



MEETING DATE: 06-04-07

ITEM NO: 16

COUNCIL AGENDA REPORT

DATE: MAY 30, 2007

TO: MAYOR AND TOWN COUNCIL

FROM: DEBRA J. FIGONE, TOWN MANAGER

A handwritten signature in cursive script, appearing to read "Debra J. Figone".

SUBJECT: A. AUTHORIZE THE TOWN ATTORNEY TO DEVELOP AN AGREEMENT FOR COUNCIL'S APPROVAL FOR THE SALE OF A 13-ACRE TOWN-OWNED PARCEL IN VASONA PARK TO THE COUNTY OF SANTA CLARA FOR \$6 MILLION AND THE TRANSFER OF A .66 ACRE COUNTY-OWNED PARCEL ADJACENT TO OAK MEADOW PARK, WITH BOTH PROPERTIES REMAINING IN PARK USE IN PERPETUITY AND WITH A GUARANTEE THAT THE COUNTY WILL ALLOW BILLY JONES RAILROAD TO CONTINUE TO OPERATE ON COUNTY PROPERTY.
-- OR --
B. PROVIDE ALTERNATIVE DIRECTION TO TOWN STAFF REGARDING THE DISPOSITION OF THE TOWN-OWNED PROPERTY.

RECOMMENDATION:

1. Authorize the Town Attorney to develop an agreement for Council's approval for the sale of the 13-acre Town-owned parcel in Vasona Park to the County of Santa Clara for \$6 million and the transfer to the Town of a .66 acre County-owned parcel adjacent to Oak Meadow Park, with both properties remaining in park use in perpetuity and with a guarantee that the County will allow Billy Jones Railroad to continue to operate on County property.
-- OR --
2. Provide alternative direction to Town staff regarding the Town-owned property.

BACKGROUND:

The Town of Los Gatos owns a 13-acre parcel of land located in and surrounded by Vasona Park, which is owned by the County of Santa Clara. Attachment 1 shows the location of the Town-owned parcel. The property was developed by the County as parkland in 1960 and has been operated and maintained

PREPARED BY:

Pamela S. Jacobs
PAMELA S. JACOBS
ASSISTANT TOWN MANAGER

Reviewed by: _____ Assistant Town Manager _____ Town Attorney
_____ Clerk Administrator _____ Finance _____ Community Development

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by the County as parkland pursuant to a lease with the Town since that time. The lease automatically terminates on January 1, 2010. The County has made an offer to purchase the property from the Town for continued park use. The offer is for \$6 million cash and the transfer of a .66 acre property on which one of the Billy Jones railroad buildings sits. On April 2, 2007, the Town Council directed staff to proceed with a public process regarding the proposed sale. That public process included reviews by the Town Parks and Planning Commissions. The purpose of this staff report and the discussion at the June 4, 2007 Town Council meeting is to recap the history of the process leading to the proposed sale, present the results of the commissions' reviews, discuss the comments made by the public, make a recommendation regarding the disposition of the property, and provide alternatives Council may consider.

DISCUSSION:

History of Process Leading to Proposed Sale

In 2001, the Town began discussions with the County regarding siting a skatepark in Vasona Park. At this time, the Town and County became aware that the Town owned the 13-acre property which is the property under consideration for sale to the County. The request to site a skatepark in Vasona was ultimately denied by the County due to its policy to maintain passive uses in Vasona Park. In early 2003, the County approached the Town regarding the acquisition of the Town's 13-acre property. The County and Town initially explored a land exchange of the Town-owned property for other property in Vasona Park. The Town Council and the County Board of Supervisors gave the direction to pursue a land exchange in their respective closed sessions under the exception in the Brown Act regarding real property negotiations. These negotiations took place over two years.

During this period, two property appraisals were commissioned as a way to establish a fair market value for negotiation purposes. It is important to note that the appraisals are theoretical in nature given the fact that the property is municipal-owned parkland which is highly unlikely to ever be developed. The appraisals were conducted by Hulberg and Associates, an appraisal firm with significant experience conducting appraisals for municipal governments in the region. Although the site's current General Plan and zoning designations of Open Space substantially limit development of the site, the Town and County jointly obtained an appraisal that was based on an assumption of eight dwelling units per usable acre (66 total units). The appraisal estimated the value of the Town's property at \$8,250,000.

