

TOWN COUNCIL MEETING NO. 814, MAY 25, 2011

Mayor Driscoll called the meeting to order at 7:30 p.m. Ms. McDougall called the roll.

Present: Councilmembers John Richards and Steve Toben; Vice Mayor Maryann Derwin; Mayor Ted Driscoll

Absent: Councilmember Ann Wengert

Others: Janet McDougall, Assistant Town Manager
Sharon Hanlon, Town Clerk
Sandy Sloan, Town Attorney
Howard Young, Public Works Director
George Mader, Planning Consultant

ORAL COMMUNICATIONS

None

CONSENT AGENDA [7:32 p.m.]

- (1) Approval of Minutes of Town Council Meeting of May 11, 2011 [*removed from Consent Agenda*]
- (2) Ratification of Warrant List of May 25, 2011 in the amount of \$408,136.24
- (3) Recommendation by Assistant Town Manager – 2011-2012 Woodside Highlands and Wayside II Road Maintenance District Tax Assessments [*removed from Consent Agenda*]

By motion of Councilmember Richards, seconded by Vice Mayor Derwin, the Consent Agenda (Item 2) was approved with the following roll call vote:

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

No: None

REGULAR AGENDA

- (3) Recommendation by Assistant Town Manager – 2011-2012 Woodside Highlands and Wayside II Road Maintenance District Tax Assessments [*removed from Consent Agenda*]
 - (a) Adoption of a Resolution of the Town Council of the Town of Portola Valley Authorizing the San Mateo County Controller to Apply the Special Tax for the Woodside Highlands Road Maintenance District to the 2011-2012 Tax Roll and to Collect the Tax at the same time as General County Taxes (Resolution No. 2521-2011)

Vice Mayor Derwin moved approval of Item 3(a). Seconded by Councilmember Richards, the motion passed 4-0.

- (b) Adoption of a Resolution of the Town Council of the Town of Portola Valley Authorizing the San Mateo County Controller to Apply the Special Tax for the Wayside II Road Maintenance District to the 2011-2012 Tax Roll and to Collect the Tax at the same time as the General County Taxes (Resolution No. 2522-2011)

Councilmember Toben recused himself from voting on Item 3(b).

Councilmember Richards moved approval of Item 3(b). Seconded by Vice Mayor Derwin, the motion passed 3-0.

- (1) Approval of Minutes of Town Council Meeting of May 11, 2011

Councilmember Toben moved to approve the minutes of the Town Council meeting of May 11, 2011 as amended. Seconded by Councilmember Richards, the motion passed 3-0-1 (Derwin abstaining).

- (4) Public Hearing – General Plan Amendments to the Open Space Element, Recreation Element, Conservation Element and Related CEQA Findings [7:45 p.m.]
 - (a) Adoption of a Resolution of the Town Council of the Town of Portola Valley Adopting Amendments to the Conservation, Open Space and Recreation Elements of the General Plan and Findings Under CEQA (Resolution No. 2523-2011)

Mr. Mader, referring to his memorandum of April 18, 2011 and other material submitted to the Council, said that the Planning Commission spent considerable time and went into considerable detail in its work on the Conservation, Open Space and Recreation Elements. Assuming Council approves, he said that the element updates would satisfy California requirements until 2016.

The main challenge was to integrate the Council-approved definition of open-space preserve into these documents. In the process of doing so, some language was moved from one element to another. For example, shifting a number of open-space proposals from the Recreation Element to the Open Space Element pared down the former and expanded the latter. The Recreation Element's references to community preserves, neighborhood preserves, scenic corridors and greenways also have been moved into the Open Space Element.

In terms of the Conservation Element, the update includes references to current creek setbacks, the recently completed study, "Portola Valley Sensitive Biological Resources Assessment and Fuel Hazard Assessment," the recently adopted Geologic and Ground Movement Potential Maps, and the Sustainability Element.

Mr. Mader noted that the updates resulted in major changes to Appendix 1, which enumerates amendments to the General Plan over the years.

