

TOWN COUNCIL MEETING NO. 811, APRIL 13, 2011

Vice Mayor Derwin called the meeting to order at 7:30 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
Stacie Nerdahl, Director of Administrative Services
Sharon Hanlon, Town Clerk
Sandy Sloan, Town Attorney
Howard Young, Public Works Director

ORAL COMMUNICATIONS

- (1) Presentation on the occasion of the retirement of Woodside Fire Chief Armando Muela

Vice Mayor Derwin said that she has had the pleasure of working with Woodside Fire Chief Armando Muela on the Firewise Committee, and always looked forward to the meetings because he brought such a spirit of cooperation, good humor and positive energy. She read a proclamation that Ms. McDougall wrote in honor of Mr. Muela on the occasion of his retirement after 33 years of service. Mr. Muela thanked the Portola Valley Town Council, staff and residents. He said it was a true pleasure and that he appreciated the cooperative spirit of the Town. He introduced his wife Karen, son Josh and incoming Fire Chief Daniel Ghiorso.

CONSENT AGENDA [7:31 p.m.]

- (2) Approval of Minutes of Town Council Meeting of March 23, 2011 [*removed from Consent Agenda*]
- (3) Ratification of Warrant List of April 13, 2011 in the amount of \$117,063.46
- (4) Recommendation by Town Manager – Support of West Nile Virus / Mosquito and Vector Control Awareness Week
- (a) Adoption of a resolution of the Town Council of the Town of Portola Valley declaring April 24 through April 30, 2011 Mosquito and Vector Control and West Nile Virus Awareness Week (Resolution No. 2516-2011)
- (5) Recommendation by Town Attorney – Adoption of Ordinance Relating to Informal Bidding and the Town of Portola Valley
- (a) Second reading of title, waive further reading, and adopt an ordinance of the Town Council of the Town of Portola Valley amending Chapter 2.38 [Informal Bidding] of Title 2 [Administration and Personnel], Repealing Chapter 3.24 [Quality and Non-Discrimination in City Contracts and Employment] and amending Chapter 3.20 [Purchasing System] of Title 3 [Revenue and Finance] of the Portola Valley Municipal Code (Ordinance No. 2011-391)

By motion of Councilmember Toben, seconded by Councilmember Wengert, the Consent Agenda (Items 3, 4 and 5) was approved with the following roll call vote:

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

No: None

REGULAR AGENDA

- (1) Approval of Minutes of Town Council Meeting of March 23, 2011

Councilmember Richards moved to approve minutes of Town Council meeting of March 23, 2011 as amended. Seconded by Councilmember Wengert, the motion passed 4-0.

- (6) Discussion and Council Action – Report from the Ad-Hoc Spring Down Master Plan Committee – Recommended uses of Town-owned property [7:45 p.m.]

Vice Mayor Derwin introduced the item, noting that Councilmember Wengert chaired the Ad Hoc Spring Down Master Plan Committee, which issued recommendations discussed in an April 13, 2011 memorandum to the Mayor and Town Council from Mr. Young and Planning Manager Leslie Lambert (as staff liaison to the Committee), and Councilmembers Wengert and Richards (as Committee chair and Town Council liaison, respectively).

Mr. Young said that the Committee held four extensive meetings (with minutes included in the report) as well as touring the parcel. The group discussed the pros and cons of using the Spring Down parcel as a recreational facility versus leaving it as open space. They talked about whether to remove the pond or retain it as a feature. Members reached consensus about retaining the parcel as open space, as a nature preserve, with a trail, and to rehabilitate the pond.

Councilmember Toben recommended caution in using the term “consensus” in that he is aware of some residents’ opposition to the very limited uses suggested for the Spring Down parcel. He also noted that Bob Pierce, a Committee member who shared that view, stopped attending meetings.

Councilmember Wengert, pointing out that Committee members Gary Nielsen, Jane Bourne and Jon Silver were in the audience, said that the Committee’s first meeting was very much focused on the existing definitions that govern the parcel, in terms of its current designations as part of the Portola Road Scenic Corridor and the Stable Preserve. She confirmed that after the second meeting, when the discussion turned to potential uses for the parcel, several dissenting voices favored additional, more intensive recreational use. However, she added, following much discussion about the General Plan’s objectives and the Goodsteins’ desires for the property, the group consensus was to keep the parcel and maintain it in an open-space, natural state. It’s difficult, she said, when some Committee members disagree with the majority. Although Councilmember Wengert stated that their views were definitely considered, she said that both Mr. Pierce and Kathy Feldman subsequently resigned from the Committee, apparently in the belief that they were not being heard.

Councilmember Richards said that there definitely was dissent, but Stan and Carol Goodstein’s stance and the fact that the General Plan is fairly clear in its designation were driving forces behind the Committee’s recommendations.

Councilmember Toben reiterated his concern that using “consensus” without qualification might create backlash from those who disagreed, pointing out that there’s already been talk of a referendum to reverse whatever action the Town Council takes. He said that he wouldn’t object to “large majority,” but does not want to imply that the Council is ignoring contrary opinions. Councilmember Wengert said that while “consensus” was never intended to suggest unanimity, she is comfortable with the term “large majority.”

