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**MINUTES OF THE TOWN COUNCIL/PARKING
AUTHORITY/REDEVELOPMENT AGENCY
SEPTEMBER 18, 2006**

The City Council of the Town of Los Gatos conducted a Regular Meeting on Monday, September 18, 2006 at 7:00 PM

TOWN COUNCIL/PARKING AUTHORITY/ REDEVELOPMENT AGENCY

MEETING CALLED TO ORDER

ROLL CALL

Present: Council Member Steve Glickman, Vice Mayor Joe Pirzynski, Council Member Barbara Spector, Council Member Mike Wasserman, and Mayor Diane McNutt.

Absent: None.

PLEDGE OF ALLEGIANCE - LED BY FUTURE LEADER

Deana Sgarlato-Burns and Mariah Heminger led the Pledge of Allegiance. The audience was invited to participate.

PRESENTATIONS/COMMENDATIONS

Kristin Khanna, Daughters of the American Revolution (DAR) accepted the proclamation proclaiming Constitution Week on behalf of the Los Gatos Chapter of DAR.

Deana Sgarlato-Burns and Mariah Heminger read the Preamble of the Constitution of the United States

Mayor Diane McNutt presented a Commendation to **Tim Boyd**, for all his volunteer time to the community and the Transportation and Parking Commission.

Mr. Boyd thanked the Town and staff for their time and interest in projects which benefit the community.

Rebecca Elliott, League of California Cities awarded the Town of Los Gatos with the Helen Putnam award for the Community Unity Program.

Mayor Diane McNutt accepted the award on behalf of the Town.

Mr. Wasserman announced a community celebration for Community Unity to be held on September 19, 2006.

Susanne Boxer-Gassman, Superintendent Los Gatos Union School district made a presentation regarding the Excellence in Education Initiative.

CLOSED SESSION REPORT

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

(Government Code Section 54957)

Title: Town Attorney (continued from 9/5/06)

Mr. Korb stated Council evaluation has not been concluded and will continue to another night.

TOWN COUNCIL

CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION)

1. **Ratify payroll for the month of August 2006**
2. **Ratify accounts payable for August 2006**
3. **Adopt resolution authorizing the Town Manager to execute public art extension with Philip J. Lange. RESOLUTION 2006-099**
4. **Adopt resolution supporting Propositions 1A, 1B, 1C, 1D, 1E and Proposition 84, the Clean Water, Parks, and Coastal Protection Bond on the November 2006 ballot . RESOLUTION 2006-100**
5. **Adopt resolution upholding Planning Commission decision regarding modifications or revocation of Conditional Use Permit U-94-44 (Goguen's Last Call) for the operation of a bar on property zoned C-2. APN 529-07-046. Property location: 408 N. Santa Cruz Avenue. Property owner: Los Gatos Shopping Center, LLC. Appellant: Cynthia Goguen. RESOLUTION 2006-101**
6. **PPW Job No. 06-07- Curb, Gutter, & Sidewalk replacement for Fiscal Year 2006-07 Program 0349**
 - a. **Adopt resolution declaring CB Construction Company to be the lowest responsible bidder on the project and awarding a construction contract in the amount of \$68,920.75. RESOLUTION 2006-102**
 - b. **Authorize staff to execute future change orders to the construction contract as necessary up to an amount of \$10,000.00**

Consent Items Continued

7. **PPW Job No. 04-66 Award of Construction Contract for Shannon Road Trial Construction Project No. 04-66.**
 - a. **Adopt resolution declaring Summit Springs Design Inc., to be the lowest responsible bidder on the project and awarding a construction contract in the amount of \$59,000.
RESOLUTION 2006-103**
 - b. **Authorize budget adjustment of \$9,000 to increase project budget to \$59,000**
 - c. **Authorize transfer of \$9,000 from trail-in-lieu fees to project 400-0566**
8. **Project 05-17 - Highway 9 Safety Improvement Project Adopt resolution authorizing the Town Manager to approve a cooperative agreement between the Town of Los Gatos and the Cities of Saratoga and Monte Sereno for the Highway 9 Pedestrian and Bicycle Safety Improvements. RESOLUTION 2006-104**

REDEVELOPMENT AGENCY

9. **Ratify accounts payable for the month of August 2006**
10. **Approve Council/Agency minutes of September 5, 2006**

Mrs. Spector pulled Consent Item #10. **Mr. Davis** pulled Consent Item #8 Which will be heard before other business.

