

PORTOLA VALLEY TOWN COUNCIL REGULAR MEETING NO. 906, MARCH 25, 2015

I CALL TO ORDER AND ROLL CALL

Mayor Aalfs called the Town Council's regular meeting to order at 7:30 p.m. and led the Pledge of Allegiance. Ms. Hanlon called the roll.

Present: Councilmembers Craig Hughes, John Richards, Ann Wengert; Vice Mayor Maryann Moise Derwin, Mayor Jeff Aalfs

Absent: None

Others: Nick Pegueros, Town Manager
Leigh Prince, Town Attorney
Sharon Hanlon, Town Clerk
Brandi de Garmeaux, Sustainability and Special Projects Manager

II ORAL COMMUNICATIONS – Brandi de Garmeaux announced the Annual Earth Fair is this Saturday, March 28, 2015, at 11:00 a.m. at the Woodside Mountain Patrol Grounds. They will announce the first Environmental Champion for Portola Valley.

III CONSENT AGENDA [7:31 p.m.]

(1) Approval of Warrant List: March 25, 2015, in the amount of \$130,256.95.

(2) Recommendation by Public Works Director: FY 2014/2015 Annual Street Resurfacing Project No. 2014-PW02

(a) Adoption of a Resolution of the Town Council for the Town of Portola Valley Approving Plans and Specifications and Calling for Bids for the 2014/2015 Street Resurfacing Project – Surface Seals No. 2014-PW02 (Resolution No. 2650-2015)

Councilmembers approved all items unanimously with a roll-call vote.

IV REGULAR AGENDA [7:32 p.m.]

(A) Presentations -- None

(B) Committee Reports and Requests

(1) *Report by the Parks & Recreation Committee* – Committee Annual Report to the Town Council.

Parks & Recreation Committee Chair Simone LaValle presented.

Councilmember Wengert asked if there had been any preliminary outreach to potential donors for the skate ramp project and if they were feeling optimistic that it would not be difficult to raise those funds. Ms. LaValle said that the quote Patrick Sullivan received for a custom built half pipe was \$30,000. The Committee had been estimating a cost of \$15,000 to \$18,000. She said that Mr. Sullivan did additional research regarding a pre-fab kit that could be installed by a licensed and town-approved contractor. She said Mark Sutherland will need help from the Committee; however, he has already done a phenomenal job and feels confident that the funds can be raised.

Mayor Aalfs asked if the Council was comfortable with the timeline as far as the Town Council process. He asked Mr. Pegueros if the Council had any other requirements.

Mr. Pegueros said the timeline in the report is bumped out a couple of months. He said that staff needs to work with the Committee regarding design immunity from the manufacturer if we go with a prefab kit. In terms of process, he said it's important to have the Town Council first see the project and then ask the ASCC for comment. At that time we will have the story poles erected. He said we may need to discuss the mobility of the map in the event that the Town Center Master Plan Update requires the movement of the half pipe. Mr. Young is working closely with the Committee.

Mayor Aalfs asked if the rebound wall was still tied to the half pipe. Ms. LaValle said they were two separate projects at this time.

There were no public comments.

(2) *Council Liaison Reports*

- Councilmember Wengert – Attended the Sustainability Committee meeting on March 23, 2015, where they discussed the Environmental Champion award. Attended the Finance Committee meeting on March 23, 2015, with Councilmember Hughes, where they had a robust discussion regarding the pension liability issue.
- Councilmember Richards – Attended the Cultural Arts Committee meeting on March 12, 2015, with discussion regarding their survey, food trucks, and the concert schedule. Attended the Conservation Committee meeting on March 24, 2015, with discussion of redwood trees, the Earth Fair, the Backyard Habitat Program, mountain lion lecture, broom pull report, and the proposed retaining wall on Alpine Road.
- Councilmember Hughes – Attended the Finance Committee meeting on March 23, 2015, with Councilmember Wengert.
- Vice Mayor Derwin – Attended the ASCC meeting of March 23, 2015, with discussion of the Kelly bridge at Ford Field, the options for the proposed retaining wall on Alpine Road, and the residence being built on the town's former Blue Oaks lot. The proposed retaining wall on Alpine Road will come to the Town Council on April 22, 2015. The staging area for the Blue Oaks residence may also come to the Town Council in the future.
- Mayor Aalfs – Mayor Aalfs, Vice Mayor Derwin, and Mr. Pegueros met with California Clean Power (CCP) with discussion on their investments in solar projects and securing their own sources of renewable power as an alternative to the Countywide CCA.

