel] of the Portola Valley Municipal Code (Ordinance No. __). Councilmember Toben seconded, and the motion carried 4-0.

(6) Public Hearing – Recommendation by Planning Manager – Public Hearing on the Proposed Amendments to the Zoning Ordinance to implement portions of the Town's Housing Element

(a) First Reading of Title, Waive Further Reading, and Introduce an Ordinance of the Town Council of the Town of Portola Valley Amending Title 18 [Zoning] of the Portola Valley Municipal Code to reflect the Updated Housing Element (Ordinance __)

Ms. Kristiansson, explaining that some of the proposed changes in the ordinance are needed to comply with State law, indicated that amendments would:

- Allow emergency shelters on church property;
- Allow residential care facilities for up to six people by right in residential districts and seven or more people with a conditional use permit in C-C and A-P districts;
- Make regulations for farm worker housing, transitional housing and supportive housing consistent with State law;
- Allow staff-level review of certain types of second units;
- Permit the Town Council to waive or reduce fees in developments that earmark 50% or more of their units for moderate-income housing;
- Improve accommodations for people with disabilities.

Proposals include changing the definition of households, allowing ramps to extend into required yards and instituting a reasonable accommodations ordinance whereby people with disabilities could seek reductions in Town standards if they need such reductions to enjoy and use their homes. The

amendments also would allow taller second units with ASCC approval, regardless of whether the units are attached to accessory structures.

Ms. Kristiansson noted that the proposed amendments also include replacing the word "church" with "religious institution," removing golf courses from the list of conditional uses for the R-E districts, and eliminating references to the second-unit amnesty program.

Ms. Kristiansson explained that most of the amendments were considered as part of the Housing Element and were found to have no significant impact. None of the amendments would affect the use or the development potential of land; several of the amendments are merely procedural. The project was determined to be exempt from CEQA.

Councilmember Wengert inquired about the source of definitions of household, church and so forth – the State? The County? She said they are appropriate for contemporary situations.

Ms. Kristiansson said that several sources were used. The definitions of transitional and supportive housing are much like the State definitions. For the definition of household, the Town Attorney's office had considerable input. Ms. Howard pointed out that in 1980 the California Supreme Court ruled that municipalities could not define household as including people being related by blood or marriage.

Vice Mayor (Acting Mayor) Derwin opened and closed the public hearing with no comments made. She brought the matter back to the Council. Councilmember Richards said he attended a number of Planning Commission meetings on this subject, found it covered very carefully and thoroughly and is satisfied with the result. Vice Mayor Derwin said that it's good to know this has been vetted by the Planning Commission.

Councilmember Richards moved to Read the First Title, Waive Further Reading, and Introduce an Ordinance of the Town Council of the Town of Portola Valley Amending Title 18 [Zoning] of the Portola Valley Municipal Code to reflect the Updated Housing Element (Ordinance __). Councilmember Toben seconded, and the motion carried 4-0.

(7) Recommendation by Administrative Services Officer – Review of FY 2009–2010 Annual Audit [7:45 p.m.]

Ms. Nerdahl said that after the past few years, with all of the extra activity involved in the Town Center, the FY 2009-2010 audit was an easy one. She indicated that Town assets, which increased by nearly \$700,000, consist basically of capital assets, cash and stock, and that the increase over the previous year is due primarily to the increased valuation of capital assets and the stock. She noted that the stock valuation changes considerably; at the end of the previous fiscal year, the stock was valued at \$198,000 and was up to \$319,000 at the end of FY 2009-2010 – but is now back down to \$198,000.

In reference to the General Fund balance, Ms. Nerdahl indicated a significant decrease, with revenues lower than budgeted and expenses a little higher because some Town Center expenses rolled over into 2009-2010. As of June 30, 2010, \$1.9 million was unreserved and undesignated; in comparison with the years before the Town Center project, that is about \$400,000 more. The Town's liabilities decreased by more than 30%, a result of no more pensions payable. Liabilities are now back to normal – basically accounts payable, refundable applicant deposits and compensated absences.

Ms. Nerdahl discussed fluctuations in the Statement of Net Assets (pages 5-6 in Maze & Associates' Management's Discussion and Analysis) in terms of prior years' numbers being slightly inflated because of the Town Center project. Similarly, she said, fluctuations in the Statement of Activities (pages 6-7) were due in part to the Town Center project, as well as economic factors – including popular classes and increasing building permit activity. She reported that expenses for consultants were lower in 2009-2010 than in the prior year, which also included expenses related to the Town Center. Total net assets at the

end of FY 2009-2010 were \$38.2 million (page 6). The Condensed Statement of Capital Assets (page 8) indicates changes in three categories: land improvements, buildings and infrastructure.