In 2004, the County obtained an independent appraisal of the Town's parcel that was based on the site's existing Resource Conservation (RC) zoning designation. The appraisal established a value of \$2,982,000.

In 2005, after further negotiations, the County informed the Town they were no longer interested in a land exchange and proposed to purchase the Town parcel. The Council authorized staff in closed session to undertake a third appraisal of the Town's property jointly with the County.

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The third appraisal was based on an assumption (for appraisal purposes only) that the highest and best use of the property would be residential development at a density of 5.9 dwelling units per developable acre, which is comparable to residential development in the surrounding area. The Town's 13-acre parcel contains a net 8.2 "developable" acres. The appraisal indicates a value of \$7,025,000 for the Town's property. This valuation is advantageous for the Town because it assumes a more valuable use than would be the case if the valuation was based on the parcel's current zoning designation of Open Space.

The County has made a final, all-cash offer of \$6,000,000 plus a 0.66 acre parcel of County-owned land for the Town's parcel. The offer reflects two adjustments to the appraised value. First, the County deducted \$500,000 to reflect the value of acquiring easements and constructing road improvements to access the Town parcel (although the County has stated they would not grant these easements). Second, the County accounted for a 0.66 acre land exchange in which the County-owned land on which one of the Billy Jones Railroad buildings is located would be transferred to the Town by deducting \$525,000. The County also agreed to maintain the property in park use in perpetuity. The offer is reasonable and has been accepted in principle by the Town Council in closed session.

Commissions' Reviews

On April 2nd, the Town Council directed staff to initiate the public review process regarding this proposed transaction. It asked that the Planning Commission and Parks Commission review the proposed sale. The Parks Commission reviewed the proposed sale at its May 1, 2007 meeting, acting in an advisory capacity to the Town Council in matters pertaining to public parks. The meeting was announced in the Los Gatos Weekly Times and on the Town's web site. Three members of the public commented at the meeting, all of whom expressed concern about the sale. The concerns expressed were that the property should be used for other purposes, such as soccer fields, that the Town should pursue a property trade to develop soccer fields, that the potential sale was happening too quickly, and that the property was worth more than the appraised value. These issues are discussed below.

Parks Commissioners expressed a desire to have more public input before making a recommendation to the Council. The Commission suggested that the Town be pro-active in informing the community about the proposed sale. Staff advised the Commission that the public could provide input at upcoming Planning Commission and Town Council meetings, and that newspaper coverage and the Town's website would alert the public to these opportunities.

The Planning Commission reviewed the proposed sale at its May 9, 2007 meeting. The purpose of Planning Commission review was to determine if the proposed sale is consistent with the General Plan. The meeting was announced in the Los Gatos Weekly Times and on the Town's web site. Five members of the public commented at the meeting, all of whom expressed concerns similar to those expressed at the Parks Commission about the sale. The Planning Commission determined that the sale of the property is consistent with the General Plan. Planning commissioners also expressed a desire that

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the Town obtain agreement from the County that the Billy Jones Railroad could continue to operate on County land (railroad tracks would still remain on County land if this transaction occurs).

Lisa Killough, Director of Santa Clara County Parks and Recreation Department was present at both meetings. Ms. Killough stated the County's interest in purchasing the property, the commitment to keeping the property in park use in perpetuity, the County's policy position of maintaining passive uses in the park and the lack of County support for active uses, such as organized sports, on the Town's property or other property in the park, the County's continued support for the Billy Jones Railroad, and the uncertainty of funds being available to purchase the property in the future.

Public Comment Regarding the Sale of the Property

The Town has prepared a Frequently Asked Questions (FAQ) document (Attachment 2), which has been posted on the Town's website and included in the staff reports to the Parks and Planning Commissions. These FAQ's have been updated during the public input process to clarify information requested from the public. Following are the key comments made by members of the public and the considerations regarding the concerns.