(C) Public Hearings: None

(D) Staff Reports and Recommendations

- (1) *Recommendation by Sustainability & Special Projects Manager* – Authorize Town Staff to Request PG&E Load Data for the Purpose of Further Exploring Community Choice Aggregation (CCA) Options. [8:10 p.m.]
 - (a) Adoption of a Resolution of the Town Council of the Town of Portola Valley Authorizing Release of PG&E Load Data for the Purpose of Technical Analysis by the San Mateo County Office of Sustainability in their Financial Feasibility Study of a Community Choice Aggregation Program for San Mateo County (Resolution No. 2651-2015)
- (2) *Recommendation by Sustainability & Special Projects Manager* – Authorization for Town Staff to Request PG&E Load Data for the Purpose of Further Exploring Community Choice Aggregation (CCA) Options.

Brandi de Garneau presented both resolutions. She pointed out that if the Council does not approve the resolution, it is possible the Town may not be able to participate in the County's feasibility study and might be excluded from the initial establishment of the Countywide CCA.

She reports that PG&E stated they have never received a request for redacted data prior the San Mateo request. San Mateo's request for redacted data for all 19 cities was a proactive measure in response to our concerns over privacy. She said that PG&E responded they don't have a standard fee or method for redacting that data and it would cause delays, especially if they have to do it for the entire County. She said PG&E suggested releasing the data to staff and task the Town staff with the redacting and then forward it directly to the County.

Vice Mayor Derwin asked if we will be able to get it in with the other 19 cities if we do the redacting ourselves. Ms. de Garneau said we would redact it, have the consultants for the Countywide CCA sign the nondisclosure agreement, and then send it to them directly to get into their feasibility study.

Mr. Pegueros said that if PG&E or the County requires the release of full data, the resolution in the packet tonight would not allow the Town to participate in that revised request. To hedge against the risk of being excluded from the County's feasibility study, Mr. Pegueros said that staff suggests a solution of submitting parallel load data requests to PGE that allows staff to receive the full data. Staff could then redact the personally identifiable information and provide that redacted data to the County, which may allow us to continue in the feasibility study.

Vice Mayor Derwin asked Mr. Pegueros to describe how this situation came about.

Mr. Pegueros said that on February 11 the Town Council considered the basic form resolution drafted by the County's consultant. The Council expressed privacy concerns regarding extremely detailed energy use data that would be transmitted to unknown parties. To address the concern, the Town Council changed the resolution at the meeting to only authorize the release of aggregated data, which was initially acceptable to the County and town staff assumed everything was good to move forward.

Vice Mayor Derwin said that on March 12, 2015, she received a call from Dave Pine advising her that there was miscommunication between our staffs and we were supposed to have submitted a new resolution, but because we didn't submit it, we would be excluded from the study. She referred Mr. Pine to talk to Mr. Pegueros.

Mr. Pegueros said he received a phone call around 4:00 on March 12 to notify the Town that due to a miscommunication between the County and the Town, and because we did not take action on March 11 to allow full data release to the County, the County would move forward with the data request and exclude Portola Valley.

Mr. Pegueros said that, fortunately, the County's consultants were able to talk to PG&E and PG&E has authorized the County to submit a revision that would add Portola Valley to the request provided that the Town Council adopts the resolution included in the packet this evening and get it to the County tomorrow morning.

Mr. Pegueros said he believes this miscommunication occurred because of the rush to get the data requests to PG&E. As mentioned in one of the reports in the packet, Mr. Pegueros said there's a concern about the length of the queue at PG&E for load data requests. He said the requests are fulfilled on a first come first served basis and if a large request is ahead in line, everyone else will have to wait until those large requests are fulfilled. He said that when staff met with California Clean Power, they indicated the queue is six months out, and that San Mateo may not get their data for six months.