Mr. Silver, Portola Road, said that he sees Mr. Pierce regularly, has never picked up any sense of bitterness on Mr. Pierce’s part, and was unaware of anyone resigning from the Committee “in protest.” He

said that tonight is the first time he'd heard that anyone formally resigned before the Committee finished its work. He agreed that early on in the process, Committee members had expressed various views in terms of the intensity of uses that would make sense for the Spring Down parcel. He said that it would be accurate to say that the Committee moved toward consensus after staff input regarding General Plan definitions and further Committee discussion, but that "large majority" understates the level of agreement that Committee members ultimately reached. He also credited Councilmember Wengert with doing "a fantastic job" of chairing and facilitating the meetings without attempting to influence the outcome.

Mr. Nielsen, Pinon Drive, serves on the Open Space Acquisition Advisory Committee in addition to the Ad Hoc Spring Down Master Plan Committee. He said that he concurs with everything that Mr. Silver said, including the compliments to Councilmember Wengert. He recalled the meeting when the Parks & Recreation Committee members (Mr. Pierce and Ms. Feldman) had their say. He said that he detected no bitterness when others expressed grossly different views. Mr. Nielsen also said that the proposal for Spring Down is very close to what the Open Space Acquisition Advisory Committee proposed and delivered to the Town Council on October 28, 2009.

Councilmember Toben requested clarification on the action to be taken, and whether some formal designation of this parcel as a Community Preserve is necessary. Ms. Sloan said that the Council is being asked whether it generally agrees with the Committee conclusion and authorizes proceeding with Phase 1 improvements. She also said that she did not believe it necessary to formally designate the parcel as a Community Preserve. At this time, the parcel is designated as an Open Space Preserve, which predated the Town's purchase from the Goodsteins in 2000.

Ms. Sloan also mentioned Planning Department documentation indicating that if the boarding stable ever ceased operations that the Town should attempt to acquire the front property as open space. In addition, Councilmember Wengert referred to a February 6, 2010 memorandum to the Committee from Ms. Lambert, in which she discussed the parcel in the context of General Plan designations. This memorandum, according to Councilmember Wengert, also included the information about the boarding stable that Ms. Sloan mentioned.

Mr. Young said that the report indicated that some members of the Committee wanted recreation facilities on the Spring Down parcel. He said, too, that there was considerable discussion about how the parcel was acquired, and that the fundraising that occurred to acquire it had represented it as open space.

Vice Mayor Derwin indicated that she agreed with Councilmember Toben's stance on making sure that the messaging about the recommendations for the parcel is appropriate.

Mr. Young said that tonight's Town Council agenda was distributed to all Committee members, as had been agreed at the Committee's last meeting (September 30, 2010). In addition to discussing the Committee's recommendations for future designation of the Spring Down parcel, he said that the Town Council is also being asked to discuss the Committee's recommendations for proceeding with Phase 1 improvements and preparing for Phase 2 pond improvements.

The first set of improvements would include a perimeter trail and middle trail with no signage. Committee members and staff have field-staked a proposed trail alignment for the perimeter trail, which would begin with a single loop. As part of Phase 1, Mr. Young said that the Committee also recommended:

- Restoring the perimeter fence and keeping it rustic because the existing fence is historic and complements the stable facilities
- Removing privets
- Adding plantings to fill in shrubs along Portola Road and the access road

- Providing initial screening with oak trees and Toyon shrubs
- Keeping the pear trees, at least at first
- Eventually removing eucalyptus trees

Mr. Young said that the estimated cost of Phase 1 improvements would be about \$30,000, including \$22,000 for the trail work.

Councilmember Toben asked for clarification in regard to a statement about letting the middle trail be created by where people walk. He said that in the last couple of years, a nice path has been mowed at the midpoint, and because it tends to keep people from wandering around too much, he suggested that it might be an element of the trail design. Mr. Young explained that the mowed area is a fire break, and that it will continue to be mowed. He also said that the Committee wanted a base rock trail, a multi-use surface that would be appropriate for strollers. The alignment was chosen because of where it gets shade. Councilmember Richards added that it's a fairly common technique in site planning to leave areas open when planners are unsure about the way people will circulate.

Phase 2, Mr. Young said, involves recommendations about the pond. These include removing invasive weeds and debris, thinning out vegetation, lowering the water level (to address the flooding issues, improve drainage and make it safer) and ultimately returning the pond to its state before the Spring Down Equestrian Center moved in. The Committee envisions a shallow vernal pool between 24 and 36 inches deep, which would involve some design, re-grading of the existing manmade pond and adjacent areas, and re-vegetation.

Mr. Young said that he is in the process of checking with various regulatory agencies as to whether environmental permits will be needed, but in any case, surveys will be undertaken to ascertain the wildlife habitats that would be affected. If permits prove necessary, it would add approximately \$20,000 to the \$79,500 estimated for Phase 2, he said.

Councilmember Wengert said that the Committee members discussed the pond at length. It clearly has some liability issues today, particularly its 8-foot depth. It was intended originally as a retention pond that would be pumped (and lowered), she explained, but it has not been used for that purpose since the Town purchased the property. Considering the cost associated with converting this water feature into a vernal pool, she said that perhaps a phased approach might be taken to accomplish that over time.

Councilmember Richards pointed out that the pond is essentially dead as it is, because the water has no oxygen, and the Committee determined that it would be cost-prohibitive to bring it to life.

Mr. Young indicated that Mr. Goodstein had asked the Town to build a perimeter fence to help keep horses contained in the event of an earthquake. Since that request goes beyond the Committee's recommendation for restoration of the existing fence, Mr. Young asked for Councilmembers' guidance. In response to Vice Mayor Derwin's question about the difference between a rustic and a robust fence, Mr. Young said that parts of the fence are rather dilapidated, and also, there is no existing fence on the south side of the lot, between the open-space property and the Whites' property.

