

TOWN COUNCIL MEETING NO. 837 MARCH 28, 2012

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 Jeff Aalfs, Ted Driscoll and Ann Wengert; Vice Mayor John Richards; Mayor Maryann Derwin

Absent: None

Others: Angela Howard, Town Manager
Barbara Powell, Interim Assistant Town Manager
Leigh Prince, Town Attorney Representative

ORAL COMMUNICATIONS

Mayor Derwin requested the addition of an Urgency Item to the agenda – approval of a new Town Manager agreement – as provided for in California Government Code Section 54954.2. She noted the agenda for this meeting was posted on March 23, 2012, after which the Council met in closed session, selected a new Town Manager and negotiated contract terms. The finality of a fully executed contract, which this Urgency Item addresses, is necessary to enable the new Town Manager to begin work on or about May 1, 2012 and to give the Town time to prepare for the transition.

Vice Mayor Richards moved to add the Urgency Item to the regular agenda as Item 3A. Seconded by Councilmember Aalfs, the motion carried 5-0.

Mayor Derwin said that adding this item rendered the Closed Session on the agenda unnecessary.

CONSENT AGENDA [7:35 p.m.]

- (1) Approval of Minutes: Regular Town Council Meeting of March 14, 2012
- (2) Ratification of Warrant List: March 28, 2012 in the amount of \$112,178.23

By motion of Vice Mayor Richards, seconded by Councilmember Driscoll, Items 1-2 on the Consent Agenda were approved with the following roll call vote:

Aye: Councilmembers Aalfs, Driscoll, Wengert, Vice Mayor Richards, Mayor Derwin

No: None.

REGULAR AGENDA

- (3) Study Session: Fee Study for the Town's Building, Planning and Public Works Departments by NBS [7:35 p.m.]

Mayor Derwin explained that at tonight's meeting the Council will decide on a direction to take in regard to an overall cost-recovery policy, and discuss whether to change the basis for building fees for new construction, remodeling and repair. Fees are currently valuation-based, and the option is to switch to a fee structure based on cost of service.

Ms. Powell introduced Nicole Kissam, Director of Financial Consulting with NBS Consultants.

Ms. Kissam explained that her presentation would cover the methodology and steps taken to arrive at the cost-recovery numbers in the report she provided. The study focused on development review fees, including plan checking, inspection and development-review approval fees – not impact fees. In the current legal environment, she said, fees must be established based on the “estimated reasonable costs” of providing service. Should regulators consider a fee in excess of the estimated reasonable cost, it would be classified a tax and require voter approval.

According to Ms. Kissam, the methodology for determining the cost of providing services involved four major steps:

- 1) Evaluating how staff spends time on the services. Directly working on a project, such as plan review and inspection, in a way that time can be tracked is one component. Another is providing indirect services that are less tangible, including handling requests for information from the public, working on code or procedure improvements, dealing with enforcement issues and long-range planning. This component also reflects Town-wide support and overhead services and/or costs, and the study explored how much of that is recoverable in a fee framework.
- 2) Determining the value of the staff time. After interviewing staff to gauge the amount of time spent on plan-checking and inspecting active projects, providing public information, working on code and policy development, and so forth, values were tied to each type of service on an annual basis. In addition to labor costs, the study considered the costs of non-labor (such as materials and supplies) and overhead components.
- 3) Performing a cost-of-service analysis at the individual fee-for-service level. For each department analyzed (Planning, Building and Public Works), the sum of labor, non-labor and overhead costs was translated into a “fully burdened labor rate”, placing a value on an hour of labor time performing work related to the service/activity. These hourly rates were then multiplied by the estimated time at three different levels (for minimum, average and maximum staff efforts) for different types of projects. Specific costs incurred as a result of individual activities, including related consultant costs and other charges, were added to come up with total “full unit cost of service” data from which fee structures can be derived.
- 4) Working on issues of fee design to ensure that the charging structure is fair and equitable, correlating cost recovery to the means of providing services. Fee structures could be flat, variable based on project characteristics, variable based on tracked time, or a combination thereof.