Comment – The property should be used for youth sports fields.

Response – Two issues limit the potential youth of the Town's property for youth sports fields: the County's policy of limiting the use of County parks to passive recreation and the development constraints on the Town's property.

County Policy

The County has a longstanding policy of limiting the use of County parks to passive recreation (e.g., picnicking, hiking, casual play, etc.). There have been several proposals for more active uses in Vasona Park over the years (including the Town's request to site a skatepark in Vasona), and the Board of Supervisors and County Parks and Recreation Commission have consistently rejected these proposals.

Development Constraints

The second issue is the development constraints on the Town's property. According to the appraisal, the property includes 8.2 net "developable" acres. This is not a flat parcel. It includes about 25 mature trees that would need to be removed and a knoll, which would require grading involving approximately 10,000 cubic yards of soil.

The access to the property is limited. It is surrounded by County property with the exception of an 18 ft.-wide tip on the southern end that touches Oak Meadow Park. Accessing the property via a road would require a road through Oak Meadow Park, an easement from the County, and a bridge across the creek that would need permission from several federal, state and regional agencies. It is highly unlikely that permission would be granted.

Development of youth sports fields on the property would be subject to environmental review, which would consider the factors noted above regarding the trees and grading, as well as other impacts such as

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the parking demand generated by this use. The parking would need to be accommodated, most likely in Oak Meadow Park, since it is unlikely a vehicle bridge into Town property would be approved. Additional parking in Oak Meadow Park would remove parkland and/or amenities within the park.

Comment – The Town should trade the property for County property within Vasona Park with greater potential for the development of youth sports fields.

Response – The Town has pursued the idea of trading Town property for other property in Vasona to develop youth sports fields. Throughout the discussions of a potential trade, the County has reiterated that it does not support active uses in Vasona Park.

Comment– The Town's 13-acre property is worth more than the appraised value.

Response – Property value is based on a number of factors beyond the size of the property. It must be kept in mind that Vasona Park (including the Town parcel) has a General Plan land use designation of Open Space. The Open Space designation allows for public parks and open space preserves. With the Open Space designation, land has substantially less value than residential designated property.

During discussions between the Town and County, each party obtained an appraisal of the land, as described earlier in this report. Despite the Open Space land use designation, both parties agreed to a third appraisal of the Town parcel that was based on the extraordinary assumption that a medium density residential project containing 49 units could be built on the site. "Extraordinary Assumption" and "Hypothetical Condition" are concepts stipulated in the Uniform Standards of Professional Appraisal Practice in which the appraisal of a property is based upon information that is contrary to fact and fundamentally impacts the appraisal – in this case, the allowed land use of the property.

The appraisal is based on the 8.2 "developable" acres of the property. The remaining 4.8 acres is within the riparian corridor of Los Gatos Creek or is part of the reservoir. To derive the land value of the property, the appraiser obtained data on comparable sales of raw land in the Los Gatos area and adjusted the value based several factors, including the following:

- Site aesthetics
- Development costs due to factors such as topography, access, and utilities.
- Location
- Density of project
- Size of project
- Time of sale
- Length of time to obtain development approvals.

Hulberg & Associates, who prepared the appraisal, is a leading and well-respective appraisal firm. Staff believes the appraisal is accurate based on the assumptions upon which the appraisal is based. Further, the appraised value is higher than if the appraisal were based on the site's current land use designation of Open Space.

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Comment – The Town should hold on to the property until the lease expires in 2010 and pursue a sale, trade, or development of youth sports fields then.

Response – The above considerations regarding development constraints would still apply to development on the property in 2010. Regarding a trade for other property in Vasona for development of youth sports field, there is no basis to assume that the County’s longstanding policy on passive uses in Vasona would change in 2010. As to a sale to the County in 2010, the value of the property may be comparable to today’s value because the number of potential buyers of this public land is limited. In addition, the County has limited park acquisition funds, and uses them when opportunities arise. In three years, the County may have other acquisitions it wishes to make with these funds.