In response to Councilmember Toben, Mr. Young said that the Goodsteins would be willing to pay 50% of the cost. However, he said that in his opinion, if they want a 4-foot fence strong enough to keep horses contained, they should pay for it.

Mr. Nielsen pointed out that as he understood it, the Goodsteins did not request the fencing solely for their own horses. They are interested in an "emergency corral" to temporarily hold residents' horses in the event of an earthquake or fire, an idea that Mr. Nielsen said has a good deal of merit. Further, Mr. Nielsen said that he thought that the fence would be a restored version of what's there now – a 4-foot board-and-

post fence. He added that it would make sense to confirm with people who know about horses, as a robust fence and a rustic fence may be the same thing.

Mr. Young said that the current fence along Portola Road is a combination of angle iron, wire and old 2x4s with a lot of moss on it that strikes some people as rustic. The fence along the easement road is more of a rail fence. If rail fencing is considered for Portola Road, it would require an evaluation of how it would affect the view corridor. He also said that a long rail fence would be expensive, far in excess of the \$5,000 currently earmarked for fence restoration.

Councilmember Toben said that the idea of an emergency facility to corral horses in the aftermath of an earthquake is brilliant. Horse owners might even donate funds to create it as a community asset.

Ms. Howard suggested further exploration of the idea with the Goodsteins; because she said what Mr. Young described differs somewhat from what she and Mr. Goodstein had talked about. She said that this is probably a subject for further discussion, because opinions differ as to how the fence should look, especially along Portola Road. Vice Mayor Derwin suggested removing the fence from the discussion at this time.

Councilmembers expressed concurrence with recommendation from the Ad Hoc Committee to preserve the Spring Down lot as open space and to proceed with the Committee's proposals for Phase 1 and Phase 2, except for specific decisions on fencing and details about pond design.

In terms of Phase 1 recommendations, Vice Mayor Derwin asked whether the Committee discussed the idea of a community garden. Jon Silver said that he brought it up at the request of Danna Breen, but it didn't go anywhere. Councilmember Wengert said that the reason is probably that most of those on the Committee wanted to keep everything on the parcel in a native state. Mr. Nielsen said that in fact, the Ad Hoc Spring Down Master Plan Committee came in with a lower-key proposal than that developed by the Open Space Acquisition Advisory Committee.

Mr. Young said the subject of dog runs also came up, but that option not only would have occupied a large part of the parcel, but also would have required a great deal of fencing.

Councilmember Wengert said that there was a pretty strong sentiment that both community garden and dog park uses could be appropriate if suitable land could be found elsewhere, but most Committee members considered them inappropriate for the Spring Down parcel. Mr. Nielsen pointed out that the Open Space Acquisition Advisory Committee keeps its eyes out to identify areas that might be better-suited for such uses than land that should be kept as open space.

In response to Vice Mayor Derwin's question about no benches being included with the Committee's recommendations, Councilmember Wengert said that issue might be revisited after Phase 2. She explained that the perimeter trail was the Committee's primary focus, followed by seeing how the internal trails work and then how the pond pans out. Benches might be considered again after that. According to Mr. Nielsen, even the Open Space Acquisition Advisory Committee thought picnic benches might be a nice idea, but were concerned about the associated food and trash that would come with picnicking. Still, he said that perhaps benches would be appropriate beneath the willow tree and back by the pond.

As for the pond, Mr. Nielsen pointed out that he always thought it could be the crown jewel of the Spring Down property. He considers the pond at Portola Valley Ranch as a sort of model for what he envisions. Because a lot of water collects at the Spring Down pond location for some geologic reason, he added, it makes sense to make use of it, and cutting back the willows could help improve the aeration while making the pond more attractive to waterfowl. Mr. Nielsen said that he'd like the pond 5 feet deep, whereas he indicated that Mr. Young would prefer it lower than the level of liability, which would be 2 to 3 feet.

Because the Council concurs with the direction laid out in the Committee recommendations, Mr. Young said that the regulatory agencies will be engaged as appropriate to determine, among other things,

whether any endangered species would be affected, and a hydrologist would be involved before proceeding with any design work.

- (7) Recommendation by Public Works Director – Calling for bids for the Alpine Road C-1 Trail Project, also known as the Alpine Road Paved Path [8:25 p.m.]
 - (a) Adoption of a resolution of the Town Council of the Town of Portola Valley approving plans and specifications and calling for bids for the Portola Valley Alpine Road Paved Path Project No. 2008-PW02 (Resolution No. 2517-2011)

Mr. Young indicated that many Councilmembers have served in liaison capacities to Stanford University in discussing the C-1 Trail. The plan is for the Town to use funds from Stanford, up to \$2.8 million in improvements, to resurface, restore and rehabilitate the paved trail along Alpine Road between Arastradero Road and the Ladera Shopping Center, bordering the Town limits. He said that the work will include realigning portions of the trail in accordance with Trails & Paths Committee recommendations, installing a pedestrian bridge and building a retaining wall to reinforce both the trail and Alpine Road.

Construction is expected to begin in June 2011 and be completed in November 2011, during which time sections of Alpine Road will be closed. Some closure will be needed to accommodate construction of the retaining wall in the creek; California Department of Fish & Game permits leave a window between June 15, 2011 and October 1, 2011 for retaining wall work. Road closure also will be necessary for removal and replacement of various sections of the trail.