The result of these efforts put figures on annual costs that would be eligible for recovery from fees, and provided a basis for tying those figures to individual services performed.

In response to a question from Councilmember Aalfs, Ms. Kissam said that contractors who provide plan checks for Building, and other contractors as well, were a major component of the study. The study, in fact, developed fully burdened rates for Town staff as well as contractors.

In regard to cost-recovery objectives, Ms. Kissam indicated that the Town will have to decide whether it wants to seek 100% recovery or subsidize any particular service(s) to some extent using monies from the General Fund. Subsidies may be considered in a variety of contexts, she suggested, including the Town’s fiscal sustainability, local economic pressures, Town standards, public benefit and so forth.

Ms. Kissam also discussed the outcomes of NBS’s organizational analysis. In Planning, for instance, she identified 726 hours annually (18%) for providing services related directly to specific projects, 696 hours (18%) for giving public information and assistance, and 479 hours (16%) for working on code and policy enforcement. She said the fully burdened rate for Planning came out to \$330 per hour for 100% cost recovery.

Councilmember Driscoll asked whether the data might be skewed by the fact that Planning operations have been challenged this past year because the Planning Manager was on medical leave for an extended period. The data were based on the FY2011-2012 budget, Ms. Kissam said, noting that the numbers should be good because her firm, well aware of the Town's situation, made a concerted effort to identify a typical snapshot in time of work on a daily basis. Ms. Howard added that the snapshot actually reflects what the Planning Manager would have been doing had she been able to do her work as usual.

In response to Vice Mayor Richards, Ms. Howard said that the study projections reflect the Town's decision to create new Planning Department Manager and Planning/Building Services Advisor positions. In effect, Councilmember Driscoll surmised, the data marries past staff performance with future salary levels.

Councilmember Wengert asked how much of a reduction was built into the model relative to use of outside consultants, considering that consultants have been engaged for more hours than usual during the past year. Ms. Kissam explained that Town costs and consultant costs were separated, so any commensurate decline in consultant costs would be reflected in a lower fee.

A key point, Ms. Kissam continued, is that the study incorporated tying values into activity-based costing for every type of major service provided, and then indicated what percentage of the costs in each instance is recoverable.

Councilmember Wengert asked how recoverable costs were identified, as opposed to those that aren't recoverable. In addition to following specific dictates within the California Government Code and defining specific versus general benefits, Ms. Kissam said that one way is to rely on a consultant who has been doing this kind of work for more than a decade and has developed numerous scenarios regarding the use of funds. She also indicated that some recent State Propositions may revise what can be considered recoverable.

In Portola Valley's case, she said NBS took a very conservative approach. For example, some instances of providing public assistance and information aren't relevant to active or potential projects. Likewise, long-range planning and General Plan update activities may not relate directly to particular projects.

According to Ms. Kissam, Portola Valley's current base fees in Planning recover approximately 34% of total estimated Planning costs overall, and the charges for contracted services are passed through at cost. The gap between 34% and 100% cost recovery is somewhat greater than in most planning departments, she noted, but not atypical. Whether or not the Town decides to seek full cost recovery for staff time in its fees, she added, at least the Town should recalibrate deposit amounts for contracted services in Planning to bring them closer to actual costs.

NBS and Town staff developed initial cost-recovery benchmark fee levels that would cover half of the Town's staff costs in Planning. Were the Town to adopt that benchmark and activity volume remained stable, the 50% cost-recovery target is anticipated to result in additional revenue of \$39,000 annually.

She said that NBS applied the same methodology used in Planning to Building. Vice Mayor Richards noted a discrepancy between Building's fully-burdened hourly rate on Ms. Kissam's slide and in the report. The correct figure is \$175 per hour, she said.

Councilmember Wengert asked what accounts for variability in the costs that go into the fully burdened rate. Ms. Kissam's responded that adjustments made for non-recoverable costs differ between Planning and Building, and the segregation of time spent is based on staff experience gleaned from interviews.