Summary of Key Considerations Leading to Staff Recommendation

Although the public has expressed concerns about these issues, it appears that the following considerations are key to making a decision about the property’s disposition:

- The Town’s property is part of Vasona Park and, thus, has been used by the public as passive parkland for the past nearly 50 years;
- The County has expressed a firm commitment to its policy to maintain passive uses in the park;
- Access to the property and development constraints significantly limit the development potential of the Town’s property for other purposes;
- Valuation of the property is advantageous to the Town given the property’s lack of development potential;
- The County may not have the funds available in the future to purchase the property.
- The Town and the County have approached these negotiations in good faith over a period of four years.

RECOMMENDATION:

Based on the key considerations listed above, staff recommends:

- A. The Town Council authorize the Town Attorney to develop an agreement for Council’s approval with the following terms:
 1. Sale of the 13-acre Town-owned parcel in Vasona Park to the County of Santa Clara for \$6 million;
 2. Transfer to the Town from the County of a .66 acre County-owned parcel adjacent to Oak Meadow Park;
 3. Both properties shall remain in park use in perpetuity;
 4. Guarantee that the County will allow Billy Jones Railroad to continue to operate on County property.
- B. Funds from the disposition should be set aside in a reserve and not deposited in the General Fund. The use of the funds could be determined by the Council at a future time as Town priorities are identified.

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Alternatives and Further Direction

Following are the alternatives Council may consider regarding the disposition of the property:

- A. The Town's property can remain in use as parkland under the current lease with the County effective until 2010, and at that time pursue one of the following options:
 - 1. Attempt to negotiate a sale to the County, subject to the availability of County funds
 - 2. Attempt to negotiate use or trade of the property for other activities, such as sports fields, subject to County policies regarding use and willingness to negotiate.
- B. The Town could continue to negotiate with the County if any new ideas regarding the negotiation and/or terms are identified by Council.

If Council has an interest in addressing the question of the need for youth sports fields, the following direction may be considered:

- 1. Direct staff to undertake the development of a Recreation Element as part of the General Plan Update. The Recreation Element would assess the need for parks, youth sports fields, and other recreational facilities.
- 2. Direct staff to accelerate the needs assessment for parks and recreational facilities prior to the General Plan Update

ENVIRONMENTAL ASSESSMENT:

Is not a project defined under CEQA, and no further action is required.

FISCAL IMPACT:

If the sale of the property is completed, the Town would receive \$6 million, which would become discretionary funds of the Town. Their use could be determined at a future time under the standard budgetary policy authority of the Town Council. The funds would be put into a separate reserve account and not deposited in the General Fund. Unless required by law, it is not the Town's practice to allocate interest to funds held in special reserves, thus interest income is a key revenue source to the General Fund. Council may make a policy change regarding the allocation of interest to reserve accounts on a case-by-case basis or change the current policy in its entirety.

Attachments:

- 1. Aerial Map of Town Property in Vasona Park
- 2. Frequently Asked Questions Regarding the Proposed Sale
- 3. E-Mails from the Public Regarding the Proposed Sale