The Statement of Agency Funds Net Assets (page 21) tracks maintenance history and the remainder of the Portola Valley Community Fund (PVCF) that was created to track fundraising for the Town Center project. Ms. Nerdahl said that when the fiscal year ended on June 30, 2010, the PVCF had a negative balance of some \$26,000; one pledge fulfillment since that time brought in about \$20,000 and the final pledge is on its way in.

Ms. Nerdahl called the Council's attention to Note 2-D, Cash and Investments (pages 27-28), pointing out where the auditors indicated, "The value of the common stocks has been volatile with its price ranging from about \$2.11 per share to about \$6.07 per share. . . ." She said that the Finance Committee has had some discussion about how and when to liquidate the stock because it has been so volatile. As for Note 4-A, Current Interfund Balance (page 31), she said that the Grants Special Revenue Fund owed the General Fund \$19,600 as of June 30, 2010. That balance, which involved the American Recovery and Reinvestment Act (ARRA) funds that Portola Valley received, has been paid. Ms. Nerdahl said that Note 5, Loan Receivable (page 31), references a Wayside II loan. Per the original payment schedule on file, it is two years ahead of schedule, in part because the borrowing was less than first indicated, interest rates have been low, property tax revenue has been slightly more than forecast, and ongoing expenses have been nil.

In terms of Note 7, PERS Pension Plan (pages 33-34); Ms. Nerdahl noted that the CALPERS required employer contribution rate for 2009-10 was 13.075%, down from 14.073% the prior year. As of July 1, 2011, it will go up to 13.845%. Councilmember Toben, referring to a statement in the report indicating that the Town pays employee contributions as well as its own, asked whether it is common for municipalities to pay the employee contribution. In response, Ms. Nerdahl said that according to the information she has seen, it appears that the majority of municipalities do pay the employee contribution. Pointing out a new table (page 34) in the audit, Ms. Nerdahl said that the Town can be reassured that its net pension obligation is zero.

Referring to the General Fund Schedule of Revenues, Expenditures and Changes in Fund Balance (Budget and Actual) for the fiscal year ended June 30, 2010 (page 38), Ms. Nerdahl explained that it shows how the final numbers came in against the original budget and offered reasons for some of the variances – in property taxes, sales taxes, franchise fees, utilities users taxes, contributions, licenses and permits, service charges and fees, capital improvements, and other items. She said that she has requested information from Cal Water as to how its franchise fee was determined.

In response to a query from Councilmember Toben, Ms. Nerdahl said that the Finance Committee had no substantive comments or questions on the financial statements and/or the audit – no red flags or issues they wanted to explore.

By motion of Councilmember Toben, seconded by Councilmember Richards, Council voted 4-0 to accept and file the Basic Financial Statements for fiscal year 2009-2010.

- (8) Recommendation by Assistant Town Manager – Ford Field Refurbishment Project [8:05 p.m.]
 - (a) Discussion of Project Scope – Consideration of Granting Nonconforming ("Grandfathered") Status for Batting Cage relative to Creek Setback Ordinance

Referencing her January 6, 2011 memorandum to the Town Council, Ms. McDougall said that staff is getting ready to bring forward a contract for the design work for Ford Field refurbishment, which should go to the Town Council at its January 26, 2011 meeting. She explained that the ASCC had some concerns about the batting cage, two storage containers, and some fencing being located within the recently established creek setback area. She and Planning Manager Leslie Lambert met with Jeff Aalfs and Jeff

Clark, who were appointed as an ASCC subcommittee to work with staff and others to help advance the project, and discussed grandfathering these elements if the Council agrees. The results of a topographical survey should provide good information about the precise location of the top of the creek bank and its high-water mark relative to the placement of these elements.

In response to Councilmember Wengert, Ms. McDougall affirmed that the encroachment would not increase from what it is currently. The footprint will remain essentially the same – perhaps even a bit smaller, but the height would be reduced. In response to Councilmember Richards, she said that sections of the creek bank have eroded, and she agreed that there is no prospect of stabilizing the creek bank through the C-1 Trail improvement project. However, she added that some time in the future, the Town may be able to implement a Phase II for Ford Field, making some minor improvements to the parking area and perhaps some creek bank stabilization.