Mr. Mader said that a letter from John Hanna (Hanna & Van Atta), who represents Kirk Neely and Holly Myers, makes some important points, but does not speak to the documents generally. Ms. Sloan explained that Dr. Neely and Ms. Myers were apparently unaware that changes to the General Plan were being considered, and are concerned about the definition in Section 2204, and a reference to the Meadow Preserve in Section 2216.2. Ms. Sloan, relating a conversation with Mr. Hanna, indicated that eliminating reference to agricultural uses would make it difficult to pursue an application for Williamson Act funding or to have some kind of agricultural uses on the property.

Ms. Sloan read the letter (excerpted below) into the record:

My clients object to the proposed amendments that pertain to their property. The existing General Plan describes a portion of their property, referred to as the Meadow Preserve, in Section 2313 of the Recreation Element. The existing General Plan proposes that the Meadow Preserve be kept largely open, existing character preserved, and present agricultural uses maintained. The reference to and description of the Meadow Preserve now appears in the amended Section 2216 (of the Open Space Element). The new language says, "This preserve should be kept in a natural

condition and existing character preserved," a very significant change in the description of the potential use of that property. The amendment uses the terminology, "natural condition," and eliminates any reference to agricultural uses.

The new open-space preserves definition requires that areas described as open space comply with the definitions contained in Section 2004, which means kept largely in a natural condition with permitted uses that do not require structures. Permitted structures would include benches, trail signs, scientific instruments and bridges and board walkways.

On its face, the practical effect would be to convert a large portion of the (Neely/Myers) property from its present use to open space land without potential for realization of any economic benefit from the land, including agriculture. Section 2204's new, more restrictive definition says that whenever the term "open-space preserve" is used to designate property in the Town, it must comply with the Town's definition, which is more restrictive than the State's definition.

The objectionable nature of the proposed amendment could easily be modified to avoid it being interpreted as a taking. Section 2204 could be changed so that the second sentence would read, "Consequently, whenever an area is dedicated or acquired as an open-space preserve in this Element, it must comply with the following definition." Likewise, it would help to retain the reference to agricultural use.

Ms. Sloan said that she isn't concerned with the issue of "taking," but indicated two points that merit consideration.

1. That Section 2204 apply only when the Town acquires a property, considering that all but three of the open-space preserves listed in Section 2216 are publicly owned. The Jelich Ranch, with the Woodchopper house and apple trees, does not have native plants and natural conditions.
2. That the reference to agricultural use be included in the Meadow Preserve description (Section 2216.2).

Mr. Mader said that even if the language changes, the property would still need a conditional use permit (CUP) for any agricultural uses.

Councilmember Richards noted that Open Space Element Section 2213 refers to "public acquisition of less than fee title," and Section 4225 mentions "full or fee title, and partial title." He asked whether there is any conflict between the two. Mr. Mader explained that there wouldn't be a problem changing the former instance to "fee title or less than fee title" for consistency's sake.

In regard to Section 4222 in the Conservation Element, Councilmember Richards said that he would be interested in the septic system versus sewer debate. In response to a follow-up comment from Mayor Driscoll, Mr. Mader and Ms. Sloan said that as sewage disposal policy and procedures develop it might be appropriate to include them in the Conservation Element, or possibly the Safety Element.

Councilmember Toben asked whether the Parks and Recreation Committee and the Conservation Committee reviewed the Recreation and Conservation Elements, respectively. Mr. Mader said he thought so, early on in the process.

Mayor Driscoll said that regarding the Neely/Myers matter, the Town is trying to move toward longer-term protection to certain portions of the property in exchange for some development concessions, and the omission of agricultural uses in the definition might undermine that effort. Councilmember Toben said that he agrees, and is comfortable with the language Mr. Hanna proposed.

Mayor Driscoll said that this would effectively apply only to privately held lands. Ms. Sloan reiterated and slightly rephrased Mr. Hanna's suggestion for a sentence to be added to Section 2204, after the reference to the Council's adoption of open-space preserve: *Consequently, whenever an area owned by the Town and is an open-space preserve, it must comply with the following definition.*

In terms of Section 2216.2, Ms. Sloan proposed: *The Meadow Preserve should be kept in a natural condition, and the existing agricultural character preserved.* As Mr. Mader had indicated, she added, the use permit mechanism also would be applicable.