MOTION: **Motion by Council Member Steve Glickman to adopt Consent Items #1-7, and #9.
Seconded by Vice Mayor Joe Pirzynski.**

VOTE: Motion passed unanimously.

VERBAL COMMUNICATIONS

Mr. Davis

- Commented regarding an update relating to the health safety of the fountain in the park.
- Commented on public safety relating to the lack of sidewalks along Blossom Hill road.
- Commented regarding a Planning Commission decision for a 11,000 plus square foot home.

Mr. Curtis

- Clarified that the Environmental Health Department came and looked at the fountain and has given the fountain a clean bill of health.

Mrs. Figone

- Recommended that the fountain remain closed until the Health Department completes its investigation and offers solutions to maintain public fountains. She also stated that other cities are following this recommendation from the Health Department.

Mr. Silva

- Commented regarding teenage drinking in Los Gatos.
- Suggested that if a parent calls to inform the Police Department that they will be having a party, officers should come by to show their presence.
- Questioned how the kids get the alcohol. Commented on "shoulder tapping," whereby people are asked to purchase the alcohol for them.

Ms. Anderson

- Commented on behalf of the employees of the La Canada relating to the 3 hour parking limit in the parking lot behind the La Canada building.
- Stated that on Wednesday evenings the overflow of vehicles from the neighboring building use the parking lot behind the La Canada building.
- Would like to have employee parking permits for the area.
Commented that the free parking at the Montebello lot is inconvenient.

Closed Verbal Communication

PUBLIC HEARINGS

11. Consider a request to change a zone from RM: 5-12 to RM:5 -12:PD for a seven lot residential subdivision and approval to demolish a single family residence and a 3-unit apartment building built prior to 1941. No significant environmental impacts have been identified as a result of this project and a Mitigated Negative Declaration is recommended. Planned Development Application PD-05-01, Architecture and Site Application S-05-015, Negative Declaration ND-05-03 APN 529-16-021 and 045. Property location: 17005 and 17017 Roberts Road. Property owner: Khurram Iqbal Applicant: Donna and Louie Leu

Staff report made by **Bud Lortz**, Director of Community Development.

Council Comments

- Questioned the neighbor's expectations of having two exits from their homes.
- Questioned 9 foot plate heights of the ceiling and attic.
- Questioned the setbacks relating to the Town's ordinance.
- Clarification regarding the main reason for Planning Commission's denial.
- Questioned the comparisons between the alternatives.
- Clarification regarding expectations of the community benefits.

OPEN PUBLIC HEARING

Laura Remington-Forbes, Applicant

- Commented regarding the Planned Development zone request.
- Commented regarding the community benefits which are part of the proposed project.
- Commented on reducing the density of the site.
- Commented on considering option "C."
- Commented on the lower FAR relating to the proposed homes.

Louie Leu, Project architect

- Commented on the modifications made to option "C."
- Commented on the benefits of rear yard setbacks.
- Commented on decreasing traffic on the streets due to a turn lane which is a condition of the proposed project.
- Commented on the sidewalks as a community benefit for the proposed project.
- Stated that the proposed project is consistent with the General Plan.

Public Hearing Continued Item #11

Council Comments:

- Clarification that the access from Blossom Hill Road would be an emergency access and that Roberts Road would be the main access.
- Clarification regarding mitigation for traffic relief on Roberts Road during peak school hours.
- Clarification on placement and design of the sound wall.
- Clarification regarding guest parking in a common area.
- Questioned if there will be any common areas for the homeowners to use.
- Clarification regarding how applicant determined number of homes to be built for proposed project.
- Clarification regarding the point of measurement for the noise analysis.
- Questioned why lots one and two have yards backing up to each other.
- Clarification relating to the recommendations from the Planning Commission meeting of July 12, 2006 and August 23, 2006.
- Questioned the access to the rear yards of the neighboring homes.
- Clarification regarding a request for an alley between the proposed project and the existing homes.
- Questioned security issues with an alley access behind a home verses a neighbor's backyard behind a home.
- Questioned the height of the proposed homes verses the existing homes.