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PARKLAND

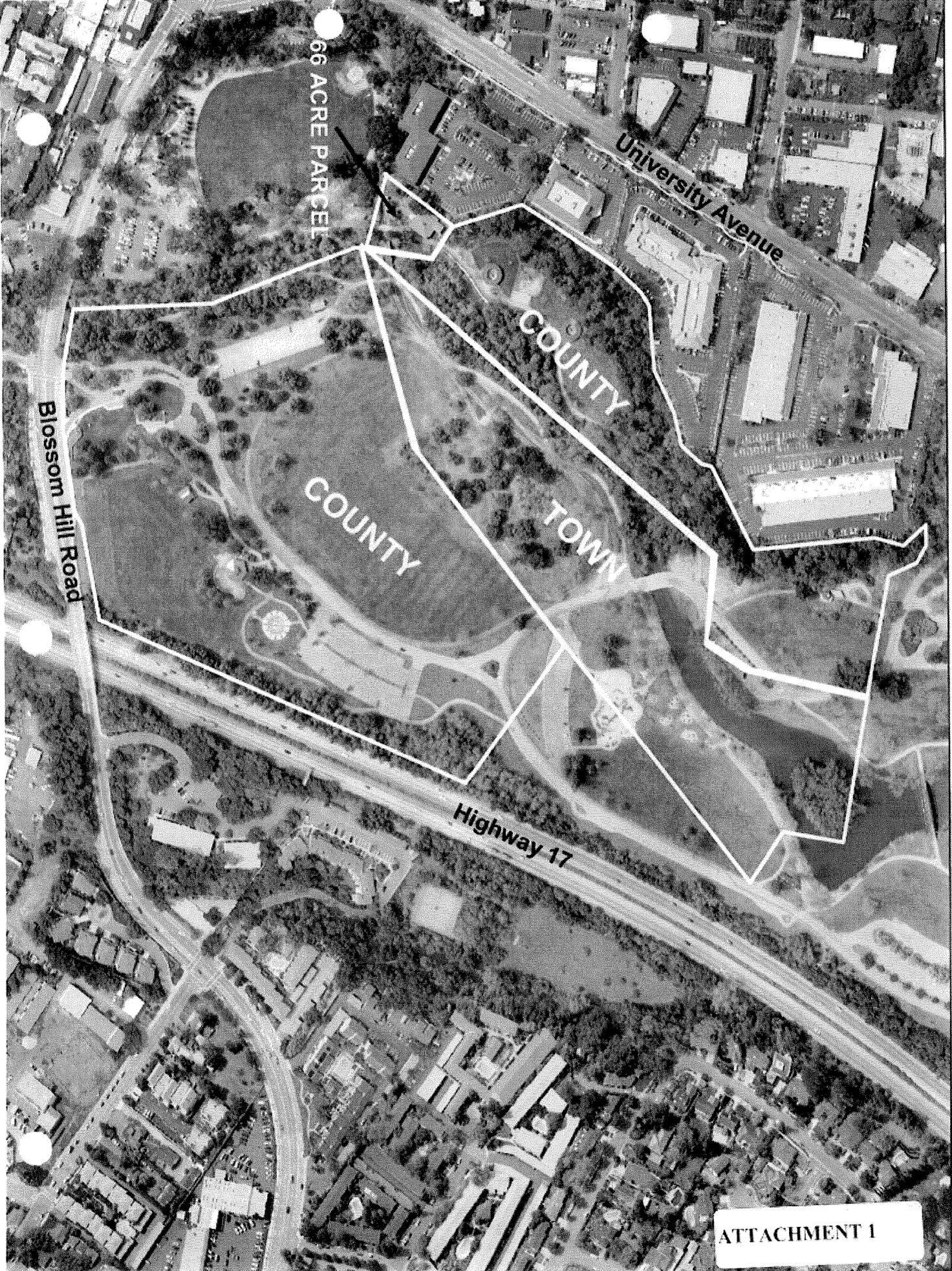
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Distribution:

Peter Kutras, Jr., Santa Clara County Executive

Lisa Killough, Director, Santa Clara County Parks and Recreation Department

Peter Panacy, Executive Director, Billy Jones Railroad



66 ACRE PARCEL

University Avenue

Blossom Hill Road

Highway 17

COUNTY

COUNTY

TOWN

ATTACHMENT 1

PROPOSED SALE OF TOWN-OWNED PROPERTY IN VASONA PARK

The Town owns a 13-acre parcel in Vasona Park, which has been leased to the County at no cost since 1960. The parcel is located south of the lake, and includes approximately 5 acres of creek and riparian corridor. As the attached aerial photo shows, the parcel is surrounded by County-owned property. Since 1960, the County has operated and maintained the property as parkland. The lease with the County expires in 2010 and the County has requested to purchase the property from the Town for use as parkland in perpetuity. The purpose of this fact sheet is to answer questions the public may have about this issue.

