

PORTOLA VALLEY TOWN COUNCIL SPECIAL MEETING NO. 919, OCTOBER 28, 2015, HELD AT THE SEQUOIAS/HANSON HALL

CALL TO ORDER AND ROLL CALL [7:05 p.m.]

Mayor Aalfs called the Town Council's Regular meeting to order at 7:04 p.m. and led the Pledge of Allegiance. Ms. Hanlon called the roll. The meeting was held at the Sequoias.

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

Absent: None

Others: Debbie Pedro, Acting Town Manager
Leigh Prince, Town Attorney
Sharon Hanlon, Town Clerk

ORAL COMMUNICATIONS [7:05 p.m.]

Mattea Petry, 11 years old, 147 Goya Road. She said she and her parents submitted a letter on September 20, 2015, asking to change the rule about lemonade stands on Town property. They suggested the rule be changed so that children under the age of 18 selling goods under a total of \$450 on a given day are permitted to sell products on Town Property. She asked the request be placed on the Town Council Meeting Agenda.

Jolene Petry, 9 years old, 147 Goya Road. She said she supported the proposed rules change and listed reasons such as including meeting new people in the community. She said other towns, like Palo Alto, encourage lemonade stands and encourage police officers to stop at them, and even post Twitter photos of the officers at the lemonade stands.

Kaitlyn Conley, 9 years old, 20 Paso del Arroyo. She said kids learn a good work ethic, confidence, and responsibility when they work to bake things and market them at lemonade stands. She said they worked two days on their baked goods which they sold for \$1 or less.

Ella Dyson, 10 years old, 135 Willowbrook Drive. She said that many organizations benefit from lemonade stands because the children often donate their earnings to good causes and make the world a better place. She said they donated the \$100 they earned from two lemonade stands, including the one at Town Center before they were asked to stop selling, to the World Wildlife Fund to help save the Amur Leopard. She said other children in Town have had lemonade stands at Triangle Park for causes such as Corte Madera school trips, raising money for the elephants that were hit by a train in Africa, and for girls in Afghanistan so they can go to school.

Natalie Morhenn, age 11, 5 Buckeye. She said it is very convenient and nice for people around Town to have the opportunity to buy cold lemonade, warm coffee, baked goods, and other tasty treats. She said an ice cold glass of lemonade is nice on a 100-degree day. She said if you missed lunch and are walking your dog, and crave some nice cherry cake or sugar sprinkled brownies, they can provide that. She said if the Town Council passes the proposed rule change, the community can enjoy these wonderful treats for less than \$1 each at a convenient location where members of the community spend a lot of time.

Olivia Cheney, Age 10, 158 Goya Road. She said it is too difficult for children in Town to go through all the steps to get a permit from the Town of Portola Valley. She said they were told to stop their lemonade stand sales because they didn't have a permit. She said they went to Town Hall to ask how to get a permit and were advised that they would need to be a part of an organized event at the Town or we would have to apply. She said they were unable to find out how to get a permit for a lemonade stand on the Town's website. She said the children do not have credit cards or insurance or phones.

Lukas Worthington, 10 years old, 200 Willowbrook Drive. He read from the Town's Master Plan regarding encouraging the interaction of residents in the pursuit of common interests that would result in a strong sense of community identification. He said lemonade stands should be allowed on Town Property because they create a strong sense of community identification.

Mayor Aalfs placed the item is on the agenda.

Bud Eisberg, Wyndham Drive, member of the Public Works Committee. He said he is in support of allowing lemonade stands on Town Property. Mr. Eisberg also expressed concern about the overgrowth of willow trees at the Town Center. He said the culvert at the creek is almost two-thirds silted and expressed concerned that when the forecasted heavy rains arrive, there will be a serious problem there. He suggested Councilmembers visit at the creek and address the problem.

Caroline Vertongen thanked Mayor Aalfs for recommending adoption of the proclamation on anti-bullying. She said that she's been involved in other County school districts as well as Portola Valley and has learned there are severe civil rights problems in public education. She asked if the Town Council had any jurisdiction over the Portola Valley School District. Mayor Aalfs advised her that the issue should be brought to the school district, which is its own entity.

CONSENT AGENDA [7:18 p.m.]