Councilmember Toben moved to approve Resolution No. 2523-2011 adopting amendments, as revised, to the Conservation, Open Space and Recreation Elements of the General Plan and findings under CEQA. Councilmember Richards seconded, and the motion carried 4-0.

- (5) Recommendation by Public Works Director – Authorization for Town Manager to Execute a Letter Agreement with Nichols Consulting for the FY 2011-2012 Street Resurfacing Project [8:10 p.m.]

Mr. Young indicated that Public Works has tentatively targeted areas primarily within The Ranch and Corte Madera neighborhoods (as identified by the Pavement Management System (PMS)) for street resurfacing in the coming fiscal year, but the final proposal will come to the Council before going out for public bid.

Councilmember Toben noted that some of the pavement on Westridge Drive is terribly uneven, although he recalled it being redone not too long ago. Mr. Young said that he would check it out.

Vice Mayor Derwin moved to authorize the Town Manager to proceed with a Letter Agreement with Nichols Consulting for pavement redesign services not to exceed \$43,000. Councilmember Richards seconded, and the motion carried 4-0.

- (6) Recommendation by Town Attorney and Town Manager – Approval of the Third Amendment for Animal Control and Shelter Services with the County of San Mateo [8:12 p.m.]
 - (a) Adoption of a Resolution of the Town Council of the Town of Portola Valley Approving and Authorizing Execution of the Third Amendment to the Agreement with the County of San Mateo for the Provision of Animal Control and Shelter Services (Resolution No. 2524-2011)

Mayor Driscoll pointed out that the contract is for five years.

Councilmember Toben remarked that the County spends \$5 million annually on animal control.

Ms. Sloan said that a new director succeeded in finding a new site, building a new center, adding new services, improving animal care, raising additional funds and negotiating a more aggressive contract.

Councilmember Toben moved that the Town approve and authorize execution of the Third Amendment to an agreement with San Mateo County for the provision of animal control and shelter services. Councilmember Richards seconded, and the motion carried 4-0.

- (7) Recommendation by Town Manager – Not-for-Profit Agency Funding Requests [8:15 p.m.]

Mayor Driscoll recalled that last year the Town set an upper limit on the total approved for not-for-profit funding requests, and suggested using the same kind of process again. He noted that Portola Valley is in better fiscal shape than most cities, and – in response to a question from Councilmember Richards – probably in better shape than last year.

Councilmember Toben said that he regards the Town's contributions to not-for-profit agencies as grants rather than donations and as a way of outsourcing some functions that align with Town policy. Councilmember Toben indicated that alignment between the Town and Joint Venture Silicon Valley may not be very compelling, but in terms of the San Francisquito Watershed Project, he noted that half of the watershed lies within Portola Valley's boundaries. To zero out its request last year seemed harsh to him, in light of the fact that the project capitalizes on public good will and fosters volunteerism, which are consistent with values that the Town supports. Sustainable San Mateo County, too, aligns with Town values and performs a function with Portola Valley's objectives, he said.

Ms. Sloan, following up on Councilmember Toben's point, indicated that the Town refers people to the Peninsula Conflict Resolution Center.

Councilmember Toben suggested a total budget for not-for-profit agency funding of \$10,000, with Ms Howard apportioning that sum among the applicants in the budget proposal she submits. Mayor Driscoll, Vice Mayor Derwin and Councilmember Richards concurred.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

- (8) Recommendation by the Cultural Arts Committee – Proposed change to Committee Charter [8:22 p.m.]

The Council approved the Cultural Arts Committee's request to change its meeting day to the second Thursday of the month.

- (9) Reports from Commission and Committee Liaisons [8:25 p.m.]

(a) Emergency Preparedness Committee

Councilmember Toben reported that a compelling new applicant, Diana Koin – former medical director for The Sequoias – attended the last Emergency Preparedness Committee meeting. She has expressed interest in developing the EPC's medical corps, and Councilmember Toben said he thinks she would be a phenomenal addition to the Committee.