FREQUENTLY ASKED QUESTIONS

Q: Why does the County want to purchase the property?

A: Park visitors have been enjoying the property as parkland since 1960, and are not aware that this part of the county park is owned by Los Gatos. The County believes that it is in its best interest to centralize control of this property with the remainder of Vasona Park.

Q: How much has the County offered for the property and how was that price determined?

A: The County has offered \$6 million plus a parcel of land adjacent to Oak Meadow Park, which is valued at \$525,000. The offer is based on an appraisal conducted by Hulberg and Associates, a firm with significant experience conducting appraisals for cities and counties. The appraised value of the property is \$7,025,000. The appraisal is based on an assumption of residential development at a density of 5.9 dwelling units per acre for the 8.2 net developable acres (the remainder of the 13 acres includes the creek and associated riparian corridor). This density is similar to development in the vicinity of the park. The County deducted \$500,000 from the appraisal because easements through county land would need to be acquired to access the property, assuming the property was developed. It is highly unlikely that the property would be developed for any other use except a park, given its location in the middle of Vasona Park and its development constraints discussed below. An appraisal based on park use would yield a much lower value; thus, the methodology used for this appraisal is very favorable for the Town.

Q: What are the development constraints associated with the property?

A: There are several significant obstacles to development of this property for anything other than parkland:

- The property is surrounded by County property, with the exception of an 18 ft.-wide tip on the southern end that touches Oak Meadow Park. A road requires more than 18 feet in width, so a developer would need to

obtain easements from the County to widen the area to accommodate a road. It is unlikely that the County would grant this easement, owing to its policy for passive park uses discussed in the following question.

- Access to this area would also require a road through Oak Meadow Park which would take away recreation and open space from the Town park.
- A bridge across the creek would be required. Several agencies (the Army Corps of Engineers, California Fish and Game, and Regional Water Quality Control Board) would need to grant permission to build the bridge. It has been the Town's experience that these agencies do not grant permission for creek crossings where there are alternative routes that do not affect waterways (such as through County property).
- The property includes roughly 25 mature trees that would need to be removed.
- To create a flat area, a knoll would have to be graded, involving approximately 10,000 cubic yards of soil.

Q: Could the Town develop the property for youth sports fields?

A: For several years, the Town has discussed the possibility of using County land for sports fields (soccer, baseball, etc.) and/or for the site of a skatepark. The County has a long and consistent policy of limiting the use of County parks to passive recreation (picnicking, hiking, casual play, etc.). There have been several proposals for more active uses in Vasona Park over the years, and the Board of Supervisors and County Parks and Recreation Commission have consistently rejected these proposals. The Town has been advised that the County would not grant access for youth sports fields given its interest in maintaining passive uses. In addition, the development constraints discussed above would limit the development potential for youth sports fields. A soccer field, for example, would not fit physically on the property without removing 25 mature trees and grading 10,000 cubic yards in order to flatten the knoll. Another concern would be parking since the size of the property would not accommodate spectators, parking or other activity outside the playing area. Parking capacity in Oak Meadow Park is insufficient to accommodate additional uses such as soccer.

Q: Could the Town trade the property in Vasona for County property elsewhere within Vasona Park to develop youth sports fields?

A: The Town has pursued the concept of trading Town property for other property in Vasona to develop youth sports fields. Throughout the discussions of a potential trade, the County confirmed that it does not support active uses in Vasona and would not be interested in trading property for that purpose.

Q: If the property is sold to the County, how will the funds received by the Town be used?

A: The question of use of the funds is not being considered at this time. The funds would become discretionary funds of the Town, and their use would be determined at a future time under the standard budgetary policy authority of the

Town Council. The funds will be put into a separate account entitled Reserve for Proceeds from Vasona Property Sale and not deposited in the General Fund.

Q: Why doesn't the Town hold on to the property until the lease expires in 2010 and sell it to the County then. Wouldn't the value be greater?