- (1) Approval of Minutes – Town Council Regular Meeting of September 23, 2015.
- (2) Ratification of Warrant List – October 14, 2015, in the amount of \$487,087.44.
- (3) Approval of Warrant List – October 28, 2015, in the amount of \$135,371.51.
- (4) Appointment by Mayor – Request for Appointment of Members to the Parks & Recreation, Cultural Arts and Nature & Science Committees
- (5) Recommendation from Cultural Arts Committee – Request Charter Amendment
- (6) Recommendation by Mayor – Adoption of a Proclamation of the Town Council of the Town of Portola Valley Declaring October 18 through October 24, 2015 “Freedom from Workplace Bullies Week”
- (7) Recommendation by Administrative Services Manager – Action on Claim of Joseph Pereira
 - a) A Resolution of the Town Council of the Town of Portola Valley Denying the Claim of Joseph Pereira (Resolution No. 2677-2015)
- (8) Appointment by Mayor – Appointment of Teresa Godfrey to the Woodside Highlands Road Maintenance District Advisory Committee

Items 1 through 8 were approved 5-0 by a roll call vote.

REGULAR AGENDA [7:19 p.m.]

STAFF REPORTS AND RECOMMENDATIONS

- (9) Recommendation by Interim Town Manager – Update on Consultant Services for Aircraft Noise Impacts.

Interim Town Manager Pedro presented the staff report regarding the request from residents to hire an aviation consultant to assist with researching the aircraft noise impacts affecting the residents of Portola

Valley. She said that since the statement of work was submitted by Williams Aviation on June 15, 2015, there have been a number of developments, resulting in the staff's recommendation that the initial scope of work should be modified. Staff recommended approving a budget not to exceed \$13,000 (up to 40 hours of consulting work) to retain the services of an aviation consultant to serve as a technical advisor to the Town.

Mayor Aalfs called for questions from the Council.

Councilmember Wengert suggested Tina Nguyen provide the update on recent developments that have occurred since this report was issued. Ms. Nguyen said there was a technical meeting that Portola Valley was not invited to and residents raised \$3,200 from their own pockets to hire a consultant to attend the meeting. The consultant said the data presented was impressive and supported the citizens' assertion that airplanes have been shifted to our communities from over the Bay and even further south. She said that it was reported that instead of making a loop around North Atherton, they now go south to Portola Valley, over to Palo Alto, and then loop back over the Bay, and the flying altitudes are much lower. The consultant advised that the Town move forward based on this convincing data, work with our Congresswoman, and draft possible solutions, which he will review for feasibility. She said they also discussed the effectiveness of the Roundtable and said they were excluding important cities such as Palo Alto and Los Altos. She said they discussed creating a separate regional body, a "square table," that was more inclusive.

Councilmember Wengert said Ms. Nguyen and Vic Schacter have been stalwarts of the efforts on behalf of Portola Valley. She said it is agreed that this has broadened into a regional issue. She said the Roundtable is a separate issue and she is still somewhat optimistic they are getting change there. She said when the Roundtable voted to not include Palo Alto, Portola Valley was a dissenting vote. She said the efforts of Ms. Nguyen and Mr. Schacter to have an on-call consultant should be supported so the Town is prepared with a technical advisor available to participate when necessary. She said it is appropriate for the Town, whenever possible, to get involved in the regional effort, which she thinks will provide political pressure that will impact and ultimately result in change within the existing organizations. Councilmember Wengert is supportive of approving a budget of \$13,000 for a six-month time period.

Ms. Nguyen said the reason the technical consultant is so expensive is because he had to be flown in. She said if the FAA agreed to an open meeting, it would just be the two hours that he's there and some time before and after.

Mayor Aalfs called for public comment.

Rachel Kellerman, Librarian at Palo Alto High School. She described her frustrations in dealing with the FAA. She said she wrote an editorial about the problem of increased air traffic noise. She said the citizens desperately need the support of their cities to pressure Congress people and Senators. She said the FAA either hides information or provides information that no one can understand it. She stressed the value and importance of a technical consultant to represent the citizens at meetings with the FAA, as well as the support of the City and Town leaders.

Don Gardner, passed out a chart showing the number of people who have filed complaints with the San Francisco Airport throughout the Bay Area in the past 2-1/2 years. He said there has been a large increase in the number of complaints in the last six months.

An unidentified audience member requested that the Council push forward the item regarding the lemonade stands so that the children might see the full resolution of the matter before bedtime, because they all have school tomorrow. Mayor Aalfs said it would be addressed next.

With no further public comments, Mayor Aalfs brought the issue back to the Council for discussion.

