MINUTES OF THE TOWN COUNCIL/PARKING AUTHORITY/REDEVELOPMENT AGENCY MAY 21, 2007

The Town Council of the Town of Los Gatos conducted a Regular Meeting on Monday, May 21, 2007 at 7:00 P.M.

TOWN COUNCIL/PARKING AUTHORITY/ REDEVELOPMENT AGENCY

MEETING CALLED TO ORDER

ROLL CALL

Present: Mayor Joe Pirzynski, Vice Mayor Barbara Spector, Council Member Steve Glickman, Council Member Diane McNutt, and Council Member Mike Wasserman.
Absent: None.

PLEDGE OF ALLEGIANCE - LED BY FUTURE LEADER

Kerry Zweig, Los Gatos Girl Scout Troop 685 led the Pledge of Allegiance. The audience was invited to participate.

CLOSED SESSION REPORT

CONFERENCE WITH LABOR NEGOTIATOR
(Government Code Section 54957.6)
Town Negotiator (Lead): Rumi Portillo, Human Resources Director
Employee Organization: American Federation of State, County and Municipal Employees
Local No. 101 (AFSCME)

Mr. Korb stated direction was given and no action was taken.

PUBLIC EMPLOYMENT/PUBLIC EMPLOYEE APPOINTMENT PURSUANT TO
(Government Code Section 54957)
Title: Interim Town Manager

Mr. Korb stated direction was given and no action was taken.

PRESENTATIONS

Santa Clara Valley Transportation Authority (VTA)

Jim Lawson, Valley Transit Authority presented information relating to current and future Valley Transportation Authority (VTA) operations and transportation services throughout the county.

Council Comment

- Requested the status and timeframe relating to the Vasona Light Rail Station.

Community/Business Recognition
Ronee Nassi, Executive Director - Town of Los Gatos Chamber of Commerce

Mayor Joe Pirzynski presented **Ronee Nassi**, Executive Director for the Town of Los Gatos Chamber of Commerce, with the Community/Business Recognition.

Ms. Nassi

- Thanked the Town, Chamber colleagues, and staff for their support of the Chamber of Commerce.

Proclamation - Architecture Week

Mayor Joe Pirzynski proclaimed May 21, 2007 as Architecture Week and recognized the following architects:

- **Kent Mather**
- **Richard Kirchner**
- **Terry Martin**
- **Sandra Paim**
- **Loiue Leu**
- **Gary Schloh**
- **Mani Farhadi**

Mr. Kirchner

- Made a presentation regarding Architecture Weekly and the celebration of the 150th anniversary of the American Institute of Architects (AIA) and local (AIA) programs.

TOWN COUNCIL

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

1. **Traffic Safe Communities Grant Adopt resolution authorizing the Town Manager to execute an agreement between the Town of Los Gatos and the County of Santa Clara for a Traffic Safe Communities grant . RESOLUTION 2007-052**

2. **PPW Job No. 06-11 Blossom Hill Road Sidewalk Construction (University Avenue to Roberts Road) Project 0712 Adopt resolution accepting work of Robert A. Bothman, Incorporated and authorizing the Town Manager to execute Certificate of Acceptance and Notice of Completion for recording by the Clerk Administrator. RESOLUTION 2007-053**

3. **PPW Job No. 05-16 - Oak Meadow Park Retaining Wall Replacement Project 0715 RESOLUTION 2007-054**

   a. **Adopt resolution accepting work of Casey Construction, Inc. and authorizing the Town Manager to execute certificate of acceptance and Notice of Completion for recording by the Clerk Administrator**

   b. **Authorize revenue adjustment of $5,228 from State Parks Bond Proposition 12/40 Funds to this project (0715)**

   c. **Authorize expenditure adjustment of $5,228 revising project (0715) budget to $67,188**

4. **PPW Job No. (07-13) - Tait Museum Roof Replacement Project**

   a. **Adopt resolution declaring Waterproofing Associates to be the lowest responsible bidder on the project and award a construction contract in the amount of $68,899. RESOLUTION 2007-055**

   b. **Authorize staff to execute future change orders to the construction contract as necessary up to an amount of $6,111**

5. **PPW Job No. 07-03 - Johnson Avenue Storm Drain Improvement Project 0707**

   a. **Adopt resolution declaring Casey Construction Company to be the lowest responsible bidder on the project and award a construction contract in the amount of $80,072. RESOLUTION 2007-056**

   b. **Authorize staff to execute future change orders to the construction contract as necessary up to an amount of $5,000**

   c. **Authorize budget adjustment of $16,937 from Storm Drain Fund (461) to Johnson Avenue Storm Drain Improvement Project 0727**

   d. **Authorize expenditures up to $91,937 for Johnson Avenue Storm Drain Improvement Project 0727 (including $6,865 for expenditures to date).**