NBS's work in Building led to a recommendation to completely restructure its fee schedule, Ms. Kissam reported. She said many jurisdictions are shifting to cost-based fees and moving away from the traditional valuation-based approach that's has been around since 1929. With the current fee structure, the Town recovers an estimated 78% of Building costs, which would increase to 89% under the new benchmark fee

levels and is anticipated to produce approximately \$45,000 in additional revenue. The 50% benchmark applied to staff costs for stand-alone mechanical, plumbing and electrical permits, while 100% cost recovery was indicated for staff costs related to new construction, tenant improvements, additions, remodels and minor residential improvements.

In the Public Works arena, Ms. Kissam explained that the situation differs from Planning and Building because most of the services provided by Public Works aren't fee-related. For this reason, NBS calculated the fully burdened rate more globally, coming to \$150/hour. Currently, Public Works fees enable the Town to recover 58% of total estimated costs; using benchmark-level fees to collect enough to cover 100% of the costs is anticipated to bring in an additional \$5,000 annually.

As suggested in regard to Planning, Ms. Kissam said the Town should reduce its administrative burden by resetting deposit amounts for contracted services in Public Works to reflect actual costs more closely, regardless of whether the Town opts for 100% cost recovery in Public Works fees.

Responding to Councilmember Aalfs inquiry about the 1,927 direct hours shown on her slide, Ms. Kissam said the aggregate reflects staff time minus vacations, sick leave and some administrative time.

All told, Ms. Kissam explained, the models she described are anticipated to recover approximately 75% of total estimated Town costs of providing fee-related services in Planning, Building and Public Works, or an additional \$86,000 annually in recovery above current levels. Were fees to cover costs 100%, the Town is anticipated to recover \$247,000. By way of comparison, she said, the current fee structure across the three operations covers approximately 61% of the cost. In other words, as it stands now, the Town's General Fund subsidizes fee-based services to the tune of 39%.

Councilmember Driscoll said that the term "subsidy" seems pejorative, implying that the Town is paying for something it shouldn't, and taxpayers contribute to the General Fund that's used to pay the difference between costs and fees. He pointed out that when the Town spends time with an applicant to make a proposed project more acceptable to the community, the applicant is not alone in benefiting from that service. The neighbors and the Town in general also benefit. Thus, he believes that a 100% cost-recovery target would be over-reaching.

Vice Mayor Richards asked if that's the reason for setting the initial benchmark at a lower cost-recovery level. Ms. Kissam said yes, that Councilmember Driscoll captured the logic perfectly.

Ms. Howard clarified that the same recovery rate need not apply to each fee. She also pointed out that inasmuch as the Town Planner's services are contracted, much of the cost incurred in situations such as what Councilmember Driscoll mentioned is a pass-through cost that's recovered at 100% already.

Councilmember Aalfs said that the 70% recovery in Planning versus 90% in Building would reflect the fact that the benefit of services to particular applicants is greater in Building than in Planning.

Noting that the amalgam of methodologies presented probably reflects best practices, NBS's experience and trends in other jurisdictions, Councilmember Wengert asked about the longevity of any action the Council decides to take and how soon the Town should expect to readdress the fee structure. In reply, Ms. Kissam said that most agencies review fee structures every five years.

Councilmember Driscoll said he expected Portola Valley's cost increases to be fairly closely tied to the Consumer Price Index (CPI). Ms. Kissam said that in between comprehensive updates, many agencies use an annual adjustment factor as the basis for fee changes and that factor accounts for labor costs as well as CPI. Councilmember Driscoll said that if the fees are adjusted annually on that basis, the Town may be able to go as long as ten years without a comprehensive review.

Vice Mayor Richards opined that a cost-based versus valuation-based fee structure would have more longevity. Ms. Kissam agreed, noting that it takes no longer for a plan-checker to inspect a higher-valued

granite countertop than one made of Formica. Vice Mayor Richards also noted that it's important to avoid raising fees to such an extent that residents decide, for instance, to build a fence or undertake tree-trimming without going through the Town's process. Councilmember Aalfs expressed a similar concern.

Ms. Kissam said the best policy approach she's seen was in San Luis Obispo, which set department benchmarks for cost recovery, and went through each department and service, discussing behaviors to encourage and discourage. Councilmember Wengert said it makes sense to prioritize on the basis of an examination of the Town's existing fee schedule and the related activities in the context of Town priorities and important community concerns.