Ms. de Garneau said at this point we would like to explore these parallel processes so that we're not excluded from anything because we don't really know what the end game is on either of them. Staff would like approval of the resolution to release the redacted data with the Countywide CCA. On Item D-2, staff would like Council to authorize Town Staff to request PG&E Load Data for the purpose of exploring Community Choice Aggregation options, but not require that it be redacted. She said staff can redact it ourselves and then send it to the County.

Councilmember Wengert asked how much time the staff expected it would take to redact the data. Mr. Pegueros said he did not know, but they had seen the template of the download and they understand the data will come in a format that will allow them to select and redact specific columns.

Councilmember Wengert asked if not participating in the countywide initiative precluded the Town from later participation in the CCA, if we choose to do that, even if we haven't provided our data. Mr. Pegueros said that would be a decision of the CCA JPA; however, at this point this process is being shepherded by the County. He said the County could make a decision at any point in the future to add our data to their feasibility study.

Councilmember Wengert asked if being a part of the feasibility study was a requirement of participation in the CCA. Mr. Pegueros said it was. Councilmember Hughes said his understanding was that whether or not you were a part of the feasibility study would not impact whether or not you'd be able to participate in the CCA. Mayor Aalfs said he thought they meant that participating in the feasibility did not commit us to joining the eventual JPA. Councilmember Hughes said he thought it went both ways.

Mr. Pegueros said there are clearly implications when the County moves forward with the CAA feasibility study for only 19 of the 20 cities. He said that he does not know how this will impact the Town's ability to participate in the CCA in the future. He speculated that the County's decision to move forward without Portola Valley may have been due to staff's discussions with California Clean Power. He said it is important to remember that a CCA program, assuming one is viable, financially sustainable and delivers the service to the Town residents, as it has been rolled out in Marin County and Sonoma County, will be the single largest contributor to achieving the Town's greenhouse gas emission reduction goals in the Climate Action Plan that will be coming to the Council on April 22. He said staff thinks this is an important process to participate in and is a worthwhile effort at this point.

Commissioner Wengert said she supports doing what we need to do but is concerned about the rush into this. She expressed concern regarding the haste that's been applied to this process. She said it is a dangerous phenomenon when you have a whole new business model for subscribing to power and utility needs. She said these are financially incentivized folks who are creating a whole new sub-industry to displace a utility of the size of PG&E. She said we need to proceed very carefully and very diligently and she is concerned that this pace will continue.

With no other questions from Council or public comment, Mayor Aalfs brought it back to the Council for discussion.

Councilmember Wengert said she supports the parallel path suggested.

Councilmember Richards said staff's approach is reasonable and as long as we can redact the information in a reasonable amount of time it makes sense to proceed.

Councilmember Hughes said the resolution makes sense and it makes sense for us to have the data anyway for our own purposes.

Mr. Pegueros offered clarification in response to Councilmember Hughes' comment that the data the Town requests from PG&E can only be used for the purpose of exploring the CCA and no other purpose.

Vice Mayor Derwin said she has been fairly shaken by the behavior of the County. She said the way they have treated us leads her to believe that we were singled out because we had privacy sensitive questions about the data of our residents. She pointed out that we set up a meeting with California Clean Power and Kelly Foley knows Shawn Marshall of LEAN Energy, who is the consultant for the County. She does not think it was an accident that we were dropped off. She said this does not give her a lot of confidence going forward on the County forming this CCA and how they're going to run it. She believes we need to sign the resolution and release the data to preserve that option, but also thinks we should talk to other people.

Mayor Aalfs thinks it is a wonderful concept. He said we absolutely should pursue all of our options. He is also concerned about the way the County has treated the Town. He said there is no reason we should not be able to participate in this in the Countywide CCA evaluation since we've basically restarted a conversation. He said the County came back and asked to redact the data and that's how we learned that PG&E doesn't even know how to redact data.

Vice Mayor Derwin said she suspects we are moving so fast because there isn't enough solar power and the people who get in there first get it, which is frightening.