Councilmember Wengert said after speaking with Ms. Nguyen today, she was supportive of approving the request on a short time basis with Interim Town Manager Pedro and one or two Councilmembers reviewing and approving proposed expenditures.

Councilmember Richards and Councilmember Hughes agreed with Councilmember Wengert.

Councilmember Wengert volunteered to review proposed expenditures upon request and Councilmember Richards volunteered to serve as her alternate if she is unavailable.

Vice Mayor Derwin was supportive of the request. She said the FAA is not beholden to the citizens, the towns, the cities, or the Roundtable, but they are beholden to Congress. She thanked Ms. Nguyen and Mr. Schacter for their years of work on this issue.

Mayor Aalfs called for a motion.

Councilmember Wengert moved to approve a six-month contract agreement with Williams Aviation Consultants, not to exceed \$13,000, to provide technical assistance related to the aircraft noise issue, and subject to the approval by Interim Town Manager Pedro and Councilmember Wengert and/or Councilmember Richards. Seconded by Councilmember Richards; the motion carried 5/0.

(10) Proposal to allow children to sell lemonade and baked goods on Town Property

Interim Town Manager Pedro said Municipal Code requires food sales to have a valid permit issued by the County of San Mateo, who regulates the selling for food for health reasons and they try to make it easier for non-profits. She advised there is a Town policy for the Town Center and recreation facilities that prohibits food sales at Town facilities unless approved in advance by the Town. She said there is another policy governing the use of the recreation facilities, the sports court, and the Town picnic area which only allows food sales at the Snack Shack but if food was sold at the Snack Shack, they would be subject to the County Health Department rules.

Councilmember Hughes asked Ms. Pedro if the County's waiver process for non-profits was automatic or required an application process. Ms. Pedro said there was an application process.

Vice Mayor Derwin asked if the Girl Scouts who were selling food on Flight Night had a permit. Ms. Pedro said she did not think so and did not think the Town was aware of that until after the fact. Ms. Pedro said if a motion is passed to waive the requirement, the local applicable rules need to be investigated further.

Ella Dyson announced that they had brought cookies for the Council to sample. She said the woman who asked them to leave the Town Center said they would have to be part of a big organized event in order to sell there. Ms. Dyson said the women did not tell them they could just go into the office and ask for permission.

Leigh Prince said the Council needs to carefully consider getting into issues of carving out for particular causes. She said being children is not a legal classification that can be legally carved out.

Sally Ann Reiss, 145 Golden Oak Drive. She said Girl Scouts sold food at Flight Night. She said all the money raised from those sales were donated to a project in East Palo Alto to help a homeless shelter and they posted all of that information on their sign, which was what the Girl Scouts of America guided them to do.

Mayor Aalfs said there are County requirements and Town policies to consider and asked staff what options were available to handle this issue. Ms. Pedro said the Town Center policy would need to be amended.

Councilmember Wengert expressed support for the children's nonprofit activities, but understands the complexities and encouraged a solution that will minimize the red tape involved in getting a permit.

Mayor Aalfs said the Council needs to more fully understand the policies and regulations.

Councilmember Wengert said the Town has clearly been inconsistent regarding the enforcement of policy.

Mayor Aalfs directed staff to come back to the Council with a policy on sale of food items at Town Center, clarifying exactly what permissions are needed.

Vice Mayor Derwin said the County Health Department knows these kinds of sales occur. She said she is supportive of the children and that they did a great job presenting their argument.

(11) Recommendation by Mayor – Approval of the Town Center Master Plan Update Committee Charter and Roster

Ted Driscoll, Chair of the Town Center Master Plan Update Committee, reported regarding the organization of the committee and their first meeting. He presented the charter they prepared. Mr. Driscoll said a representative from the Library Committee is welcome to join the committee. Sue Crane said she would like to present the invitation to the Friends of the Portola Valley Library to decide if they want to be on the committee. Mayor Aalfs pointed out that the Friends of the Library is not an official Town Committee. Ms. Crane said the Master Plan Committee would benefit from having a member from the Portola Valley Library. Mr. Driscoll said that the next couple months will be spent collecting data and surveying and they will encourage other committees to do the same. In response to Vice Mayor Derwin's question, Mr. Driscoll said he would encourage the committees to design and distribute their own surveys, but if they didn't, then the Master Plan committee would do it.

Mayor Aalfs called for additional questions from the Council. Hearing none, he called for public comments. Hearing none, he called for a motion.