Ms. Howard stressed the importance of recovering costs of pre-application, post-application and pre-construction meetings in particular because these activities are so time-consuming. She suggested that staff work with one or two Councilmembers to create a proposed fee schedule. Vice Mayor Richards and Councilmember Aalfs agreed to work with staff to review existing fees and recommend cost-recovery rates and corresponding fees through a report to the full Council at a future meeting.

Councilmember Driscoll said that some jurisdictions charge a percentage of costs rather than fixed fees, which has an advantage in that it tends to address inflation over a period of time, but it also assumes that the amount of review time required is commensurate with the valuation.

Councilmember Wengert said she expects to find the most challenging aspects in the Planning arena, inasmuch as the intensity and frequency of the Town's involvement with applicants seems to be increasing, and because the often-subtle balance between private and public must be evaluated carefully.

(3A) Urgency Item: Approval of a new Town Manager agreement [8:19 p.m.]

Mayor Derwin introduced soon-to-be Town Manager Nick Pegueros. Noting that the Council devoted six Closed Sessions to interviewing candidates, she said the decision was agonizing because the candidates were so well-qualified. At the end of the day, she said, the Council chose Mr. Pegueros, and is thrilled to welcome him into Portola Valley.

Ms. Prince said she crafted the proposed agreement between the Town and Mr. Pegueros based on the terms that he and the Council negotiated.

Ms. Howard confirmed that the proposed agreement reflects the current position description.

Councilmember Wengert moved to approve the employment agreement with Nick Pegueros as Portola Valley Town Manager effective May 1, 2012. Seconded by Vice Mayor Richards, the motion carried 5-0.

Councilmember Wengert said she found the selection process an incredibly positive experience.

Councilmember Driscoll thanked Heather Renschler, President and CEO of Ralph Andersen and Associates, the executive search firm, for assembling such a high-quality pool of applicants.

Mr. Pegueros expressed his appreciation for being selected and said he looks forward enthusiastically to his future in Portola Valley and to working with the Council.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(4) Reports from Commission and Committee Liaisons [8:27 p.m.]

Councilmember Aalfs:

(a) Architectural and Site Control Commission (ASCC)

There were a few items on the ASCC meeting agenda for March 26, 2012 – one old item and two new items related to home additions – but in terms of applications-review activity, Councilmember Aalfs said things are fairly quiet now. Commercial projects in the design phase have been picking up, and some of those are likely to come to the ASCC in the months ahead.

Councilmember Driscoll:

(b) Conservation Committee

Meeting on March 27, 2012, Committee members discussed:

- Preparations for the Committee's budget submittal for the FY2012-2013.
- The need to determine the cost of a planned mailing.
- Participation in a recent broom-pull.
- Staffing a table at the Town Picnic.
- A heritage oak with a 60-inch circumference that an arborist recommended for removal but the landowner wants to save. The Committee agreed with the arborist's assessment.

(c) Bicycle, Pedestrian and Traffic Safety Committee

Councilmember Driscoll said he would be unable to attend the Committee's April 4, 2012 meeting. Vice Mayor Richards volunteered to attend in his place.

Councilmember Wengert:

(d) Parks and Recreation Committee

Meeting on March 19, 2012, the Parks and Recreation Committee covered:

- The issue of Committee membership. The group is down to five members. Chair Jon Myers led a robust discussion, Commissioner Wengert reported, with the names of a number of good potential candidates emerging. Committee members said they would reach out to some of them.
- Fundraising for the Ford Field renovation. Chair Myers is very enthusiastic about the campaign that's taking shape, contacting potential donors.
- Coordinating the June 9, 2012 Zots to Tots run/walk with the Crowder (aka C-1) Trail opening.

Vice Mayor Richards:

Vice Mayor Richards noted a scheduling conflict due to the fact that two of his committees – Emergency Preparedness and Cable and Utilities Undergrounding – meet on the same dates and times once every other month.