6. **PPW Job No. (07-02) - Villa Avenue Retaining Wall Replacement Project 0406. RESOLUTION 2007-057**

   a. **Adopt resolution declaring Casey Construction to be the lowest responsible bidder on the project and award a construction contract in the amount of $84,366.00**

   b. **Authorize staff to execute future change orders to the construction contract as necessary up to an amount of $10,000.00**

7. **PPW Job No. 04-66 - Shannon Road Trail Construction Project 0566 Adopt resolution accepting work of Summit Springs Design, Incorporated and authorizing the Town Manager to execute Certificate of Acceptance and Notice of Completion for recording by the Clerk Administrator. RESOLUTION 2007-058**

8. **PPW Job No. 06-09 - FY 06-07 - CDBG Funded ADA Improvement Project 0706**

   a. **Adopt resolution declaring Santa Clara Valley Corporation to be the lowest responsible bidder on the project and award a construction contract in the amount of $44,500. RESOLUTION 2007-059**

   b. **Authorize staff to execute future change orders to the construction contract as necessary up to an amount of $5,000**

REDEVELOPMENT AGENCY

9. **Adopt resolution authorizing the Executive Director to execute an agreement between the Redevelopment Agency and The Housing Trust of Santa Clara County providing a time extension for expenditure of prior contributions to The Housing Trust of Santa Clara County. RESOLUTION 2007-060**

TOWN COUNCIL/REDEVELOPMENT AGENCY

10. **Approve Council/Agency minutes of May 7, 2007**

Mayor Joe Pirzynski noted a correction under Council Comments on page 8 relating to Item #10 of the May 7, 2007 minutes.

Mr. Davis pulled Consent Item #10.

MOTION: **Motion** by **Council Member Diane McNutt** to approve Consent Items #1-9.
Seconded by **Council Member Mike Wasserman**.

VOTE: Motion to approve Consent Items #1-8 passed unanimously. Consent Item #9 passed 4/0. **Council Member Steve Glickman** recused himself from Consent Item #9 due to the location of his residence.

VERBAL COMMUNICATIONS

Mr. Lucas

- Introduced **Don Cordero** as a newly elected Trustee to West Valley-Mission Community College district.

Mr. Cordero

- Commented regarding the re-construction of West Valley College facilities.
- Invited the community to participate in college activities.

Council Comments

- Thanked **Mr. Cordero** and **Mr. Lucas** for their roles at the college.

Verbal Communications – Continued

Mr. San Juan

- Commented regarding the need for more soccer fields.
- Commented that the Town-owned property at Vasona Park should not be sold but used for soccer fields.
- Suggested Council should evaluate different uses for the property to relieve the shortage of sports fields in Town.

Mr. Carroll

- Commented against the sale of Town-owned property at Vasona Park, and the need to explore alternative uses.
- Commented regarding the need for soccer fields in the community and questioned passive use policy at Vasona County Park.
- Suggested the Town buy Vasona Park from the County.

Mr. Davis

- Commented about the lack of signs to prevent children in diapers from wading in the Town Plaza fountain.
- Commented against the sale of Town-owned property at Vasona Park.
- Suggested waiting on the sale of the property until recommendations from the Parks Commission and the Planning Commission have been studied.

Mr. Clancy

- Commented regarding the need for sports fields in the community.

Council Comment

- Questioned if Mr. Clancy feels that the community's baseball organizations need more fields.

Verbal Communications – Continued

Mr. Rennie

- Commented regarding global warming and requested that the Town support the U.S. Mayor's Global Climate Agreement.

Debra Figone, Town Manager

- Commented regarding the upcoming study session on June 18, 2007 relating to green initiatives.
- Commented that the Town is researching the U.S. Mayor's Global Climate Agreement, which will be discussed at the study session.

Mr. Kahler

- Commented regarding a petition from the neighbors on Edelen Avenue and Miles Avenue in support of a skatepark.
- Commented that he feels a petition against the skatepark which was misrepresented to the neighbors.

Ms. Deloumi

- Commented about inaccurate information presented to the neighbors of Edelen Avenue and Miles Avenue relating to the proposed skatepark.