Mr. Young said that construction costs are estimated at \$1.6 million. Stanford will forward the funds once the bids are opened and the project moves forward.

Councilmember Wengert moved to adopt the resolution approving plans and specifications for the Portola Valley Alpine Road Paved Path project pursuant to the Public Works Director's recommendations. Councilmember Toben seconded, and the motion passed 4-0.

Councilmember Richards moved to authorize the Town Manager to enter into agreements with construction management, inspection and materials testing firms as budgeted for in the C-1 Trail agreement with Stanford University. Councilmember Wengert seconded, and the motion passed 4-0.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

- (8) Recommendation by the Finance Committee – Town Staff Employees Pay a Percentage of Dependent Healthcare Costs and Reduction of Special Traffic Patrols [8:30 p.m.]

Dependent Healthcare Coverage

By way of background, Finance Committee Chair Michele Takei noted that the Committee has been considering the issue of employee healthcare costs for some years, since the 2008-2009 San Mateo County Grand Jury issued its report, *Reversing the Upward Trajectory of Employee Costs in the Cities of San Mateo County*. She said that the Committee has held at least two meetings to discuss how the Town's policies regarding healthcare benefits compare to those in the private sector. A Kaiser Family Foundation study showed that on average, private sector employees pay 19% toward the cost of individual health insurance coverage, and 30% for family coverage. Portola Valley covers 100% up to the cost of Kaiser coverage for its employees.

Ms. Takei said the Finance Committee recommends that the Town continue to offer free medical insurance up to the Kaiser cost to its employees but that they each start contributing 12.5% toward the cost of dependent coverage. Individual Committee members expressed favoring employee cost-sharing ranging from 0% to 25% before voting 4-1 in favor of 12.5%.

Mr. Nielsen, also a member of the Finance Committee, said that he was the lone dissenter because he did not believe it was warranted at this time to ask employees to pay toward dependent coverage.

Unlike some other communities, Ms. Howard said that Portola Valley has not enriched its benefits to a level that they are unsustainable. While she does see a need to reform the Town's benefits package, she said that at this time she agrees with Mr. Nielsen. Portola Valley employees don't have the type of benefits that their counterparts in many other communities do; in fact, she said that the Town's benefits are more modest than most of the municipalities normally used as comparatives. As Ms. Howard had indicated in her April 13, 2011 memorandum to the Mayor and Councilmembers, the Town would realize minimal savings by implementing this proposal. She concluded that there is no financial need to implement the Finance Committee's recommended change from a Town budget perspective, but the effects on employees in terms of reduced take-home pay would be significant to them.

Councilmember Wengert said that over the last five years, the Town's average annual increase in medical insurance premiums has been 7.88%, in a range from 4.7% to 10.7%.

Ms. Nerdahl offered additional data for the Council's consideration. She said that the Town has 15 employees, including two who work less than full-time, eight who have more than 10 years of service with the Town, and three who have 5--10 years of service. All together, she said, employees have a total of 138 years of service with the Town – an average of 9.2 years each. Another impressive number, she said, is 321 – the ratio of full-time Town staff to population is 1:321. The ratios range from 1:32 to 1:269 in neighboring communities (1:255 for Woodside), she said. According to Ms. Nerdahl, these numbers mean several things – Portola Valley employees know their jobs, they know what their jobs used to be, they know each other's jobs, and usually, they know what each other's jobs used to be. Considering the depth of experience and history with the Town, she said that Portola Valley employees also are ready for what they know their jobs will become, because the work is always changing. In most cases, she added, employees are ready, willing, able and happy to carry a missing employee's workload.

Some public employees have such plush benefits that make it a challenge, if not an impossibility, for local and state governments to balance their budgets, Ms. Nerdahl continued, but that isn't the situation in Portola Valley, where the benefits package is quite modest. In summary, she said, the Finance Committee's recommendation would reduce Town expenditures by less than \$900 per month, which represents less than 1/3 of 1% of the Town's current operating budget. She asked that the Town Council please not send staff the message that they are worth less than that.

Acknowledging the trend in healthcare coverage suggests increasing financial responsibility on the part of employees, whether in the private or public sector, Councilmember Toben said that he wants to be certain to document the discussion for the public record. He said that he cannot isolate healthcare coverage from other benefits that Portola Valley employees have in regard to parity. When he hears that healthcare coverage for Town staff is more generous than in the private sector, he wonders about the rest of the benefits package in comparable settings. He cited Ms. Nerdahl as an example of an employee with highly transferable skills that she could readily take to a private employer, and asked what salary she would make as opposed to what Portola Valley pays her, what she would receive in the way of vacation, and what her benefits would look like. She might pay more for her medical coverage, but earn a higher salary, have more opportunities for professional development, etc.

Councilmember Toben said that some Portola Valley employees – such as Ms. Nerdahl and Ms. Rodas – could easily go off to the private sector, but many staff members are specialists in public sector roles. For that reason, other public agencies comprise the appropriate marketplace for comparison. Looking at the comparables in the public sector, he said, we find exactly what Ms. Nerdahl reported. Only five cities out of 20 in the Grand Jury report have pension benefits comparable to Portola Valley's (the 2% at 55 formula); the others are 2.5%, 2.7% and 3% at 55. The difference is substantial, he explained. For example, a 55-year-old employee with 20 years of service who leaves Portola Valley making \$87,000 annually may get \$35,000 annually after retirement. An employee with identical salary and length of service in a nearby community using the 2.7% at 55 formula would receive \$47,000 annually.