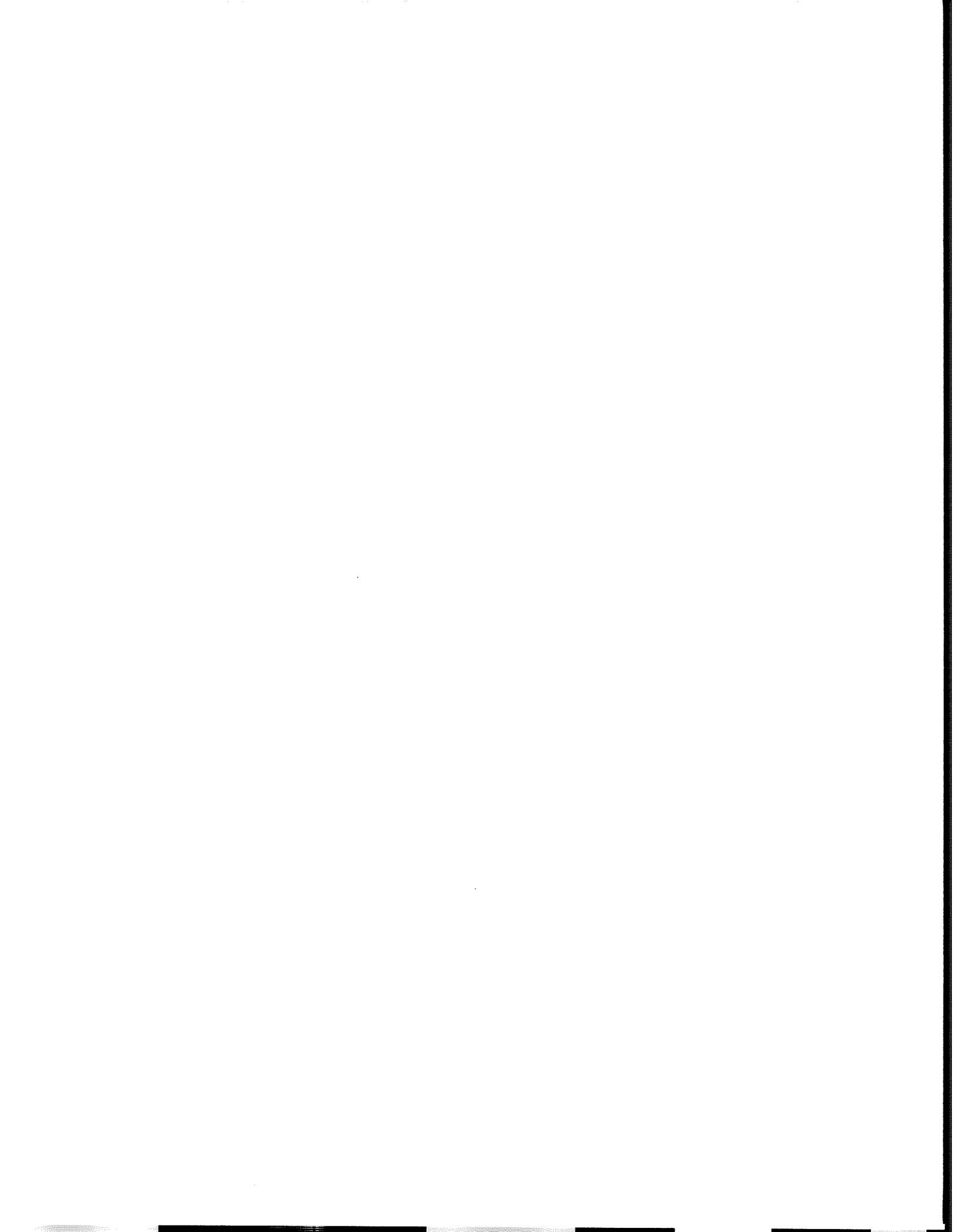
A: There is no basis to assume that the value of the land will increase over the next three years because the number of potential buyers of this land is limited. Since it is surrounded by parkland with no access except through easements from the County and/or the Town, it is unlikely that a residential or commercial developer would be interested in buying it. Since the Town is also constrained on how it could develop the land because of the creek, riparian corridor, mature trees, knoll, and access issues, the Town will not have any more "leverage" in the sales transaction than it does now. The County has limited park acquisition funds, and uses them when opportunities arise. At present, the County is willing to allocate some of the dedicated park funds to the purchase of the land within Vasona Park. In three years, the County may have expended these funds on other acquisitions. If the County does not purchase the land by the time the lease is ended, the Town will have several options: 1) Develop a new lease agreement with the County; 2) Take over the cost of maintenance of the land; 3) Consider alternate uses of the land which, as described above, are limited because of physical constraints and access issues.