He also indicated that the EPC is enthusiastic about its participation in the Town Picnic, and doing further organization with ham radio operators around developing emergency communications procedures.

(b) Parks and Recreation Committee

Resident Patrick Sullivan came to the Parks and Recreation Committee meeting to present his proposal for creating a skateboard ramp in Town. Councilmember Toben said that Mr. Sullivan's presentation was thoughtful, including pros and cons. On the plus side, it would be a positive social setting for early teens (primarily boys), spontaneous play, an alternative to coached sports, and a closer option for skateboarding than Burgess Park in Menlo Park. Mr. Sullivan's proposal involves a removable wooden ramp occupying 600 square feet (20 feet wide and 30 feet long). Potential problems include finding an appropriate location, being able to establish hours of operation and controlling noise.

On another matter, Councilmember Toben reported that the Committee has learned that the Ford Field renovation plans would require \$375,000-\$400,000, as opposed to \$304,000. Councilmember Toben said that he again pressed the Committee to pursue private fundraising, noting that 85% of the Town Center project was financed through donations.

In response to a question from Mayor Driscoll about why the cost estimate may be 25-30% higher than originally anticipated, Ms. McDougall said that a major factor is the extensive amount of chain link needed for the batting cage and the backstop.

(c) Architectural and Site Control Commission (ASCC)

Councilmember Richards indicated that at its May 23, 2011 meeting, the ASCC reviewed a proposal for a garage at 141 Santa Maria Avenue, and residential additions and remodeling at 220 Golden Hills Drive. Issues discussed in terms of the Golden Hills Drive project included brush clearing and lighting plans.

(d) Conservation Committee

Councilmember Richards said he didn't attend the Conservation Committee meeting on May 24, 2011.

(e) Council of Cities

Vice Mayor Derwin reported that Willie Brown attended the Council of Cities meeting in Brisbane on May 20, 2011, focusing primarily on the California budget crisis. At the next Council of Cities meeting, she said, members will vote to fill four vacant seats on Association of Bay Area Governments (ABAG) and elect a replacement for former San Carlos Mayor Omar Ahmad, who died on May 10, 2011.

(f) Sustainability Committee

Vice Mayor Derwin said that she and Sustainability & Resource Efficiency (SURE) Coordinator Brandi de Garmeaux attended a Cal Water meeting to hear about its new water management plan. She said that it's difficult to dispute the numbers, and clear that conservation will be necessary. Town-specific data for the purpose of gauging the results of conservation efforts is hard to come by because Cal Water keeps records on a district-by-district basis, but the agency is trying to isolate the necessary information.

In the future, Vice Mayor Derwin said, Cal Water will hold quarterly meetings with staff representatives from Portola Valley, Atherton, Woodside and Menlo Park.

(i) Community Events Committee

Vice Mayor Derwin attended the Community Events Committee meeting on May 24, 2011, during which members went on a walk-through in advance of the Town Picnic. She said that she was concerned that only three members of the Committee participated – Mike Bray, Diana Raines and Karen Mobley. They're doing a great job, she said, but there aren't even enough people for picnic setup. She said that it will get done, as will the volunteer party, but unless people step up, the Committee won't be able to do much.

WRITTEN COMMUNICATIONS [8:35 p.m.]

(10) Town Council May 13, 2011 Weekly Digest

a) #1 – Memorandum to Town Council and various others from Ed Davis regarding Bicycle Committee – May 11, 2011

Mayor Driscoll indicated that the issue of a bicycle committee – whether part of the Traffic Committee or not – has been deferred to the June 8, 2011 Town Council meeting. Councilmember Toben referred to a lively discussion on the subject in *The Almanac*.

Mr. Mader said that he could not tell whether there's any added pavement for bicycles on the shoulders. Based on conversations with Mr. Young, Mayor Driscoll explained that Caltrans standards dictate a

certain legal width for traffic lanes on arterial roads. The pavement has been extended by as much as 12 inches on both sides in some areas, but it isn't yet quite as wide as it eventually should be.

(11) Town Council May 20, 2011 Weekly Digest – None

ADJOURNMENT [8:40 p.m.]

Mayor

Town Clerk