Councilmember Toben also indicated that only four of 20 cities in the Grand Jury report calculate the retirement benefit based on the average salary over the employee's last three years, rather than the final year's salary. Only two cities in San Mateo County – Atherton and Portola Valley – use both the more modest 2% at 55 formula and the three-year average. He said that Portola Valley's vacation benefit also is extremely modest compared to other San Mateo County communities. Portola Valley is one of seven communities (of 19 reporting) that give their employees 10 days' vacation after four years' service; the others range from 12 days to 16 days. Only four cities (of 20 reporting) provide no post-retirement health benefits – Daly City, East Palo Alto, Woodside and Portola Valley. Portola Valley is the only one of six comparable cities that does not offer employees life insurance benefits.

Furthermore, Councilmember Toben said that median salary for Town employees is \$69,000, with monthly take-home pay for some staff as low as \$3,000. Employees could use pre-tax dollars to pay healthcare premiums, he acknowledged, but the reduction in take-home pay would still be very difficult for some employees. He added that the Town's revenue picture is very stable at this time, and no issue now – thankfully – warrants adopting the Finance Committee's recommendation. He said that it would make more sense, at some appropriate time, to reevaluate and rationalize the Town's benefits package in a more comprehensive way. Meanwhile, he said that isolating the focus on the healthcare cost-sharing piece isn't the way to go.

Councilmember Richards said that his thinking parallels that of Councilmember Toben. The Portola Valley benefits package is modest in comparison with other communities; "We are clearly not being lavish." If it seems important to make some kind of statement in light of the trend to more cost-sharing, he said, it should be done in a "more overall manner." At some time it might be reasonable to come back to this and make sure that no problem develops or gets out of hand, Councilmember Richards said, but in the meantime there's no point in addressing a non-issue.

Not only as Finance Committee liaison but because she spends a lot of her time in the finance world with various companies and nonprofit organizations, Councilmember Wengert explained that she has considerable visibility in terms of compensation trends. She said that she appreciated Councilmember Toben's thoughts and his rational approach, but takes a slightly different view in that the world of public and municipal finance and expenses is no longer as separated from private enterprise as had been the case historically. As she put it, those worlds have converged in a number of very material ways, from the perspective that job availability in all sectors is much more limited – even more so since the Grand Jury report was published. The impact of healthcare costs on everyone is dramatic. She said that even with its zero-based budgeting process, Portola Valley cannot sustain expenditure increases of 8% annually, year after year, without offsetting increases in revenue or cuts in other line items. She said that as she saw it in her role as liaison, the Finance Committee was very much reacting to that phenomenon as well as what's happening on the healthcare front.

According to Councilmember Wengert, it's ironic that the Portola Valley numbers have been characterized as very small – because keeping the employee contribution small was one of the Finance Committee's goals. She said she thought the idea was to start the process; to begin recognizing that there's a longer-term problem. This problem is already affecting the private sector, which has reacted very quickly, she said, and it also will affect the public sector. Portola Valley has always been very forward-thinking, she continued, and the Finance Committee's efforts in coming up with its recommendation were also forward-thinking. She also pointed out that if the Town were to pay 87.5% of employees' medical premiums (100% minus 12.5%), it's a very significant number and most of the people she deals with would be delighted with that level of employer contribution.

Councilmember Wengert agreed that the idea of examining the entire benefits package has merit, but she said that such examination may reveal a package that's richer than we think. While the medical coverage is only one component, she added, the premiums paid on employees' behalf represent 31% of the net on an individual basis.

In conclusion, Councilmember Wengert stated that she will go along with her colleagues to the extent they feel uncomfortable moving forward with the Finance Committee's recommendation. Nevertheless, she said that the Council has a leadership role to play, and the situations in the municipalities surrounding Portola Valley are likely to change dramatically at some point. In terms of benefits packages that are too expensive to sustain – particularly in the face of ever-increasing medical costs – she said, “the writing is very much on the wall.”

Vice Mayor Derwin said that the consensus of the Council is to oppose the Finance Committee's proposal. She thanked the Finance Committee, noting that it was completely appropriate that they did this work. In her involvement with a number of regional boards, Vice Mayor Derwin said, the topic of conversation is exclusively about employee compensation. Other cities, including San Carlos, are already ratcheting down. However, she added that Ms. Nerdahl made a very good case. It's difficult to separate the people from the numbers in a Town like Portola Valley. She agreed for now to let it sit, but suggested that in a year or so it might be wise to look at a something such as a two-tier system. She said that it's important to keep our eye on the issue.

Special Traffic Patrols

Ms. Takei said that there's one more year to go on the Town's three-year contract with the San Mateo County Sheriff's Office, which includes the cost of sharing an additional traffic patrol officer with Woodside (\$218,000 annually). This year, the Town expects to receive only about \$11,500 in offsetting revenue from citations issued by all officers. Further, she pointed out, Committee member Bill Urban examined actual call reports and concluded that activity involving the additional officer was fairly minor. Accordingly, before the next contract negotiation, the Finance Committee recommends exploring the possibility of either limiting or eliminating the extra patrol.

Ms. Howard said that the next round of negotiations probably will begin at the end of this year. She suggested eliminating the extra patrol if the Town loses the State-provided \$100,000 grant in COPS funding, and if the funding remains, limiting the extra patrol's activities so as to be covered by that grant.

Councilmember Toben pointed out that revenue from citations is only one measure to consider, because the law enforcement presence itself has a deterrent effect. Thus, he said that Town residents might want to weigh in on the matter before the next contract.

