

**MINUTES OF THE TOWN COUNCIL/PARKING
AUTHORITY/REDEVELOPMENT AGENCY
SEPTEMBER 4, 2007**

The Town Council of the Town of Los Gatos conducted a Regular Meeting on Tuesday, September 4, 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

Isabela Presedo-Floyd, 4th grader from Alta Vista Elementary, led the Pledge of Allegiance. The audience was invited to participate.

CLOSED SESSION REPORT

**CONFERENCE WITH REAL PROPERTY NEGOTIATOR
(Government Code Section 54956.8)**

Property: Lark and Winchester

Negotiating parties: Town of Los Gatos (Negotiator: Pamela Jacobs, Interim Town Manager)

Northern California Partners I, LLC (Negotiator: Robin B. Kennedy)

U.S. Development Partners, Inc. (Negotiator: Grant Sedgewick)

Boccardo Management Group (Negotiator: Jim Rees)

Under negotiation: Price and terms of payment

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

Closed Session – Continued

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Government Code Section 54956.8)

Property: 123 E. Main Street

Negotiating parties: Town of Los Gatos (Negotiator: Pamela Jacobs, Interim Town Manager)

Los Gatos Saratoga Community Education & Recreation District (Negotiator: Steve Rauwolf, Executive Director)

Under negotiation: Price and terms of payment

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

PUBLIC EMPLOYEE PERFORMANCE EVALUATION/CONFERENCE WITH LABOR NEGOTIATOR

(Government Code Section 54957)

Town Negotiator: Rumi Portillo, Human Resources Director

Title: Town Attorney

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

Mr. Korb stated that Council directed him to inform the public that Council has no interest at this time in selling either property.

TOWN COUNCIL

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

- 1. Adopt resolution authorizing the Town Manager to accept a donation from the Los Gatos Police Foundation of an enclosed firearms and range cargo trailer. RESOLUTION 2007-100**
- 2. PPW Job No. 07-02 - Villa Avenue Retaining Wall Replacement Project 0406 Adopt resolution accepting work of Casey Construction Company and authorizing the Interim Town Manager to execute Certificate of Acceptance and Notice of Completion for recording by the Clerk Administrator. RESOLUTION 2007-101**
- 3. PPW Job No. 07-03 - Johnson Avenue Storm Drain Improvement Project Adopt resolution accepting work of Casey Construction Company and authorizing the Interim Town Manager to execute Certificate of Acceptance and Notice of Completion for recording by the Clerk Administrator. RESOLUTION 2007-102**

Consent Items – Continued

4. **PPW Job No. 08-07 - Bachman Park Irrigation Project (410-0607)**
Adopt resolution approving plans and specifications for the Bachman Park irrigation project and authorize staff to advertise the project for bid. RESOLUTION 2007-103

5. **PPW Job No. 07-05 Fiscal Year 2007-08 Curb, Gutter, and Sidewalk Repair and Replacement Program.**
 - a. **Adopt resolution declaring CB Construction to be the lowest responsible bidder on the project and award a construction contract in the amount of \$105,800. RESOLUTION 2007-104**

 - b. **Authorize staff to execute future change orders to the construction contract as necessary up to an amount of \$15,000.**

6. **Approve response to Santa Clara County Civil Grand Jury Report - Disaster Preparedness in the County: Improvements Needed.**

TOWN COUNCIL/REDEVELOPMENT AGENCY

7. **Approve Council/Agency minutes of August 20, 2007.**

Mr. Davis pulled Consent Item #7.

Mayor Joe Pirzynski stated that the Pulled Consent Item #7 would be heard after Other Business.

MOTION: **Motion by Council Member Steve Glickman** to approve Consent Items #1-6.
Seconded by Council Member Mike Wasserman.

VOTE: Motion passed unanimously.

VERBAL COMMUNICATIONS

Ms. Hoffman

- Commented that she feels that the Apple Store's modern store front does not fit with historic downtown.
- Commented that the downtown area should be kept as a historical district.

Mr. Carroll

- Commented about the Council meeting held on June 4, 2007 relating to swapping property with the County.
- Expressed disappointment about a letter from **Mayor Joe Pirzynski and Council Member Mike Wasserman** asking that the County reconsider its offer to purchase the Town's property.
- Suggested working with the County to meet both Town and County needs.

Mr. Davis

- Commented on the need for youth sports facilities in the community. Questioned the Council about a \$20,000 dollar donation from Sobrato for soccer fields and requested documentation regarding the location of the donation.
- Expressed disappointment about the August 7th letter to the County regarding the Vasona property.

Ms. Wellington

- Commented on the lack of sports fields for youth in the community and that other communities around the bay area have sports fields.

Mr. Ross

- Expressed concerns about the Town's letter dated August 7th regarding the Vasona property.