Public Comment

Ms. Schweighofer

- Commented that the proposed homes would tower over their home.
- Commented that three of the existing homes would be land locked.

Ms. Shan

- Commented regarding accessibility to the backyards of the homes which would be landlocked.
- Commented on supporting option "B" for the proposed project.

Ms. Webb

- Commented that her home is one that would be land locked.
- Commented on working with staff and the architect to try and resolve the issues.
- Commented that her only issue is access from the backyard.

Mr. Davis

- Commented regarding the physical layout of the property.
- Commented on the standards in place for the project, and suggested to send the proposed project back to the Planning Commission.

Mr. Scott

- Commented on supporting the proposed development.

Kristine Curi

- Commented regarding the traffic issues relating to the proposed project.
- Questioned why the need for seven homes.
- Would like to see a design for five or six homes located on the property.
- Questioned the lack of community space within the property.

Mr. Lortz

- Clarified the noise standards set by the state of California.
- Clarified the reason noise measurements were taken from the ground level.

Louie Leu

- Commented on the proposed project relating to open space on the property.
- Stated that they have been working with the neighbors on solutions relating to access.

Council Comments

- Clarification on the position of units 1 and 2 of the proposed project.
- Questioned the need for seven homes at the proposed location.
- Clarification on ideas for passageways for access to the backyards of the landlocked homes.
- Questioned if re-evaluation of the number of homes on the property could be a possibility.

Mr. Leu

- Clarified the reasons for seven homes for the proposed project.
- Commented that smaller homes are less desirable.

Khurram Iqbal, property owner

- Clarified the financial reasons for the seven homes.

CLOSED PUBLIC HEARING

Mr. Korb

- Clarified the legal status for access relating to the neighboring properties.
- Stated that the issue of the access road is a private matter between the property owners.

Public Hearing Item #11 Continued

Council Discussion

- Commented regarding concerns for access to the backyards.
- Commented on splitting the access road 50/50.
- Commented regarding a permanent access or easement for the homeowners that live in the middle property.
- Commented regarding the challenges to develop the property.
- Questioned PD applications verses RM applications.
- Commented on the location of the two homes which are facing each other's side yard.
- Commented that the applicant and the neighbors need to work out issues relating to access.
- Recommended applicant to look at the standards for an RM.
- Would like to see open space homes as part of the design.
- Commented regarding the difficulty in making a design fit with the property lines.
- Would like the owners to re-visit the property and design a new footprint.
- Would like to see one less unit on the property and more open space.
- Questioned the setbacks of the proposed homes.
- Questioned if a two week continuance would give both the applicant and the condo association time to come to some understanding regarding the access issues.

MOTION: Motion by **Council Member Barbara Spector** to continue proposed project for two weeks with a redesign of the project
Seconded by Vice Mayor Joe Pirzynski.

VOTE: Motion failed. **Vice Mayor Joe Pirzynski**, and **Council Member Barbara Spector** voted yes. **The other members** voted no.

MOTION: Motion by **Council Member Mike Wasserman** to continue proposed project until October 2, 2006.
Seconded by Council Member Steve Glickman

VOTE: **Vice Mayor Joe Pirzynski** and **Council Member Barbara Spector** voted no. **The other Council Members** voted yes.
Motion passed.

Mayor McNutt called for a recess.

PULLED CONSENT ITEMS #8

8. **Project 05-17 - Highway 9 Safety Improvement Project Adopt resolution authorizing the Town Manager to approve a cooperative agreement between the Town of Los Gatos and the Cities of Saratoga and Monte Sereno for the Highway 9 Pedestrian and Bicycle Safety Improvements. RESOLUTION 2006-104**

Mr. Davis

- Clarification regarding the Town's role as the lead for the project.

Mr. Curtis

- Clarified that Los Gatos is the only city eligible to lead the project since the Town has a Disadvantage Business Enterprise (DBE) agreement which the Federal Congestion Mitigation and Air Quality (CMAQ) grant program requires.