Councilmember Toben also asked about the history behind the decision to add a shared patrol officer in the first place, specifically in terms of community sentiment. In response, Ms. Howard said that Portola Valley has always had a special relationship with the San Mateo County Sheriff's Office, and that Woodside and Portola Valley have historically combined resources to get the best possible deal. The communities came up with about \$30,000, she believes, for an additional patrol officer just to issue tickets. When the \$100,000 COPS funding became available, the two communities combined their funds with that to create the special patrol. However, as she pointed out, the \$100,000 paid for more coverage at first than it did as the years went by.

Ms. Howard also said that several people from the Sheriff's Office have called expressing concerns about this item, pointing out that the extra officer's value goes beyond simply writing tickets. Typically, she said that contract conversations with the Sheriff's Office begin in about December. Another factor to consider this time, she pointed out, is that the Sheriff's Office also will be providing police services to San Carlos and Half Moon Bay.

In response to a question from Councilmember Richards, Ms. Howard said that she believes the reports examined were limited to those involving the additional patrol officer.

Mr. Silver said that he recalls a time when he was a Councilmember, and maybe even before, that the Town had a provision in the Sheriff's Office contract for additional patrols, but the additional patrols more

than paid for themselves in citation revenue. At that time, he said, additional patrols were perceived as "free safety."

Councilmembers agreed that the contract will be reviewed and community input sought.

- (9) Appointment of Subcommittee – Discuss Spring Ridge LLC Conditional Use Permit application with the applicant [9:15 p.m.] resume

Ms. Sloan said that when Dr. Kirk Neely and Holly Myers filed their appeal of the Planning Commission's denial of their Conditional Use Permit (CUP) application, Town Planner Tom Vlastic and Mayor Driscoll met with them. Environmental review had only been completed on two of the buildings proposed in their application, because in preliminary discussions, the Planning Commission had agreed that those two buildings might move forward. Thus, even if the Town Council were disposed to overturn the Planning Commission action, it would not be legally able to approve anything more than those two buildings.

Ms. Sloan said that the tensions that became apparent between the applicant and the Planning Commission may have interfered with clear thinking. Mayor Driscoll came up with the idea of suggesting that Neely/Myers withdraw their appeal, and the Town Council would then set up a subcommittee to have conversations with them about the Town's interests and their interests before they reapply. Ms. Sloan said that she sent the applicants a letter stating that if they do withdraw their appeal and revive their application, it would be considered an extension of the original. John Hanna, their attorney (Hanna & Van Atta), thought the subcommittee idea was a good one. Mayor Driscoll suggested that he, Councilmember Wengert and Mr. Vlastic serve on that subcommittee.

Councilmember Richards said that he agreed this was a good idea.

Councilmember Wengert said that this will be an excellent first step. She noted, too, that Carter Warr was also involved in the discussions, and there were a lot of really good positive ideas that may have helped as well.

Councilmember Toben suggested that perhaps someone from the Planning Commission should be included on the subcommittee. Ms. Sloan explained that the point of the subcommittee is to get all the parties to listen to one another and get all of their ideas on the table, but no one will tell the Planning Commission what to do with the renewed application. She said that the idea was to keep the group very small and "out of the heat of the kitchen."

Mr. Silver, who said that he wouldn't have been at tonight's meeting except for Item 6 on the agenda, indicated that he stayed for this discussion. He said that he feels blindsided by this, and considers it a real mistake. He said that the Planning Commission was thinking very clearly in discussing the Neely/Myers application. He said, too, that he was concerned because the applicant wanted action involving all five buildings, rather than just the two that staff and the Planning Commission had vetted – an "all or nothing" decision. In that approach, he said that he saw a lost opportunity for a win-win, because the Town and the public have long-term interests that aren't necessarily inconsistent with Neely/Myers stated intentions.

Mr. Silver said that while he was pleased to hear what Ms. Sloan said about working something out without detracting from the process, he also expressed the view that it is imperative for those conducting these meetings to understand the points of view expressed during public hearings, including representatives of the Midpeninsula Regional Open Space District and POST (Peninsula Open Space Trust), as well as people such as Bev Lipman. He emphasized that the meeting minutes are insufficient to understand those viewpoints; they constitute a "dead record" and this subcommittee should hear active representatives. He said that it would be a mistake for the subcommittee not to reach out to those who have been involved for their input.

Ms. Sloan said that she has known Mr. Hanna for 30 years. She said that Mr. Vlastic, Mayor Driscoll and she were thinking about what makes sense to consider before this matter moves forward again. She also

characterized the subcommittee being discussed as being very different from the Ad Hoc Spring Down Master Plan Committee. She said that Mayor Driscoll thought it would be helpful to have just two Councilmembers and Mr. Vlastic, with his planning background, to serve on this subcommittee, as opposed to having the applicants lobbying in the community or having Mr. Vlastic proceed with environmental reviews without input, etc. She indicated, too, that the applicants have the right to talk to anyone in the community they choose.

Ms. Lipman, Favonia Road, said that Planning Technician Carol Borck told her that the Neely/Myers appeal had been withdrawn, so she was totally surprised to see this item on the agenda. She said there had been hearings about the Neely/Myers application for almost two years. While she appreciates the explanation of the subcommittee, she agrees with Mr. Silver's concern that the public might feel left out of this very complicated issue, which Mr. Vlastic has characterized as a moving target since the start. She also suggested that it might be helpful to add to the subcommittee a former member of the Planning Commission who is knowledgeable about this matter. She said that the public needs to feel comfortable that no backroom deal will be cut that isn't in the Town's best interest.