Mr. Cole

- Expressed concern that money is motivating the Town to sell its property in Vasona Park.
- Suggested that Council take into consideration the need for sports fields in the community.

Ms. Meulman

- Commented on the poor condition of Los Gatos fields and that teams are leaving the Town to play in other communities.

Verbal Communications – Continued

Mr. Byron

- Commented that the community has made a point of not wanting to sell the land located within Vasona Park.
- Stated that he was unaware that the property located at Lark and Winchester and 123 East Main Street was for sale.
- Commented that he feels Council wants to use the money from the sale of the properties to fund the Civic Center project.

Mayor Joe Pirzynski

- Clarified that the Attorney had already reported from Closed Session that the Council had no interest in selling the properties located at Lark and Winchester and 123 East Main Street.

Mr. Laccabue

- Commented that he feels that the Town wants to sell the Vasona property to acquire money.
- Suggested that an exploratory committee consisting of citizens and real estate professionals be included in the process.

Mr. Piazza

- Expressed interest in volunteering his professional experience to confirm the value of the property located in Vasona Park.
- Commented that the offer from the County should be counter-offered with a land-swap.

Ms. Barclay

- Expressed concerns about an increase in drug activity on Millbrae Lane.
- Commented that drug activity is occurring in Vasona Park and that a task force should be implemented by the Police Department.

Closed Verbal Communications

PUBLIC HEARING

8. Massage Ordinance

- a. Ordinance of the Town of Los Gatos amending Chapter 14 of the Los Gatos Town Code regarding the regulation of massage therapy establishments and massage therapy practitioners.**
- b. Adopt resolution amending Resolution 2007-026 certain department fees, rates and charges.**

Staff report made by **Alana Forrest**, Captain, Los Gatos-Monte Sereno Police Department.

Council Comments

- Requested clarification as to whether a business license fee is required in addition to the annual fee for the proposed massage permit.
- Questioned if the current massage ordinance has authority to address possible illegal activity.
- Questioned how the privacy of businesses and clients would be protected.
- Suggested that the ordinance should be changed to specify who would have the authorization to inspect the records of massage establishments.
- Requested clarification about the cost to the practitioner, including malpractice insurance costs.
- Requested clarification on the use of the dressing/massage room by the client and practitioner at the same time.

Mr. Korb

- Stated that the intent of the section in question was to allow the client to change clothing privately in a dressing room.
- Clarified exemption language related to the entity managing the establishment.
- Clarified which Town officials are responsible for code enforcement and investigation and stated that the section allows inspection in the course of an investigation to determine if there is a crime and obtain evidence for legal proceedings.

Open Public Hearing

Mr. Dragosavac

- Expressed concern that the ordinance criminalizes the industry.
- Commented that massage therapy is a healthy positive experience and should be treated with respect.
- Commented on the penalties associated with the proposed ordinance and that exceptions should be made.
- Would like to see a de-criminalization of the whole process relating to massage therapy.
- Suggested that there should be exceptions for forms of massage that occur in open places.

Ms. Christman

- Commented that massage therapy is a well-respected profession within the community.
- Supports the schooling requirements in the proposed ordinance and asked if the Town would allow more time to complete the required 300 hours.

Ms. Ranger

- Concerned that the ordinance misrepresents the massage therapy industry.
- Requested that Council not pass the ordinance, but solicit more feedback to better clarify the ordinance.
- Suggested researching "best practices" of other cities that have massage regulations.

Ms. MacInnis

- Expressed support of the changes in the proposed ordinance.
- Questioned if the proposed ordinance grandfathers the educational requirements for people who were already practicing massage.
- Concerned with the records inspection process and the confidentiality rights of her customers.
- Commented on the HIPPA law and related privacy issues.
- Questioned if there would be a cap on the number of massage businesses allowed in Town.

Ms. Deane

- Expressed support for the proposed ordinance.

Ms. Rice

- Commented that the education requirement of 300 hours is very reasonable.
- Commented that the inspection of records would not affect her business.

Public Hearing Item #8 – Continued

Mr. Gustafson

- Questioned the enforcement of business licenses.
- Suggested that the proposed ordinance language should be further refined, particularly provisions related to educational requirements for those currently practicing massage.

Public Hearing Closed

Council Discussion

- **Council Member Steve Glickman** requested that the Public Hearing be re-opened to ask **Ms. Rice** about the impact of the record inspection provisions on her customers.

Mayor Joe Pirzynski re-opened the Public Hearing.

Ms. Rice

- Clarified that she feels that the proposed provisions would not affect her business.
- Commented that she understood that the inspection of records would occur if illegal activity was suspected or occurring.

Public Hearing Closed

Council Discussion

- Clarified the transition time needed for practicing massage therapists who do not have the 300 hours.
- Questioned if the Chief of Police could accommodate therapists that have a hardship.
- Suggested that the HIPPA restrictions should be re-examined as part of the proposed ordinance.