Closed Verbal Communication

PUBLIC HEARINGS

11. Consider an appeal of a Planning Commission decision denying approval to modify an existing CUP (Café Rouge) to allow a coffee and yogurt business (Café Delatti) on property zoned C-2. APN 529-03-035. Conditional Use Permit U-07-24 Property Location: 42 Elm Street Property Owner: Mike Cobler Applicant/Appellant: Suh Chung Kim

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

Public Hearing Item #10 – Continued

Council Comments

- Clarified that the Conditional Use Permit request is for a high turnover sit-down restaurant.
- Questioned if Community Development requires a sample menu as part of the proposed plans.
- Commented regarding the elimination of alcohol use as part of the new Conditional Use Permit.
- Questioned the applicant's business model relating to the proposed Conditional Use Permit.
- Clarification regarding the need for substantial departure changes to require a new Conditional Use Permit.
- Requested clarification regarding how the existing business model would change for the proposed restaurant.
- Questioned if Planning Commission's decision was based on whether or not there were too many frozen dessert type restaurants in Town.
- Questioned if the Planning Commission was looking for guidance and direction from Council.
- Questioned if the over concentration of a certain type of restaurant falls under the General Plan Guidelines.

Open Public Hearing

Mr. Chang, Cafe DeLatti

- Commented that he feels that there is not an over-saturation of frozen desserts in the downtown area.
- Commented that there is no current policy to allow restrictions on types of food sold at a business.
- Commented that the Commission's concerns were related to over-saturation of frozen dessert sales in the downtown area.
- Commented that the store is in harmony with the General Plan and Town Code.
- Commented regarding the proposed outdoor seating.
- Commented that he feels that they have a good business plan and that they will address health concerns relating to trash.

Public Hearing Item #10 – Continued

Council Comments

- Questioned if the current loading zone is located on the property.
- Questioned how the applicant intends to use the current loading zone.
- Questioned how the applicant's products differ from other similar products sold in downtown.

Mr. Chang

- Commented about the differences between frozen yogurt, ice cream and gelato.
- Commented that other shops with similar products also serve other foods such as cakes and candy.

Ms. Kim

- Commented regarding the over-saturation of frozen treats in the downtown area.
- Commented that she surveyed other cities and found that there were approximately two frozen dessert shops in various downtown areas.
- Expressed an interest in having a variety of stores in the Town's downtown area.

Mr. Harris

- Commented regarding the over-saturation of frozen treat shops in the Town's downtown area.
- Requested that Council uphold the Planning Commission's decision.

Mr. Speicher

- Commented regarding the over-saturation of frozen treats in the downtown area.
- Expressed interest in seeing more diverse shops in the Town's downtown area.
- Requested that Council uphold the Planning Commission's decision.

Ms. Speicher

- Commented regarding the number of high turn over restaurants which offer take out.
- Commented regarding the fragile balance of shops in the downtown area.
- Commented regarding high turnover restaurants and the amount of garbage in the downtown area.

Public Hearing Item #10 – Continued

Mr. Chang, Applicant

- Commented that he feels there is not an over-saturation of frozen treat establishments in the downtown area.
- Commented that the patio creates a unique place to gather.

Council Comments

- Requested clarification on adding a condition requiring the business to add more trash cans.

Closed Public Hearing.

Council Discussion

MOTION: **Motion** by **Vice Mayor Barbara Spector** to grant the appeal of a Planning Commission decision denying approval to modify an existing CUP (Café Rouge) to allow a coffee and yogurt business (Café Delatti) on property zoned C-2. APN 529-03-035. Conditional Use Permit U-07-24 Property Location: 42 Elm Street Property Owner: Mike Cobler Applicant/Appellant: Suh Chung Kim.

The appeal was granted due to an issue or policy over which the Commission did not have discretion to modify or address, but which is vested in the Council for modification or decision.

The motion is to include the findings as stated in Attachment 2 of the staff report and Conditions of Approval as stated in Attachment 3 of the staff report
Seconded by **Council Member Diane McNutt**.

Public Hearing Item #10 – Motion Continued

Council Discussion

- Commented regarding the impacts to the community as it relates to the elimination of the beer and wine sales and reduction in the hours of operation.
- Commented that over-concentration of a particular product is not an issue that the Council should control.
- Commented on issues related to land use and the General Plan.
- Commented that the market place determines the concentration and longevity of an establishment.
- Requested that the maker of the motion include a condition to add more trash receptacles.
- Questioned the use of rent control in the downtown area.

AMENDMENT TO MOTION: Motion to include an additional condition as follows: Operators of the restaurant shall provide on-site trash receptacles and pick up trash along the business frontage and in the vicinity of the restaurant when outdoor seating is available.

VOTE: Motion passed unanimously.

OTHER BUSINESS

12. Discussion of preparation, style, and format of Town Council Minutes

Staff report made by **Jenny Haruyama**, Administrative Programs Manager.

Council Comments

- Commented regarding the brevity of the minutes.
- Commented that the approved action only minutes are the official archived minutes.
- Suggested that staff explore developing a high-level summary version of minutes.
- Questioned the amount of additional staff time required if a summarized version of minutes were approved.
- Would like to see more elaboration of statements related to Council and speaker comments.