Mayor Aalfs said CCP felt like they could keep up with the demand for the network they want to create, but it's clear that over the long term it's going to take time. Mayor Aalfs said he doesn't think that's a reason for us to rush into anything, however, and he thinks we should be thinking about the long term goal here, even if it means we start with 30% renewables as opposed to 100% renewables. He feels this step is small and reversible enough that he's comfortable with it.

Councilmember Hughes moved to approve the resolution authorizing the release of PG&E Load Data for the Purpose of Technical Analysis by the San Mateo County Office of Sustainability in their Financial Feasibility Study of a Community Choice Aggregation Program for San Mateo County. Seconded by Vice Mayor Derwin, motion passed 5-0.

Councilmember Hughes moved to authorize Town Staff to Request PG&E Load Data for the Purpose of Further Exploring Community Choice Aggregation (CCA) Options. Seconded by Councilmember Richards, motion passed 5-0.

Mr. Pegueros said the recommendation in the staff report included a sentence that was removed from the resolution – "Town Staff would submit a request to PG&E for meter-level load data redacted of personally identifiable information." He wanted to be sure the Council understood that sentence was removed.

(3) *Report by the Town Attorney – Discuss and Provide Direction Regarding Proposed Changes to Title 2 [Administration and Personnel] of the Portola Valley Municipal Code [8:33 p.m.]*

Town Attorney Leigh Prince presented. She explained this is an opportunity for the Council to have more of an in depth conversation about what is in Title 2 and provide feedback.

- *Council Meetings*

Section 2.04.010 – The Councilmembers discussed the pros and cons and were in agreement on the proposed adjustment to a 7:00 pm start time.

Section 2.04.020 – All of the Councilmembers were in agreement to the proposed adjustment to read "Historic Schoolhouse" instead of "Town Hall."

Section 2.04.030 – The Councilmembers were all in agreement with the clarification.

Government Code Section 36516 – With regard to enacting an ordinance providing salaries to Councilmembers, staff was directed to provide data regarding how other Cities handle it.

- *Town Council Vacancies*

Section 2.05.010/Section 2.05.030 – Ms. Prince recommended revisions to these sections that allow the Council retain the flexibility to either call a special election or appoint for a vacant Council position. All of the Councilmembers agreed.

- *Town Clerk and Treasurer*

Sections 2.08.010 and 2.08-020 – All of the Councilmembers agreed with the proposed adjustment.

Section 2.08.030 – All of the Councilmembers agreed with the proposed deletion of this section.

- *Assessment and Tax Collection*

The Council is in agreement with Ms. Prince's simplification of the language.

- *Architectural and Site Control Commission*

Section 2.16.030 – All of the Councilmembers agreed that it was acceptable to refer to Section 18.61.010 for clarity. It was noted that a discussion of duties would come up later.

Section 2.16.040 – This concerned possibly changing their meeting time to 7:00 p.m., after consultation with the ASCC.

- *Planning Commission*

Section 2.20.020 – With respect to timing of the general plan review, Ms. Prince's first thought was to say "as needed" or "as directed by Council," but since there was already a 2-year interval stated, she suggested perhaps changing that to 10-year review interval. Councilmember Hughes suggested breaking up the General Plan so that a review of the entire plan at one time wasn't required, perhaps with directions that as part of their regular course of business, the Planning Commission try to review one section a year. Vice Mayor Derwin is more in favor of the 20-year-review interval for the full document and to allow flexibility based on the interdependencies as well as Councilmember Hughes comments. She agreed there were probably sections of the General Plan that have not ever been amended and does not think that every section needs to be reviewed. Mayor Aalfs said he did not think a timeframe needed to be specified.

Section 2.20.30 – This concerned possibly changing their meeting time to 7:00 p.m., after consultation with the Planning Commission.

Ms. Prince stated that Title 2 did not include compensation for the ASCC or Planning Commission; however, Government Code Section 36506 allows for the Council to enact an ordinance fixing compensation of appointive officers. Staff was directed to provide data regarding how other Cities handle it.

- *Holidays*

Section 2.28.010 – The Councilmembers all agreed with the proposed draft ordinance, with the addition of Cesar Chavez Day.