Captain Alana Forrest

- Clarified the transition time to meet educational requirements and the grandfather clause for existing therapists.
- Clarified that granting approval or denial is at the discretion of the Police Chief.
- Clarified that the recordkeeping information obtained is first and last name only.

Public Hearing Item #8 - Continued

Mr. Korb

- Clarified that the provision to inspect records in the proposed ordinance does not violate HIPPA.
- Clarified how existing massage therapists would be grandfathered in the ordinance.
- Clarified how violations would be enforced.

MOTION:

Motion by Council Member Diane McNutt to continue to a future meeting to allow staff time to address:

- HIPPA requirements
- The inspection of the records process
- Language relating to criminalization
- Transition time for existing therapists
- Language relating to the separation of dressing/massage rooms for the client and the practitioner
- Language on Page 5, sub-section b (1) relating to personally giving massages verses the exemptions.

Seconded by Council Member Steve Glickman.

VOTE:

Motion passed unanimously.

Mayor Joe Pirzynski called for a recess at 8:30 p.m. The meeting resumed at 8:40 p.m.

OTHER BUSINESS

9. **Introduce ordinance of the Town of Los Gatos pursuant to recently enacted Health and Safety Code Section 33342.7, adopting a description of the program for the acquisition of real property by eminent domain for the Redevelopment Plan of the central Los Gatos project area, and approving related actions.**

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

Council Comments

- Questioned the requirements and wording for the revised statement relating to eminent domain.
- Suggested that the ordinance in Section 5 be revised to include the words "to be prepared."

Other Business Item #9 - Continued

Mr. Korb

- Clarified that the wording for the revised statement would be exactly as stated in Exhibit A of the ordinance.
- Commented that the only additional information required would be to identify the properties in the Redevelopment project area affected by the ordinance.

Open/Close Public Comments

Council Discussion

Council directed **Jackie Rose**, Clerk Administrator, to read the title of the ordinance.

MOTION: **Motion by Council Member Steve Glickman** to waive the reading of the ordinance.
Seconded by Vice Mayor Barbara Spector.

VOTE: Motion passed unanimously.

MOTION: **Motion by Council Member Steve Glickman** to introduce the ordinance with the revision to the language as follows:

- Add "to be" before prepared as part of Section 5 in the ordinance.

Seconded by Vice Mayor Barbara Spector.

VOTE: Motion passed unanimously.

10. "Green" Initiatives.

- a. **Accept report regarding "Green" Initiatives.**
- b. **Authorize \$15,000 budget transfer from Manager's Productivity Reserve to the Solid Waste Management Fund.**

Staff Report

Staff report made by **Regina Falkner**, Community Services Director

Other Business Item #10 - Continued

Open Public Comments

Ms. Currie

- Requested clarification about the type of projects associated with the \$15,000 dollars for green initiatives.
- Suggested purchasing solar garbage cans to help with the overflow of garbage in the downtown area.

Ms. Quintana

- Commented that she is very impressed with the Town's desire to impact climate change and that more could be done by the Town.

Mr. Rennie

- Expressed support of the allocation of funds for the Green Initiative Program.

Closed Public Comments

Council Discussion

- Commented that climate change needs to be addressed from a regional perspective.

Ms. Falkner

- Commented on the Joint Venture Silicon Valley's climate protection Task Force, Sustainable Silicon Valley, and the International Council for Local Environmental Initiatives.
- Commented that these groups work together with other cities to measure green house emissions.

MOTION:

Motion by Council Member Diane McNutt to accept report regarding "Green" Initiatives and to authorize \$15,000 budget transfer from Manager's Productivity Reserve to the Solid Waste Management Fund.

Seconded by Council Member Steve Glickman.

VOTE:

Motion passed unanimously.

PULLED CONSENT ITEM #7

7. Approve Council/Agency minutes of August 20, 2007.

Mr. Davis was not present to speak to Consent Item #7.

MOTION: **Motion by Council Member Steve Glickman** to approve Consent Item #7 - Council/Agency minutes of August 20, 2007.
Seconded by Vice Mayor Barbara Spector.

VOTE: Motion passed unanimously.

COUNCIL/TOWN MANAGER REPORTS

Council Matters

Vice Mayor Barbara Spector

- Commented on the upcoming September 27, 2007, special meeting organized by the cities of Saratoga, Monte Sereno and the Town of Los Gatos, at the Saratoga Community Center.
- Indicated that the intent of the meeting is for residents to identify actions they can take to protect the environment.

Council Member Steve Glickman

- Commented that there would be an upcoming Council meeting to discuss "Hard to Serve" areas designated by Green Valley Collections.

Mayor Joe Pirzynski

- Commented on Town Hall in the Neighborhood at Fisher Middle School on September 24th.

12. Manager Matters

None this evening.

ADJOURNMENT

Attest:

Jackie D. Rose, Clerk Administrator