

TOWN COUNCIL MEETING NO. 660, NOVEMBER 10, 2004

ROLL CALL

Mayor Comstock called the meeting to order at 8:00 p.m. and led the Pledge of Allegiance. Ms. Howard called the roll:

Present: Councilmembers Davis, Driscoll, Merk and Toben, and Mayor G. Comstock  
Absent: None  
Others: Town Planner Mader, Town Attorney Sloan, Town Administrator Howard, and Asst. Town Administrator Powell

ORAL COMMUNICATIONS: None.

PRESENTATION

(1) Mayoral Proclamation Honoring Laurence William "Bill" Lane

Mayor Comstock noted that Mr. Lane's 85th birthday coincided with the 40th birthday of the Town. The Town wanted to express its great appreciation and thanks to Bill Lane for his service and on-going interest in and support of the Town. He read the proclamation and presented Mr. Lane with the document.

Mr. Lane said he was very appreciative. He thanked the Council and all of the Councilmembers and staff who had served over the years. He described how the Town had progressed and thrived through many difficult times. He discussed former Councils and elections and reiterated his thanks to the Council for the recognition.

ASCC COMMISSIONER APPLICANT INTERVIEW

(2) Carter Warr

Mayor Comstock referred to Mr. Warr's application to serve on the ASCC, noting that Mr. Warr had previously served on the ASCC. Responding to Councilmember Davis, Mr. Warr explained why he wished to return to the ASCC as set forth in his letter. Councilmember Davis moved to recommend the appointment of Carter Warr to the ASCC. Councilmember Merk seconded the motion. Mayor Comstock said he served under Mr. Warr on the ASCC for 8 years. He said the training had been very effective, that Mr. Warr had always sought "win win" situations, and that he was eminently qualified for this post. He appointed Mr. Warr to the ASCC. By motion and second, Council unanimously concurred.

CONSENT AGENDA

By motion of Councilmember Davis, seconded by Councilmember Merk, the items listed below were approved by the following roll call vote:

Ayes: Councilmembers Davis, Driscoll, Merk and Toben, and Mayor Comstock  
Noes: None

(3) Minutes of the Town Council Meeting on October 27, 2004.

- (4) Warrant List of November 10, 2004, in the amount of \$116,536.06.
- (5) Resolution No. 2147-2004 Approving and Authorizing Execution of the Fourth Amendment to Agreement for Legal Services Between the Town and the Law Offices of Jorgenson, Siegel, McClure & Flegel, LLP, per Town Administrator's memo of 11/4/04.

#### REGULAR AGENDA

- (6) Acceptance of Town Center Conceptual Master Plan

Referring to the final draft of the conceptual master plan dated 11/5/04, Councilmember Driscoll said some of the black and white illustrations were difficult to understand. Ms. Howard confirmed that the original was in color. Jim Goring added that some of the blurry illustrations had been cleared up.

Councilmember Merk objected to the use of the label "Spring Down Lane" for that easement. Using the label in the plan implied that easement had been named by a decision of the Town. He wanted it described as an easement. Suzi Marzuola said the information came from a meeting with staff. Additionally, she noted that Mr. Strain had questioned whether it should be called Spring Down Lane. She said she would re-label it "easement road." Councilmember Merk added that he was very pleased with the final product. Referring to the landscape plan section, he said calling out specific species eliminated local species, including the myriad of oak hybrids that existed. He preferred "...including but not limited to...."

Councilmember Toben congratulated the design team for the quality and thoroughness of the effort. He hoped that all of the residents who had participated in this process or written would take the time review this document. It was a rich narrative that told the whole story of how the Council struggled with the difficult decisions, how the public was involved, etc. Specific elements that were enhanced since the last draft included the trails aspect and the diagrams of the new viewshed benefits. He felt the comments on sustainable design were superb and educational. In general, he felt the Town had been extraordinarily well-served by the design team. Referring to the document (p. 38), he asked what "protective trees" meant. Responding, Ms. Marzuola said these were trees identified in the tree removal guidelines as heritage or protected trees. Responding to Councilmember Toben, Ms. Howard said the document would go to press as soon as it was finalized--probably this week. Hopefully, it could be put on the website. There would also be copies in the office and library, and some would be mailed out.

Responding to Councilmember Merk, Ms. Sloan confirmed that accepting this document was a statement of what the Town would like to do at this moment in time. After accepting the work product, the design team could go ahead and print a final copy in color.