Q: How can the public comment on the proposed sale?

A. Public meetings have been held with the Planning Commission and the Parks Commission. The Town Council is tentatively scheduled to discuss this matter at its June 4th Town Council meeting, to which the public is invited. Please refer to the Town's website www.losgatosca.gov for the time and agenda for this meeting.

Q: Who can I contact for more information about this issue?

A: You can contact Pamela Jacobs, Assistant Town Manager, at 354.6832, or at manager@losgatosca.gov.



Patsy Garcia - Fwd: Vasona Land Sale

From: Manager
To: Patsy Garcia
Date: 5/29/2007 5:19 PM
Subject: Fwd: Vasona Land Sale
Attachments: Vasona Land Sale

Dear Town Manager,

The sale of the Vasona land to the county for \$6M as initially proposed is the best deal for all parties and I urge the town to complete the transaction now. With this proposal I believe the most people of all ages, interests, and backgrounds will continue to have the enjoyment and best use of this property.

Please pass my feelings on to the town council for their consideration.

Regards,

Bruce Moyer
821 Cherrystone Dr
Los Gatos, CA 95032
408 356-7077

ATTACHMENT 3

From: Muffet Brown <muffet@earthlink.net>
To: <manager@losgatosca.gov>
Date: 5/30/2007 1:40 PM
Subject: Town property sales decision in Vasona Park

Dear Ms. Jacobs,

If the future value (net of administrative costs) of the revenue from continuing to lease the LG creek property to the County equals the present value of the property sale,

I am in favor of continuing to lease the property to the County, if only for the following reason:

I want to be sure the Billy Jones Wildcat Railroad continues to operate on that property. Given what I read about the county's philosophy for uses for Vasona park, I wonder if they are as committed to the railroad as the Town is or ought to be. I grew up in the 1960's riding Billy Jones Wildcat Railroad, and it is important to my extended family.

No need for a response.

Sincerely,

Muffet Brown
16345 Los Gatos Blvd. #32
Los gatos, CA 95032

Lynda Seastrom - Please Stop The Vasona Land Sale

From: "Jay Ross" <JRoss@hopkinscarley.com>
To: <bspector@losgatosca.gov>
Date: 5/31/2007 9:52 AM
Subject: Please Stop The Vasona Land Sale

Dear Vice Mayor Spector,

I understand there is a Town Council hearing on June 4, 2007, to consider the sale of roughly 13 acres of land in Vasona to the County. I also understand that land is leased to the County for only 2.5 more years. Los Gatos is in great need of fields for sports, like soccer and baseball. This land seems to provide an excellent opportunity for Los Gatos to address that need because of the leverage Los Gatos has when the lease runs out. I understand the County is willing to pay \$6 million - that seems like a small amount of money. It is a very small fraction of the County's budget. I cannot imagine that amount of money would have a material impact on the Town's budget. Has the Town identified land it can buy to address the need for fields? Is \$6 million the purchase price? If not, what's the rush? Has the Town considered a land swap with the County or offered to trade the land for cash and the right to develop and manage County land for sports fields? If not, what's the rush? Since Los Gatos has time on its side and has control over the use of the land after the lease ends, why not use those things to its advantage. After all, once this land is sold, the opportunity it brings is lost forever.

I hope you will vote against the sale of the land and instead support taking more time to study the Town's options. Thank you.

Sincerely,
Jay Ross

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