Mayor Derwin:

(e) Sustainable San Mateo County

Attending the Sustainable San Mateo County 2012 Sustainability and Green Building Awards event on March 15, 2012, Mayor Derwin reported that:

- Portola Valley residents Paul Holland and Linda Yates won the Green Building Award of Excellence for Tah.Mah.Lah., their Mapache Drive home.
- The Bill and Jean Lane Education Center at Edgewood Park and Nature Preserve received the Public Project Honor Award, with Jean Lane on hand to share in the celebration.
- Pie Ranch in Pescadero, St. Francis Center in Redwood City and Solar City in San Mateo also received Sustainable San Mateo County awards.

(f) Council of Cities

At the March 23, 2012 Council of Cities meeting in Foster City, Mayor Derwin said that speaker Jim Hartnett addressed a highly charged topic in his update on what's happening in the high-speed rail arena. A member of the California High-Speed Rail Authority (CHSRA) Board, Mr. Hartnett is a former Redwood City Mayor (as is his wife, who's now serving as a Redwood City councilmember).

Mayor Derwin indicated that Mr. Hartnett discussed an about-to-be released new plan, driven by Governor Jerry Brown, and a two-track blended system on the Peninsula, which Mayor Derwin said generated considerable discussion. Ultimately, she said, it appears that the legislators will be the high-speed rail policymakers.

(g) Mayors for Meals

On March 21, 2012, Mayor Derwin, along with six of her counterparts representing most all the communities served by the Peninsula Volunteers (PV) Meals on Wheels program, fanned out across their cities to deliver on one key promise to their constituents: that we all are united to end senior hunger.

Joining Mayor Derwin were Dave Tanner (Woodside), Alicia Aguirre (Redwood City), Andy Klein (San Carlos), Laura Martinez (East Palo Alto), Kirsten Keith (Menlo Park) and Bill Widmer (Atherton).

(h) Sustainability Committee

Although unable to attend the Sustainability Committee March 19, 2012 meeting, Mayor Derwin received word from Brandi de Garneau, Sustainability & Resource Efficiency (SURE) Coordinator, that:

- The speaker was Mike Katz, discussing MiCasa Verde energy-monitoring software.

- The Committee intends to purchase recycled Chico bags for distribution.
- A total of 62 households are participating in the High-Energy Homes program so far, representing about 40% of the 150-home target.
- Acterra is accepting new signups until April 22, 2012, after which the Committee faces a decision as to whether to continue the program with current participants.
- Nine energy upgrades are being undertaken in Portola Valley, with three in the pipeline. Mayor Derwin said this represents 6% of the countywide energy upgrades, while the Town's residents account for only .06% of the population.

Mayor Derwin also reported attending a meeting about the group buy program for solar installations with Green Town SunShares representatives on March 27, 2012. Selected contractors gave presentations. She said 112 people are registered to participate in the group buy program.

Mayor Derwin, as well as Vice Mayor Richards, also attended ribbon-cutting ceremonies for the Town's Electric Vehicle Charging Stations on March 15, 2012.

WRITTEN COMMUNICATIONS [8:41 p.m.]

- (5) Town Council March 16, 2012 Weekly Digest
- a) #4 – Memorandum to Portola Valley Administrator and Town Council from Portola Valley Ranch Fire Risk Management Committee requesting time at a Town Council Meeting to make a presentation – March 7, 2012

The Council asked that the presentation be put on the agenda for its April 25, 2012 meeting.

- (6) Town Council March 23, 2012 Weekly Digest – None
- a) #4 – Press Release concerning Wildland Fire Exercises April 9-13 and April 19, 2012 – March 22, 2012

Councilmember Driscoll said that because the media release about the Wildland Fire Exercises didn't contain the detailed information the Town Council received in its packet, there was concern within the Conservation Committee about the event. Ms. Powell suggested that advance information be distributed to committees as well as the Council in the future.

CLOSED SESSION [removed from agenda]

- (7) Public Employment Appointment
- Government Code Section 54957(b)(1)
Consideration of Appointment of Town Manager

ADJOURNMENT [8:47 p.m.]

Mayor

Town Clerk