Mr. Silver said that if this subcommittee idea is to work it should reach out to solicit different points of view from various people who have invested a lot of time on this issue.

Councilmember Wengert said that although she cannot speak for Mayor Driscoll, who has been more directly involved in this than she has, she would be happy to meet with Mr. Silver or anyone he thinks would be appropriate to include even prior to meeting with the applicants. She also emphasized that there would be no backroom deals.

The Council concurred with the idea of forming the subcommittee, perhaps with additional people, and that they might meet with Mr. Silver, Ms. Lipman and perhaps someone else ahead of time to obtain their viewpoints.

(10) Appointment by Mayor – Request for appointment of member to the Sustainability Committee [9:32 p.m.]

Vice Mayor Derwin said that Onnolee Trapp, who has been in regular attendance at Sustainability Committee meetings, has been recommended as an official member. Councilmember Steve Toben moved concurrence with the appointment of Ms. Trapp as a new member of the Sustainability Committee. Councilmember Richards seconded, and the motion passed 4-0.

(11) Appointment by Mayor – Request for appointment of member to the Teen Committee [9:33 p.m.]

Councilmember Toben moved concurrence with the appointment of Julia Brandman as a new member of the Teen Committee. Councilmember Richards seconded, and the motion passed 4-0.

(12) Reports from Commission and Committee Liaisons [9:35 p.m.]

(a) Architectural and Site Control Commission (ASCC)

Councilmember Richards reported that at its April 11, 2011 meeting, the ASCC discussed an entry gate and fence on the property at 5 Possum Lane at the corner of Westridge Drive, and also revisions to the Native Plant List in the Portola Valley Design Guidelines.

(b) Historic Resources Committee

At the meeting of the Historic Resources Committee on April 7, 2011, Councilmember Richards said that members discussed problems in having a quorum at Committee meetings and raised the possibility of

reducing the number of Committee members to address the problem. Members also talked about budget items and the status of the Woods' property.

(c) Planning Commission

Councilmember Wengert said that the Planning Commission held a public hearing on General Plan amendments on the Conservation Element, Open Space Element and Recreation Element at its April 6, 2011 meeting. The amendments will be coming to the Town Council for consideration soon, she added, and noted that while the Planning Commission did a very thorough job, there are definitely some changes in approach in these elements that will interest Councilmembers. She pointed out that the Spring Down discussion will come right to the fore, due to the application of the Town Council's definition of Open Space Preserves to individual areas. [Note: The General Plan amendments are tentatively scheduled for the agenda of the Town Council's May 25, 2011 meeting.]

Councilmember Wengert said that the budget planning discussion for the Planning Department for the next year is coming up at the Planning Commission's meeting of April 20, 2011. Among items included:

- Completion of Conservation Element, Open Space Element and Recreation Element
- Implementation of sustainability and green building regulations and guidelines
- Implementation of the Housing Element
- Recordation of historic houses
- Implementation of biological/fire study recommendations
- Coordination with ABAG on housing numbers
- Handling referrals from other jurisdictions (e.g., Stanford Habitat Conservation Plan, Stanford University Medical Center Plan, McNealy plan for a covered sports facility in Palo Alto, the Portola Winery in Palo Alto, etc.)
- Coordination with homeowners' associations
- Special requests (e.g., Cargill Saltworks proposal, Safety Element preparation, adoption of geologic maps and regulations, Prado Court emergency access, Governor's Office of Planning and Research [OPR] annual survey, Hibbard [Woodside Highlands] land issues, Local Hazard Mitigation Plan, Ford Field plans, Sausal Creek daylighting)
- Wireless Task Force

(d) Trails and Paths Committee

Councilmember Toben reported that the Trails and Paths Committee is discussing what is appropriate to take to staff and what to do themselves, and that Mr. Young has indicated receiving a significant number of requests for minor maintenance (while his primary concern is ensuring trail safety). Councilmember Toben said that he is enthusiastic about the Committee's spirit, the level of participation, and ideas about events to develop, such as trail clean-up days, recreational walks and so forth.

(e) Council of Cities

Vice Mayor Derwin reported that the speaker at the Council of Cities March meeting in Foster City was Dan McClure, senior manager in health and public service strategy Accenture. His presentation was entitled "Cross-Jurisdictional Collaboration: New Models for the New Normal." Vice Mayor Derwin said that as she recalled, Mr. McClure had been at the regionalism conference that Mayor Driscoll attended.

(f) Teen Committee

The Teen Committee continues to work on Share the Bounty project, Vice Mayor Derwin reported, and may use the Corte Madera Elementary School garden this summer. Vice Mayor Derwin indicated that she'd invited Brad Peyton, president of the Portola Valley Garden Club, to attend the meeting. The Committee has scheduled Teen Movie Night for the evening of the Town picnic. The Teen Committee is donating proceeds from a dance to Japan. The Committee also discussed their mentorship project and their Bill and Jean Lane Civic Involvement program.

(g) Sustainability Committee

Vice Mayor Derwin reported that the Sustainability Committee met on April 11, 2011, checking in with Sustainability & Resource Efficiency Coordinator Brandi de Garneau and our two interns, who have worked so hard to get ready for Earth Day. They're also working on a contractors' workshop and continue to work on resolving challenges involved in marketing smart strips. Earth Day will serve as the "soft launch" of Energy Upgrade Portola Valley, Vice Mayor Derwin said, and the Sustainability Committee is planning an evening kickoff event for the hard launch on May 10, 2011. She noted that Ms. de Garneau is pleased that the Portola Valley launch will follow Woodside and Atherton, because their experience drew her attention to some kinks to iron out. Vice Mayor Derwin also sought the Council's opinions on potential speakers for the program launch.