Councilmember Merk said he was still not satisfied with the maintenance facility. He objected to the tractors and trucks not being covered and felt it was too small and insufficient for the long-term needs of the Town. He would like to see a redesign in that area. Mayor Comstock said the next phase would include a schematic design phase in which there would be detailed buildings. He thought that would be an appropriate time to deal with that question.

Mayor Comstock opened the discussion for public comment.

Responding to Rebecca Flynn, Cheyenne Pt., Ms. Howard said after the plan was accepted, the Town could start another phase. The environmental review process would begin, and there would be a lot more discussion about what needed to be done as far as independent studies to provide additional information.

Bill Lane, Westridge, said one thing that came through in many of the meetings was the importance of the library and the evidence supporting its expansion. While the Town Center was the seat of the Town's government, it was also a community center for different activities that revolved around sports, things related to the library, the MUR, etc. With the new geologic information and information on State laws, he felt the community was united in the concept that the Town Center would be a community gathering place. If the landscaping and everything was handled right, it would be an inspiration for new people coming into the Town; there might even be tours showing different types of native plant materials that would be appropriate. The community center aspect of the Town Center/government center was a very important role, which he felt had been universally accepted by most people who were informed on what the best solution was.

Pierre Fischer, Valley Oak, referred to the Town Center Historic Timeline (Appendix A, p. 9) and asked who prepared the document. Ms. Howard said the timeline had been created for the Town Center Citizens Advisory Committee. Councilmember Driscoll suggested the timeline be updated to include the last 1 1/2 years.

Mayor Comstock closed the public comment section.

Councilmember Driscoll moved to accept the final conceptual master plan as amended and modified. Councilmember Toben seconded, and the motion carried 5-0.

Councilmember Driscoll suggested that the financing of the project be agendized as soon as possible. He also felt that a sub-committee of the Town Center Citizens Advisory Committee should be formed to assist; additional professionals might be needed. Ms. Howard noted that a consultant had provided an overview of options to the Finance Committee and would be asked to give a presentation to the Council. She discussed options. There were certain things that had to happen so that the Town could determine how the project would be phased and how the overall project would be approached. Feasibility studies would need to be done to see how much money was out there in contributions and determine how big of a piece was left. If that piece was too big, the Council might decide not to do some of the project. Councilmember Driscoll said he would like to see a good staff report that laid out the options--pros and cons, costs now and in the future, requirements associated with the options, etc. He felt the Town would need to hone in on what the appropriate phasing was in order to understand what the cost would be. These were chicken/egg problems, but they all needed to move forward. He asked that it be agendized this calendar year if possible. Responding to Mayor Comstock, he felt it would be unrealistic to assume that the majority of the money would be raised from charitable contributions.

Responding to Councilmember Driscoll, Ms. Marzuola confirmed that the architects' contract did not include a phasing analysis. Councilmember Driscoll felt some additional energy should be given to what was an appropriate phasing in terms of temporarily eliminating uses, allocating the temporary structures, etc. He suggested asking the design team for an estimate for this supplemental work. Mayor Comstock said the Town could come up with a good list of alternatives and questions. He was not enthusiastic about going out for another substantial contract. Councilmember Driscoll said there were certain aspects that would require some design knowledge in terms of timing and what could be accommodated during a given period.

Councilmember Toben said Ms. Marzuola had provided a good first cut at a phasing plan several weeks back. He questioned how much more beyond that was needed right now. The financing question loomed larger. That would inform in some sense the phasing scenario. Councilmember Driscoll said he thought Ms. Marzuola's presentation was more of a work in progress; he would like to see it move forward as a proposal for the Council to consider. Responding to Councilmember Toben, Ms. Marzuola said the phasing plan presented was a sequencing possibility. Councilmembers Toben and Driscoll agreed some timing should be added. For example, during the time necessary to build buildings, the fields would be out of

commission;

they would not come back into commission until the buildings were all done, which could be 3-4 years. Mayor Comstock suggested agenda sequencing and dates for the Council's discussion.

Responding to Bob Brown, Ms. Howard said the financial consultant the Town used was Bill Fawell. He assisted the Town four years ago in getting a GAN note to help bridge the cost of doing the upper Alpine reconstruction and the reimbursement from the federal government. He helped with the one-year loan. Responding to Mr. Brown, she confirmed that he had no relationship with the Town. Ms. Sloan added that he was a municipal finance consultant that the Town had been satisfied with.