Vice Mayor Derwin moved to approve the Town Center Master Plan Update Committee Charter, amending the membership roster to ten members instead of nine, to be revisited in six months. Seconded by Councilmember Richards; the motion carried 5-0.

(12) Recommendation by Interim Town Manager – Discussion of Potential Regulations for Time Limits on New Construction Projects

Interim Town Manager Pedro presented the staff report addressing resident complaints regarding new construction projects that have taken an unusually long time to complete. She reported that the projects that have been approved in the last five years are being finished faster. She reported that of the 26 currently active permits, five have taken longer than 25 months. She advised that if the Council wants to establish time limits for completing construction, they can direct staff to establish a construction time limit ordinance to address the impact of long-running construction projects.

Mayor Aalfs called for questions.

In response to Councilmember Hughes' question, Ms. Pedro said a building permit is kept active as long as they call for a permit inspection every six months.

Councilmember Wengert asked staff what would be a reasonable construction schedule for Portola Valley based on the data collected. Ms. Pedro said some communities craft their ordinance based on validation of the projects and some craft it based on square footage or size. She said that generally it varies from 24 to 36 months and then penalties are applied each day the project exceeds the established limit. She said there is always an exception clause that allows a property owner to request an extension.

In response to Councilmember Richards's question, Ms. Pedro said she could reach out to the other communities to assess the effectiveness of their ordinances in reducing the length of construction schedules.

Mayor Aalfs questioned if there was actually a need for an ordinance. Councilmember Wengert said the projects that have created the problem are those that have gone for more than 50 months.

Council directed staff to look at projects where the construction time exceeds 36 months and look at requiring renewal of the building permit if no substantial progress has been made on the project.

(13) Council Liaison Committee and Regional Agencies Reports [8:18 p.m.]

Vice Mayor Derwin – Attended the Water Conservation Committee meeting where they discussed the H2Oknow tool, the recently posted “brown is the new green” lawn signs, and the WELO and Green Building Ordinance. She also attended a Resource Management and Climate Protection Committee meeting; two Regional Water meetings; a Ground Water Management meeting with Ms. Pedro; two Council of Cities dinner meetings; and two Closing the Gap San Mateo County Affordable Housing Task Force meetings.

Councilmember Hughes – Attended the Planning Commission meeting on October 21 where they discussed grading ordinances and policies, homeowners associations, and how to best expend below housing market funds. He also attended the Nature and Science Committee on October 28 where they discussed Flight Night, Star Party, and the Nature Center.

Councilmember Richards – Attended the Conservation Committee meeting on October 27 that discussed the possible conflicts with Town policies and homeowners' association policies, a creek side mailing to residents, banning rodent pesticides, and the recently very successful lion talk held at Town Center.

Councilmember Wengert – Attended the ASCC meeting on October 25 where they did not approve the proposed restoration plans for the residence at 30 Zapata Way, where there had been many trees removed in violation of Town code. She said the ASCC directed the applicant to return with a new replanting plan. She said landscape architect for the project expressed frustration because the directives provided by the ASCC and Conservation Committee and HOA were in conflict with each other regarding the size and density of trees to be planted. Councilmember Wengert suggested that perhaps the Council should review the ordinances in a situation where there have been very clear Town code violations.

Mayor Aalfs – Attended a San Mateo County Community Choice Energy (CCE) meeting where they discussed the two community informational workshops scheduled for November 5 and November 21, being held in the Historic Schoolhouse. He reported that San Mateo County is scheduled to give a presentation at the December 9 Town Council meeting. He also attended an Airport Roundtable meeting on October 7, and said the serious problem of increased aircraft noise is ultimately a congressional matter.

WRITTEN COMMUNICATIONS [8:54 p.m.]

(13) Town Council Digest – September 25, 2015

#3 - Letter to the Town Council from resident Marge DeStaebler re: Town Governance. Vice Mayor Derwin thanks Ms. DeStaebler for her thoughtful letter.

(14) Town Council Digest – October 2, 2015

(15) Town Council Digest – October 9, 2015

(16) Town Council Digest – October 16, 2015

#3 - Letter from Tami and Carter Warr re: Concerns over Appeal Hearing Verdict. The Town Attorney advised there is no further appeal process with the Town.

(17) Town Council Digest – October 23, 2015

ADJOURNMENT [8:55 p.m.]

Mayor Aalfs adjourned the meeting.

Mayor

Town Clerk