Other Business – Continued

Open Public Comments

Mr. Davis

- Commented regarding the lack of information in the current action only minutes.
- Commented that the written minutes are the only archival form of minutes.
- Commented that he feels the Town should have summary or verbatim minutes.

Closed Public Comments

Council Discussion

- Commented that a majority of California cities have action only minutes.
- Questioned if a summarized version would require the minute taker to interpret what was stated during the meeting.
- Commented that the action only minutes capture a part of the Council meeting discussion
- Commented about the availability of and access to web-streamed Council meetings.
- Commented that the Town has an excellent process in place.
- Suggested that the minutes should frame the statements more broadly.
- Commented on the statement "let the record show" as an opportunity to be quoted.
- Would like to see a format change to capture the "gist" of the comments in the minutes.
- Directed staff to explore ways to better capture the essence of the discussion in the most efficient manner.

Pulled Consent Item #10
Approve Council/Agency minutes of May 7, 2007

Mr. Davis

- Expressed concerns about **Council Member Diane McNutt's** integrity relating to a prior statement relating to estate homes.
- Commented that he feels that the minutes are obscure and do not adequately capture his statements made at prior Council meetings.

Pulled Consent Item #10 – Continued

Council Discussion
Mayor Joe Pirzynski

- Commented that on page 10, bullet 5 of the May 7, 2007 minutes should be corrected to reflect that the streets associated with the traffic calming project are located at South Santa Cruz Avenue/Wood Road.

MOTION: **Motion** by **Council Member Mike Wasserman** to approve Council/Agency minutes of May 7, 2007 with noted corrections.
Seconded by **Vice Mayor Barbara Spector**.

VOTE: Motion passed unanimously.

COUNCIL/TOWN MANAGER REPORTS

13. Council Matters

Discussion of and direction on considerations for Town Manager transition

Staff report made by **Debra Figone**, Town Manager.

Ms. Figone

- Commented regarding the process to recruit a new manager for the Town.
- Commented on the possibility of hiring Avery and Associates as the recruitment firm.
- Commented on the next steps which would include entering into an agreement and forming a Council adhoc sub-committee.
- Commented that the targeted timeframe to hire a new manager would be by November, 2007.
- Commented regarding her commitment to complete key work plan priorities by July 20, 2007.

Open Public Comment

Mr. Davis

- Commented regarding his opinion of **Debra Figone** and that he is pleased she has taken the City Manager position for the City of San Jose.

Closed Public Comment

Council Matters Item #13 - Continued

Council Discussion

- Suggested that staff move forward with Avery and Associates to recruit for the vacant Town Manager position.
- Commented that the Council feels that **Debra Figone** has helped to make this Town a wonderful community.
- Suggested that other recruiters should be allowed to submit proposals.
- Commented regarding competing interests in hiring a Town Manager.
- Suggested to proceed with Avery and Associates given its knowledge of the Town.
- Council Majority directed the Town Manager to enter into a contract with Avery and Associates.

Orry Korb, Town Attorney

- Commented regarding the process related to an interim Town Manager.
- Clarified that the subject be further discussed at the Closed Session on June 4, 2007.

Council Discussion

- Clarified timeframe for projects listed on the Town Manager's work plan.
- Suggested that the Manager move work plan items forward.
- Suggested a Council adhoc sub-committee serve as a liaison to Council regarding recruitment activities.
- Commented against forming a Council adhoc sub-committee.
- Commented that he feels that the decision on a Town Manager should come from all five Council Members input withan equal role in all stages of the process.
- Clarified that the Council adhoc sub-committee would not make decisions, but mearly act as a conduit for information relating to the recruitment process.
- Commented that Avery and Associates would interview each Council Member and allow them to share their interests as it relates to recruitment and screening of Town Manager applicants.
- Questioned if a Council adhoc sub-committee was used during the previous recruitment for Town Manager.
- Requested clarification as to how candidates are to be evaluated.
- Questioned if the Council vote requires 4 yes votes to approve a new Town Manager.
- Council majority concurred with appointment of the Mayor and Vice Mayor as the members of the Council adhoc sub-committee.

Council Matters Item #13 – Continued

Mr. Korb

- Clarified the roles relating to the Council adhoc sub-committee members.
- Commented that the sub-committee would be involved with procedural decisions that would not affect the screening process.
- Commented that Avery and Associates would take that individual Council Member feedback and develop a set of applicant qualifications for Council approval.
- Commented that a Council adhoc sub-committee was not used during the previous recruitment for Town Manager.

14. Manager Matters

None this evening.

ADJOURNMENT

Attest:

_____

Jackie D. Rose, Clerk Administrator