Mr. Lane said fundraising groups (e.g., schools, churches) all had their special leverage on certain groups of people. The library tied into education, and there was a very zealous group of individuals who believed strongly that the library could be of more value/satisfaction for older citizens. Within the sporting element of the Town Center, there was a group of parents as well as a group of tennis enthusiasts to whom strong appeals could be made. He thought there were at least 4-5 special groups that would benefit from the new Town Center facilities. There were quite a few people in Town who could be helpful. Private gifts/donations might be more than originally assumed if it was broken down into individual interests and passions. It needed to be carefully thought out. Once the decision was made about what the Town would do, he felt quite a few people in the community could be helpful.

Mayor Comstock agreed there would be constituencies for various facilities. He felt the administrative center and maintenance facility had a very weak constituency and that the Council should be that constituency. Mr. Lane said the Lanes would join in that effort.

(7) Status of Town Center Project

Ms. Howard said staff was gathering information on what would encompass the next steps, such as the Initial Study which needed to be done in order to do anything on this project. At the December 8 meeting, a staff report would be presented that would give the Council: 1) some options on how to proceed with the Initial Study; and 2) the design team's next phase. Ms. Sloan was also working on the requested memo on the Alquist-Priolo Act and the Town's liability in not complying with that Act. There had also been some discussions with ABAG on what the liability would be if the Act was not complied with or the Town continued to not do anything. A structural engineering firm had been contacted and asked to provide a proposal for working with a construction management firm to give a structural evaluation of the buildings and determine the cost of retrofitting to the current UBC and bringing the Town into compliance with ADA.

Responding to Councilmember Merk, Ms. Howard said the buildings could not be expanded and would be retrofitted to the size they currently were. Councilmember Merk said there were parts of the site that were not impacted by the Alquist-Priolo map. Ms. Howard said it was her understanding that all of the buildings were within the 50' setback. Ms. Sloan clarified that the Alquist-Priolo Act said you could add or alter as long as you didn't go over 50% of the value of the structure. She noted that there would have to be some addition of square footage to comply with ADA. If the Council felt the analysis should include something like an addition to the library, Ms. Howard should be made aware of that. Councilmember Merk said no one really knew whether these buildings could or could not be used. If under Alquist-Priolo, the buildings could be retrofitted, the buildings would then have a new value. In a subsequent project, those buildings could be added onto at less than 50% of that new, greatly increased value. There were options that were not being explored. Councilmember Driscoll said the Town Attorney had not been asked to investigate serial increase in the size of space. Ms. Sloan said there was no answer to serial increases. There was no law or case law, and she suspected that people hadn't tried to do that. Councilmember Toben agreed that would not set a very good example for residents. Councilmember Merk felt it went on all the time.

Councilmember Davis said years ago, a primitive decision had been made by the Council that the Town's own laws and rules would be obeyed. The Town's rules went beyond the State's rules. Under the State law, you could argue that one end of a building could be added onto if it was outside of 50 feet. The same was true if the Town's setbacks were met. That was different than serial upgrade.

Responding to Mayor Comstock, Ms. Sloan said an appraiser needed to determine the "value of a structure." She noted that that would be addressed in her memo. Responding to Mayor Comstock, she said there was no legal definition of the word "value" in the Alquist-Priolo Act, but there was a definition in the municipal code in the chapter on non-conforming uses, which she read.

Town Planner Mader discussed an overhead showing the fault setbacks in the Town's zoning ordinance. He said all of the Town buildings were completely within the setbacks. The question about the definition of the boundary in the Lettis report needed to be clarified. Councilmember Driscoll discussed the Lettis report findings and the boundary around the complex faulting area (orange area on the map). Where they could not investigate, they reverted to the earlier definition (pink area underneath the buildings). Council discussed the seismic diagram in the conceptual master plan. Responding to Councilmember Driscoll, Town Planner Mader said the Town's fault setback map had not been changed to reflect the Lettis report findings.