Councilmember Wengert asked whether the term "grandfathering" implies that waiving the setback requirements would be granted in perpetuity or for this particular project. Because the term means legal nonconforming, Ms. Sloan said that the waiver theoretically could remain forever – even though the Town controls the property.

In response to Vice Mayor Derwin's invitation for public comment, Tim Goode, with the Alpine Little League, said that information about the storage area being within the newly established creek setback came as a surprise, and that area is vitally important to the Little League. In addition to storing pitching machines and equipment there, it is their source of power. He said that he does not want to delay the project, but if the structure is grandfathered, he wanted to know if they could still find an equally secure solution at Ford Field to solve storage issues. Wooden storage lockers next to the bleachers are not very secure, with the locks being broken constantly.

Vice Mayor Derwin asked what the current refurbishment plan envisions for storage. Ms. McDougall clarified that storage at Ford Field currently serves the entire Alpine West Menlo Little League in all of its locations – La Entrada, Barkley Field, McCovey Field and Ford Field. Discussion at ASCC and some residents have revealed a desire to scale the facility at Ford Field back to just what's needed for Portola Valley. What may be appropriate, she said, is to go back to the Parks & Recreation Committee for a few options that identify what needs to be stored at Ford Field. As for storage under the bleachers, she said that the design team can be tasked with coming up with a recommendation for structures that are secure. Other sites in other communities may be available for off-season storage.

Councilmember Richards asked whether grandfathering is necessary if another storage solution emerges. Ms. McDougall said yes. Councilmember Richards indicated he had no problem with it. Councilmember Wengert said there were so few other options in that location that the grandfathering would be a reasonable exception. Vice Mayor Derwin said that the Council would accept the staff recommendation in regard to the batting cage and directed staff to pursue other options for storage as suggested by Ms. McDougall.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(9) Reports from Commission and Committee Liaisons [8:20 p.m.]

(a) Emergency Preparedness Committee

Councilmember Toben reported that he would be unable to attend the Emergency Preparedness Committee meeting on January 13, 2011, but he met with Committee Chair Chris Raanes to discuss the year's agenda. He said that it is clear to him that a significant emphasis will be on "Household Preparedness" to enhance residents' level of preparedness. Councilmember Toben noted that a lot of the burden falls on Ms. Howard's shoulders as Director of Emergency Operations. A Fifth Wednesday program is scheduled for March 30, 2011.

(b) Finance Committee

Councilmember Wengert indicated that the Finance Committee discussed the audit and employee contributions for health care at its December meeting. Ms. Howard and Ms. Nerdahl also participated in that meeting. Councilmember Wengert expects that the ultimate recommendation that will come to the Town Council from the Finance Committee after a robust discussion about employee contributions would be to begin a small employee contribution – probably 12.5% of the premium for employees' eligible dependents. Councilmember Wengert added that while there is great appreciation for the fact that Portola Valley has one of the best staffs anywhere and the financial problems other communities are facing may not currently affect the Town, it is nevertheless important to take a new role in managing for the future, including offering healthcare plans that are more comparable to those in the private sector.

(c) Architectural and Site Control Commission (ASCC)

Although she was unable to participate in the joint Planning Commission/ASCC site meeting earlier in the day, Councilmember Wengert attended the Architectural and Site Control Commission (ASCC) meeting of December 13, 2010. She reported that the potential subdivision of the Shorestein property, which proposes dividing the 11.6-acre parcel into three lots, generated considerable discussion. She explained that a number of neighbors have expressed concerns about roads, access, changes and so forth.

(d) Planning Commission

Councilmember Richards said that he visited the Shorestein property, where he expects the proposed subdivision to test the Town's ordinances. He also attended the Planning Commission's meeting on December 15, 2010, when the Commission continued consideration of a Conditional Use Permit for the Neely/Myers project. The primary focus of the discussion concerned precedents for obtaining open space commitments or other community benefits in exchange for additional allowances for floor area and impervious surfaces. Of the four or five buildings proposed, he said that staff recommended approval of only a couple of them.

(e) Trails and Paths Committee

Councilmember Richards reported that the Trails and Paths Committee met on January 11, 2011, for the first time with its group of new members. He said that it was very positive, with a lot of energy. Ms. Howard agreed that it's a wonderful group, full of great ideas, from field trips to Committee-led trail hikes to picnics and work parties. The group's new meeting time is in the morning on the second Tuesday of the month. Susan Gold remains the Chair.