WRITTEN COMMUNICATIONS [9:50 p.m.]

(13) Town Council March 25, 2011 Weekly Digest

- a) #1 – Letter to Town Council from Mary Jane and William Kelly regarding T-Mobile proposal, California Water Property, Peak Lane and Golden Oak – March 22, 2011

Following comments about this letter from Vice Mayor Derwin and Councilmember Toben, Ms. Sloan said that although T-Mobile and AT&T may eventually combine, in the meantime T-Mobile probably has an entitlement, not only because its proposal was approved but because they've made some substantial expenditures on the basis of that approval. She will discuss it with Mr. Vlasic and one of them will draft a letter of response to the Kellys.

(14) Town Council April 1, 2011 Weekly Digest – None

(15) Town Council April 8, 2011 Weekly Digest

- a) #1 – Email with letter attachment to the Editor at *Almanac News* from Sandy Sloan regarding the article "Portola Valley: Town Council ran afoul of open-meeting law, CNPA attorney says" – April 7, 2011

Ms. Sloan said that there are two types of items that can be added to the Council agenda when it isn't posted at the regular time (72 hours in advance). She said that David Boyce's article combines the two types, mixing apples and oranges. One type of item that can be added to the agenda after posting is when there is an emergency, a serious crisis. She said that this would be something rare, such as the San Bruno gas explosion. In adding an emergency item, the Brown Act says that only a majority of the

Council is needed to decide that it's an emergency and needs to be discussed right away. An emergency closed session is very rare because the circumstances are narrow. Ms. Sloan explained.

The second type of item that can be added to the agenda after posting is an urgency item. Ms. Sloan quoted Mr. Boyce's article as saying that a legislative body can call an urgent closed session if three conditions are met, citing "a majority approves the idea" as one of those conditions. That, according to Ms. Sloan, is wrong. It takes two-thirds of the legislative body to add an urgency item to an agenda after posting. The other two conditions are 1) that the need to talk about the item arose after the posting of the agenda, and 2) that there is a need to take immediate action, if action is taken. That is per Government Code 54954.2.d.2, Ms. Sloan said. An urgent item can be added to either open or closed session, she continued. If it's an open session, whoever brought the urgent item to the Council's attention would likely explain why it arose after the agenda was posted, and what the immediate action might be.

She recalled a situation in which it was learned that the Town might be able to get some funding if it submitted its grant within 10 days; that was made an urgency item for the Town Council, and it was explained that the information about the grant became available after the agenda had been posted. For a closed session, such as a personnel issue, litigation or real estate negotiation, disclosing such information would be contrary to having a closed session. The purpose of keeping closed session information private is to prevent embarrassment to individuals and/or avoid undermining litigation or negotiations. What must be disclosed regarding closed-session real estate negotiations is the property address. In the case of the item added to the Town Council agenda on March 23, 2011, she said that it is ironic that Mr. Boyce's article makes it pretty obvious what went on during that session. Given the fact that the address was published, he pieced together information he obtained by talking to the property owners and perhaps Windmill School. He learned that Portola Valley had been interested in this property and had made contact with the owners more than two years ago. When Windmill School came along and made an offer on the property, the Town backed away. Mr. Boyce wrote that the Windmill deal died March 15, 2011, just days before the transaction was to close – but staff didn't know that when the March 23, 2011 agenda was posted. Once aware of the fact that the Windmill offer was no longer on the table, staff reasoned that the Town might need to act promptly to re-contact the property owner. As it turned out, an angel investor or angel buyer did come in to buy the property quickly, but if the Town had wanted to put a new offer on the table, immediate action would have been necessary. The Town decided against pursuing the property, so no action was taken.

Ms. Sloan explained that the only time the Town Council meeting minutes would reflect any "Report out of Closed Session" on a real estate negotiation is dictated by Government Code Section 54957.1: "The local agency shall publicly report any action taken in closed session and the vote of every member." Government Code Section 54957.1.A.1. says, "Approval of an agreement concluding real estate negotiations shall be reported after the agreement is final." So, Ms. Sloan said, until the agreement is final – executed – it's not appropriate to report any action. If the local agency's "... approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held." If approval is up to the other party, the approval is reported after that party has executed, consequently at the next meeting. If no action is taken, she said, you say there was nothing to report – which is what happened in this case.

Mr. Boyce's article had quoted an email from Mayor Driscoll that said, "We believed there was new information that had come to our attention since the agenda had been published, and that it could require immediate action, so we were legally justified in calling for that closed session "... After further discussion and consensus in the closed session, we concluded that it was, in fact, best at this time to take no action." Ms. Sloan said that she could not have written that response any better: "The Mayor nailed it" on exactly the reason for the urgent closed session and what came of it. Apparently when pressed with more questions about what happened, the Mayor had responded, "I believe I cannot comment, except to say we took no formal action." In summary, Ms. Sloan said, there was no violation of the Brown Act.

- b) #7 – Flyer announcing Earth Day Fair 2011 on Saturday, April 16, 2011

Ms. Howard reminded everyone about the upcoming Earth Day Fair.

ADJOURNMENT [10:05 p.m.]

Vice Mayor

Town Clerk