Responding to Ms. Howard, Councilmember Driscoll said his suggestion was to first determine the legality and liability associated with retrofitting. If it was found to be legal with acceptable liability, then a structural engineer could take a look at it. He also wanted to establish what the 50% numbers were. Ms. Sloan said staff would bring back a proposal to ascertain the value. While looking at the legality, what "value of the structure" meant and having an appraiser fill that out was part of the first step. The second step, providing this looked feasible, was to spend some money on a structural engineer to find out what would have to be spent. At that point, an evaluation of the library plus some additional square footage could be looked at.

Mayor Comstock suggested analyzing one building such as the administration building. If that turned out to be completely outside of the law to retrofit, it would be a safe extrapolation to say the rest of the buildings would be the same way. Or, an analysis could be done of just the MUR. Councilmember Driscoll said there were sufficient differences in the structures that each of them needed to be done independently. He did not want to do a partial study that would not be satisfactory to some members of the community. He wanted to settle the legality/liability issues and get the appraisal done first. Mayor Comstock discussed possible definitions of value of the structure, market value, value of the land, etc.

#### COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

##### (8) Policy Concerning Invitational Tournament Play on Town Recreational Fields

Ms. Howard reviewed the staff memo on the request to use Rossotti Field for invitational tournament play. She said CYSA had found an alternate location for their upcoming tournament, but she wanted some direction on whether this type of activity should be allowed. The issue could then be referred to the Parks and Rec Committee for their recommendation for a policy.

Councilmember Davis said this was not unlike the issue of commercial enterprises in Town. The Town tried to have things that served the Town and the immediate spheres of influence. Items that brought in traffic and large amounts of disruption from other places were not normally sought.

Councilmember Merk agreed. The nature of a tournament was that teams without Portola Valley residents

would be using the field. Additionally, there were issues like the intensity of use of the fields and the ability of the Town to maintain the fields. The more uses approved, the harder it was to maintain the fields. The Town

now faced high expectations from the field users given the fact that this was such an excellent new field.

Responding to Councilmember Toben, Mr. Peyton confirmed that this would not be an add-on weekend and was within the season. The reason it was before the Council was that there would be people on the field that were not from the Town; the numbers were significant.

Councilmember Toben noted that the regional AYSO contributed \$40,000 to the restoration of the field--most of which came from contributions outside of Portola Valley. The minority of soccer players resided in Portola Valley, but AYSO and the neighboring communities made a substantial contribution. Mr. Peyton noted that this request was from CYSA.

Councilmember Driscoll said he agreed with Councilmembers Davis and Merk on the issue of the 50% rule and serving the majority of the Town. On the other hand, this tournament would now take place on some other city's field, and the Town's teams would potentially play. Part of being a town in a region meant having some regional responsibilities. He thought it was a mistake to say only our people could play on our fields but they could go play on other people's fields, too. The Town should carry its fair load.

Responding to Mayor Comstock, Councilmember Toben said Parks and Rec was looking at the whole issue of fees collected from all players that participated in these leagues that utilized the fields.

After discussion, Council agreed to refer the issue to the Parks and Rec Committee.

(9) Reports from Commission and Committee Liaisons

(a) Town Center Sub-committee

Councilmember Driscoll said Mr. Young had marked the parking lot to show where the access was proposed at the request of the Church.

Responding to Mayor Comstock, Councilmember Driscoll said he understood that the Lettis geotechnical study should be the chart used in the conceptual master plan. Normally, changes to the Town's maps were collected over a period of time and adopted all at once. He asked Ms. Sloan to check whether Alquist-Priolo required that the Town use an adopted document, such as the zoning ordinance, which was different from what the Lettis report showed. After discussion, she said she would speak with the Town Planner about what the 50' setback should be measured from.

(b) Airport Roundtable

Councilmember Toben said Nate McKittrick had drafted a letter documenting violations of the overflight rule over Skyline Blvd. He discussed violations of the 8,000' elevation limit during three time periods. For every 1,000 feet of reduced altitude below the 8,000' ceiling, aircraft noise doubled. Also, if you glided an airliner in as opposed to stepping down, you could have a much quieter experience; that was not being done. Complaints had been informally made to TRACON, and there was some progress. He said he wanted to confirm the new data to ensure that progress was being made, change the language in the letter somewhat, present it to the neighboring cities and enlist their support in taking this matter publicly before the Roundtable in January or February, and then proceed to a more formal presentation/request for enforcement.