(f) Library JPA Governing Board

Vice Mayor Derwin said that she attended a productive budget study session along with three members of the Library JPA Governing Board as well as staff. The plan is to reduce the structural deficit to zero by FY 2017-2018. Recommendations will go back to the Operations Committee. About 88% of its revenue comes from property taxes. The organization already has reached agreements with AFSCME and is currently negotiating with SEIU. Vice Mayor Derwin said that they are pushing for a two-tier retirement system. She also reported that \$1.4 million is returned annually to the three donor cities, including Portola Valley.

(g) San Mateo County Council of Cities

The Council of Cities/City Selection Committee meeting in December was cancelled because the City Selection portion was not noticed properly. A nominee for the South Bay seat on the Bay Conservation Development Commission was needed by the first week of January 2011, and the ABAG President would not change that date. Accordingly, the Committee got together on January 5, 2011, and learned that there

was also a West Bay seat to fill. Kelly Fergusson will be interviewed for the South Bay seat and Mark Addiego for the West Bay seat.

(h) (C/CAG) City/County Association of Governments

Vice Mayor Derwin reported that the Bay Conservation Development Commission Executive Director Will Travis gave what she described as a brilliant presentation on sea level rise at the C/CAG meeting. In addition, C/CAG talked about the State budget deficit, indicated that funds from Measure M, which will bring in vehicle registration fee funds, will start being collected in May of 2011, and expressed concerns about being able to sell bonds for the San Mateo County Smart Corridor project.

(i) Sustainability Committee

Vice Mayor Derwin said that the Sustainability Committee held two meetings, one on December 20, 2010 and then again on January 10, 2011, to finalize a presentation scheduled for the January 26, 2011 Town Council meeting and roll out its project in February. They named the program Energy Upgrade Portola Valley to align with Energy Upgrade San Mateo County and Energy Upgrade California. They are putting together a loaner kit that includes an infrared gun, a device to check kilowatt output and other items so people can investigate energy issues in their own homes. If grant money is forthcoming, the loaner kit may even include a camera, according to Vice Mayor Derwin.

She said that Portola Valley needs to reduce greenhouse gas (GHG) emissions by 21,000 tons a year to be consistent with AB 32. She also said that Building & Planning Assistant Cheyanne Brown has analyzed all permits issued over the past 10 years to determine patterns, because it is important to reach people about sustainability efforts before they come to the permit counter. The Sustainability Committee's group assignment is for each to find two people agreeable to be part of a sub-pilot group participate in an energy audit and do a retrofit.

WRITTEN COMMUNICATIONS [8:50 p.m.]

(10) Town Council December 10, 2010 Weekly Digest

- a) #7 – San Mateo County Sheriff's Office Town of Portola Valley Crime Activity Report for July through September 2010

Councilmember Toben asked the reason for such a discrepancy in the numbers of traffic citations between the first quarter and second and third quarters. First-quarter citations (January – March) totaled 427, versus 265 in the second quarter (April – June) and 296 in the third quarter (July – September). He pointed out that moving citations were down at least 40% (from 356 in Q1 to 201 in Q2 and 203 in Q3). He also noted that "enforcement stops" were down dramatically (from 382 in Q1 to 194 in Q2 and 146 in Q3). He suggested asking Lt. Larry Schumaker about it.

(11) Town Council December 17, 2010 Weekly Digest

- a) #2 – Memorandum to Council from Howard Young regarding Alpine Road C-1 Path – General Update – December 10, 2011

Ms. Howard noted that she has asked Public Works Director Howard Young to periodically provide the Town Council and the Trails and Paths Committee with updates on the C-1 Trail. If the last couple of permits are approved, she said the Town hopes to go out to bid in April and start construction in June.

- b) #3 – Memorandum to Council from Howard Young regarding Town Center – Additional site lighting along pedestrian corridors – General Update – December 10, 2011

Ms. Howard said that the Town Center outdoor lighting phase is complete, and staff will continue to monitor the situation.

- c) #6 – Memorandum to Council from Judy King requesting a certificate of appreciation for Tom Rogers, a Portola Valley resident who volunteers at Filoli – December 16, 2011

Staff will send a letter explaining the rationale behind the Town's reluctance to fulfill such requests.

(12) Town Council December 24, 2010 Weekly Digest

- a) #1 – Memorandum to Town Council from Janet McDougall regarding Status of Work at Triangle Park – December 22, 2011

Vice Mayor Derwin said that the memo was helpful, because residents ask about it from time to time.

(13) Town Council January 17, 2011 Weekly Digest – None

ADJOURNMENT: [9:00 p.m.]

Mayor

Town Clerk