- *General Municipal Elections*

Section 2.32.010 – Councilmembers agreed to wait and see what happens with the next all-mail ballot and revisit at that time.

- *Conflict of Interests*

Councilmembers agreed to simplify Chapter 2.36 by removing redundant sections that are addressed in Regulation 18730, which is incorporated by reference.

- *Informal Bidding*

Ms. Prince said she is recommending amendment to the higher limit for public projects to qualify for the informal bidding process. She noted that more research is being conducted on this item and it will be brought back before the Council for further discussion.

(4) *Report by the Town Attorney* – Discuss the Federal Communications Commission (FCC) Ruling Regarding Wireless Facilities Siting Policies and Consider the Request to Provide Financial Support to the Coalition Appealing the FCC Ruling.

Ms. Prince presented the report and recommendation and asked that the Council consider, discuss and decide on the request to make a financial contribution to the coalition's appeal of the FCC ruling.

Councilmember Wengert asked if others in San Mateo County have responded to the appeal. Ms. Prince said Woodside Council considered it at their last meeting and directed the Town Attorney to follow it and see what was happening, but decided not to contribute at this point, in part because of the size of their community and the comparable impact. Mr. Pegueros said it is his understanding that Burlingame had joined. Vice Mayor Derwin asked if we could contribute a token amount as low as \$1,000. Ms. Prince said it is her understanding they will accept a smaller amount. Councilmember Hughes pointed out the cap for each entity is \$15,000, but they are asking everyone in California for contributions. Ms. Prince said the coalition includes other states as well.

Vice Mayor Derwin thinks the issue has merit and would favor contributing a nominal amount, such as \$1,000, in that it shows support for a neighbor at a time when partnering would be good.

Councilmember Hughes said cell phone tower issues are common and it is frustrating how the FCC continues to broaden what they take out of the hands of local jurisdictions. He said he understands the FCC's desire to standardize things across the country so it is not impossible for cellular companies to set up towers, but he sees this set of regulations as excessive in that it appears that a company can incrementally apply for taller and taller towers and the town has no power to stop it. He agrees we should contribute; however, he does not know that \$15,000 is reasonable considering the small number of cell sites in our town. He said this may be a good way of letting the FCC know that local governments don't appreciate what they're doing.

Councilmember Richards said we should at least offer a token amount toward the defense costs as a symbolic effort, despite there not being much hope for success.

Ms. Prince said the appeal was filed on March 9, so this request is for a financial contribution and is not adding the Town of Portola Valley to the initial paperwork for the appeal.

Councilmember Wengert agrees with supporting our neighbors and is in favor of contributing \$5,000.

Mayor Aalfs asked if, in light of this, we should revisit the FAA suit. Councilmember Wengert said there will be different aspects of that as it goes on and it is open-ended, unlike this, where it's already happened. Vice Mayor Derwin pointed out this is a direct request and Councilmember Hughes pointed out it was filed by a jurisdiction versus private citizens. Councilmember Wengert said our residents who have been actively involved in the FAA issue will see this and have a reaction, which is fine. She said she does think it will come our way at some point and we will discuss it in a more robust fashion at that time. She said these are separate issues that are being handled separately and will be evolutionary relative to what happens on the FAA front.

Vice Mayor Derwin moved to contribute \$5,000 to the coalition appealing the FCC ruling. Seconded by Councilmember Hughes, motion passed 5-0.

(E) Council Liaison Reports on Regional Agencies and Organizations [9:20 p.m.]

- (1) Vice Mayor Derwin attended C/CAG, Library Donor Fund Subcommittee meeting, Resource Management and Climate Protection Committee meeting, and HEART meeting.
- (2) Councilmember Hughes – None
- (3) Councilmember Richards - None
- (4) Councilmember Wengert – Attended a tour of the control tower at the San Francisco Airport.
- (5) Mayor Aalfs -- None

V WRITTEN COMMUNICATIONS [9:46 p.m.]

- (1) Town Council Digest: March 13, 2015 – None
- (2) Town Council Digest: March 20, 2015 – None

VI ADJOURNMENT [9:45 p.m.]

Mayor Aalfs adjourned the meeting.

Mayor

Town Clerk