Mrs. Lane, Westridge, discussed the increase in the number of aircraft in recent years. When something roared overhead, she said she phoned it in. She said the approach had also changed, which she described. She supported the suggestion to involve other cities. She also felt that technology had improved so that

plane engines were quieter; planes could also safely land by approaching at a higher elevation than before.

Council supported Councilmember Toben's suggestions.

(c) Parks and Rec Committee

Ms. Howard said the Committee had asked for some direction on picking the honorees for the holiday party. Councilmember Davis said the Mayor usually made the decision based on recommendations from the Committee and/or suggestions from the Council. Council suggested the Committee make 1-2 recommendations.

WRITTEN COMMUNICATIONS

(10) Town Council 10/29/04 Weekly Digest

(a) Retrofitting Existing Town Center Buildings

Referring to the correspondence received on the demolition/retrofitting of existing Town Center buildings, Mayor Comstock said he was very concerned about personal liability issues for Councilmembers if the Town went ahead and retrofitted the buildings in violation of State law. That same question should be extended to the situation right now where some of those buildings continued to be used. He asked Ms. Sloan to address these issues in her analysis. Another aspect was how much insurance the Town had and to what extent that would cover Councilmembers as individuals.

(b) Parks and Rec Vacancy

Referring to Alice Falconer's resignation letter, Councilmember Merk suggested the vacancy be noticed and a letter of thanks be sent to Ms. Falconer. Councilmember Toben said Ms. Falconer had been a great contributor to the Committee, and he offered to write the letter.

(c) Commercial Rental of Residences

Referring to David Cardinal's e-mail about the filming of a Jaguar commercial at a residence, Councilmember Merk described a previous incident. Ms. Howard noted that two letters from Ms. Lambert dated 10/21/04 and 11/2/04 indicated that this was not an appropriate use and was not allowed within the residential zoning district. Responding to Councilmember Merk, Ms. Sloan suggested contacting the Sheriff if this occurred again. She suggested copying the 11/2/04 letter to Mr. Cardinal. Councilmember Toben suggested notifying the property owners that the Town had informed residents that this was an illegal activity and that residents should contact the authorities.

Councilmembers and staff discussed uses allowed in a residential zone, nuisance abatement, what the Sheriff could be asked to do, possible penalties for unique nuisances, blockage of streets in residential zones, large parties routinely held on private property, etc. Ms. Sloan said she would see if the Vehicle Code needed to be strengthened.

(d) Proposed Addition of Earthquake Hazard Statement Language to Agendas

Mayor Comstock referred to his suggestion that language on earthquake hazard be added to Town agendas. Ms. Sloan pointed out that most of the meetings were in the Schoolhouse, which did not have an earthquake hazard sign. After discussion, Council agreed that if the meeting would be held in a building or room that was

labeled with the warning sign, the language would be added to the agenda.

(11) Town Council 11/5/04 Weekly Digest

(a) Development in Town

Councilmember Merk referred to the letter from David Beugelmans of 10/27/04 that discussed the Conservation Guidelines and the types of projects going on in Town. He said the Town was doing the best it could to make the buildings subordinate to the land, etc. After discussion, Council agreed to forward the letter to the ASCC for response.

(b) Retrofitting of Town Buildings

Council discussed the additional correspondence received and what the response should be. Councilmember Merk said he thought the Council was responding by having an appraiser come and look at the buildings, etc. Councilmember Davis suggested writing a simple response when all of the information on legality, value, and what it would cost to retrofit was compiled. Councilmember Driscoll agreed. Linda Weil suggested the Town might want to draft a letter letting residents know what the Town was doing now; detailed information that already existed on the webpage could be enclosed. That could be followed up with the specifics.

Councilmember Davis discussed the Geologic Safety Committee meeting and the response from residents. Councilmember Merk felt that many people were concerned about the financing.

CLOSED SESSION

(12) Conference with Real Property Negotiator

Government Code Section 54956.8

Property: 725 Portola Road

Negotiators: Stan Goodstein, Town Attorney and Town Administrator

Under Negotiation: Price and Terms

(13) Conference with Real Property Negotiator

Government Code Section 54956.8

Property: 880 Westridge Drive

Negotiators: William and Jean Lane and Town Attorney

Under Negotiation: Conservation Easement at Westridge Property

REPORT OUT OF CLOSED SESSION: None

ADJOURNMENT

The meeting adjourned at 10:35 p.m.



Mayor

Town Clerk