Ms. Peth

- Thanked Council and staff for all the support to get this project going.
- Commented that this project will serve as a model project for other cities.

MOTION: Motion by **Council Member Steve Glickman** to approve Consent Item #8
Seconded by Vice Mayor Joe Pirzynski.

VOTE: Motion passed unanimously.

PULLED CONSENT ITEM #10

10. **Approve Council/Agency minutes of September 5, 2006**

Mrs. Spector

- Would like to add the word "undisputed" under Council Comments on page 6.
- Change wording of the motion relating to Item #6 to read "finding that all provisions of the Alcohol Policy regarding hours of operation apply here and that the Planning Commission decision to the contrary constituted a policy matter to be decided by Council..."
- Add bullet under after motion, on page 6 to read: Comments in opposition to prior motion incorporated in support of this motion.

Pulled Consent Item #10 continued

MOTION: Motion by **Council Member Barbara Spector** approves Consent Item #10 with the recommended changes.
Seconded by Council Member Mike Wasserman.

VOTE: Motion passed unanimously.

OTHER BUSINESS

12. **Adopt resolution of the Town Council of the Town of Los Gatos upholding a decision of the Planning Commission denying an application to operate a formula retail store (American Apparel) on property zoned C-2. Conditional Use Permit U-06-006. APN 510-44-034. Property Location: 25 N. Santa Cruz Avenue. Property Owner: Santa Cruz Real, LLC. Applicant/Appellant: Tacee Webb (continued from 2/6, 2/21, 3/6/06 and 8/21/06) RESOLUTION 2006-105**

Staff report made by **Orry Korb**, Town Attorney

Open Public Comment

Mr. Davis

- Commented regarding the resolution presented to Council relating to 25 N. Santa Cruz Avenue.
- Commented regarding a potential litigation with 25 N. Santa Cruz Avenue (American Apparel) if resolution is passed.

MOTION: Motion by **Vice Mayor Joe Pirzynski** adopt resolution of the Town Council upholding a decision of the Planning Commission denying an application to operate a formula retail store (American Apparel).
Seconded by Council Member Barbara Spector.

VOTE: **Council Member Steve Glickman voted no. The other Council Members voted yes.**

Motion passed.

13. Policy discussion and direction regarding the transfer of Parking Credits in the Downtown Parking Assessment District

Staff report made by **Bud Lortz**, Director of Community Development.

Council Comment

- Question regarding parking spaces that do exist verses “phantom” spaces.

Consensus to direct staff to further explore the parking credit issue with the General Plan Committee and return to Council with recommendations.

14. Introduce Ordinance amending Town Code, Chapter 2, Article V, updating Section 2.50.131 concerning informal bid procedures on Public Works and introduce Ordinance amending Town Code, Chapter 2, Article V, updating Section 2.50.140 concerning formal bid procedure on Public Works

Staff report made by **Orry Korb**, Town Attorney

MOTION: Motion by **Council Member Steve Glickman** introduce Ordinance amending Town Code, Chapter 2, Article V, updating Section 2.50.131 concerning informal bid procedures on Public Works and amending Town Code, Chapter 2, Article V, updating Section 2.50.140 concerning formal bid procedure on Public Works. **Seconded by Council Member Barbara Spector.**

VOTE: Motion passed unanimously.

MOTION: Motion by **Council Member Steve Glickman** wave the reading of the ordinance. **Seconded by Vice Mayor Joe Pirzynski.**

VOTE: Motion passed unanimously.

COUNCIL/TOWN MANAGER REPORTS

15. Council Matters

Mr. Glickman

- Requested results from a prior meeting with Town Manager and the newspaper.

Item #15 Council Matters Continued

Ms. Spector

- Requested agenda discussion regarding economic vitality strategies for the north part N. Santa Cruz Avenue.

Consensus to agenda the issue regarding economic vitality for a more comprehensive discussion and direction to staff.

Mr. Wasserman

- Invited the community to the Community Unity reception at the neighborhood center on September 19, 2006.

16. Manager Matters

None this evening.

ADJOURNMENT

Attest:

Jackie D. Rose, Deputy Clerk