



MEETING DATE: 11-5-07

ITEM NO: 8

## COUNCIL AGENDA REPORT

DATE: NOVEMBER 2, 2007

TO: MAYOR AND TOWN COUNCIL

FROM: PAMELA S. JACOBS, INTERIM TOWN MANAGER

*Pamela Jacobs*

SUBJECT: SKATE PARK INITIATIVE

- A. ADOPT RESOLUTION CALLING ELECTION ON THE QUESTION WHETHER THE TOWN MUST CONSTRUCT AND OPERATE A SKATE PARK ON MILES AVENUE
- B. AUTHORIZE BUDGET ADJUSTMENT IN THE AMOUNT DETAILED IN THE FISCAL IMPACT SECTION OF THIS REPORT DEPENDING UPON THE RESOLUTION OPTION APPROVED BY TOWN COUNCIL
- C. ACCEPT CLERK ADMINISTRATOR'S CERTIFICATION OF THE SUFFICIENCY OF THE SKATE PARK INITIATIVE PETITION

### RECOMMENDATION:

- a. Adopt resolution calling election on the question whether the Town must construct and operate a skate park on Miles Avenue
- b. Authorize budget adjustment in the amount detailed in the Fiscal Impact section of this report depending upon the resolution option approved by Town Council
- c. Accept Clerk Administrator's certification of the sufficiency of the skate park initiative petition

### BACKGROUND:

On May 29, 2007, a notice of intent to circulate a proposed initiative petition was filed with the Town. The proposed initiative would require the Town to pay up to one million dollars (\$1,000,000) to construct a skate park on Town-owned property located on Miles Avenue, and further require the Town to pay up to fifty thousand dollars (\$50,000) per year to operate and maintain said skate park. These costs could be offset in whole or in part by contributions to the Town. On October 1, 2007, signed

PREPARED BY:

**ORRY P. KORE**

Town Attorney

OPK:pg

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Reviewed by: \_\_\_\_\_ Assistant Town Manager *OK* Town Attorney  
\_\_\_\_\_ Clerk Administrator \_\_\_\_\_ Finance *✓* Community Development

petitions were filed with the Town. The petitions contained a total of 3098 signatures. On October 11, 2007, the Registrar of Voters for the County of Santa Clara notified the Town that the proposed initiative had received 1,833 valid signatures, not less than ten percent (10%) of the number of registered voters in the Town.

On June 21, 2004, Council held a public hearing regarding a potential skate park at the Town-owned parking lot at 41 Miles Ave. Based on the preliminary site feasibility assessment and on public input, Council directed staff to proceed with the design of a skate park at this location. Council approved the final preliminary design on October 4, 2004.

The Town designated one hundred twenty-five thousand dollars (\$125,000) from either State park bond funds or the General Fund for the skate park, and the City of Monte Sereno allocated one hundred thousand dollars (\$100,000) from State park bond funds towards the skate park. In addition, the Town designated the use of the Miles Ave. parking lot, estimated at a value of one million dollars (\$1,000,000) for the skate park. The Town Council determined that the community would need to raise the remainder of the funds for the skate park.

The estimated cost of the skate park in 2004 was nine hundred forty-six thousand five hundred dollars (\$946,500), including the cost of work completed prior to that time. Due to the passage of time, the estimated costs would need to be updated at the time the construction of a skate park occurs. It is likely that the estimated costs would be higher due to increases in materials and labor since 2004.

On December 8, 2004, the Planning Commission approved a conditional use permit ("CUP") which would allow a skate park located at 41 Miles Avenue. The CUP was valid until December 8, 2006, unless used or extended prior to its expiration. On October 11, 2006, the Planning Commission extended the CUP for an additional year, the maximum extension allowed under the Town Code. The CUP is set to expire on December 8, 2007. On October 24, 2007, the Planning Commission again considered extending the CUP. The Commission continued the item to its meeting on November 14, 2007.

#### DISCUSSION:

Elections Code section 9215 essentially provides that the question raised by the skate park initiative petition must be submitted to the voters at the next statewide election occurring not less than eighty-eight (88) days after the date of the order of the election. The election is called by adoption of a resolution. Attached is a proposed resolution (Attachment 1) calling an election to be consolidated with the statewide presidential primary election occurring on February 5, 2008, which is more than eighty-eight (88) days after November 5, 2007.

Section 9215 further provides that, instead of calling the election by adopting the resolution, Council may order a report on any or all of the following impacts of the proposed initiative:

- On fiscal matters
- On the general plan

- On the use of land, including on the availability and location of housing, its impact on funding for infrastructure
- On economic development
- On uses of vacant parcels of land
- On agricultural lands, open space, traffic congestion, existing business districts and developed areas designated for revitalization
- On any other matters designated by Council

The report must be presented within thirty (30) days after the election official certifies the sufficiency of the petition. The Clerk Administrator's certification is attached (Attachment 2).

The resolution, if approved, directs the Town Attorney to prepare an impartial analysis of the measure pursuant to Elections Code section 9280. In addition, Council or any members authorized by Council, or any individual voter or bona fide association of citizens or any combination of voters and associations may file arguments not to exceed three hundred (300) words for and against the initiative measure. The deadline for submitting arguments for and against the measure would be no later than November 14, 2007. Rebuttal arguments not to exceed two-hundred fifty (250) words may be submitted by no later than November 21, 2007. In the event more than one argument is submitted, priority is given first, to the Council or its designated members; second, to the proponents of the measure; third, to bona fide associations of citizens; and last, to individual voters eligible to vote on the measure.

Also attached is written correspondence concerning the skate park (Attachment 3).

#### FISCAL ANALYSIS:

The Town does not have a regular municipal election scheduled to occur prior to November 4, 2008. Consolidating a municipal election with the statewide presidential primary election to occur on February 5, 2008 is estimated to cost between \$36,000 and \$44,000. This cost would increase to approximately \$60,000 to \$70,000 if two Town elections are consolidated with the February 2008 presidential primary election. The FY 2007/08 adopted budget included a \$10,000 budget for elections which has been over expended to reimburse the County Registrar of Voters office for costs associated with verifying signatures related to the skate park ballot initiative. Depending on Council's approval, the budget adjustment required will be either an additional \$60,000 or \$70,000 (estimated) to be transferred from the Manger's FY 2007/08 contingency account.

The skate park initiative requires the Town to: (1) expend up to \$1.0 million dollars of Town funds for the construction of a skate park, (2) allocate \$50,000 of the Town's ongoing annual operating funds for the operating and maintenance costs associated with the skate park, (3) locate the skate park at the Town-owned Miles Avenue site. As stated above, the precise cost to construct, operate and maintain a skate park at 41 Miles Ave. is unknown at this time. Placing the question on the ballot will not in itself mandate the expenditure of funds for those purposes. Voter approval of the initiative may result in the expenditure of Town funds for a skate park project. At this time, no funding source has been identified by the Town to pay the cost of construction or the annual operating and maintenance costs for a skate park.

PAGE 4  
MAYOR AND TOWN COUNCIL  
SUBJECT: SKATE PARK INITIATIVE  
NOVEMBER 2, 2007

Attachments:

1. Resolution calling election on the question whether the Town must construct and operate a skate park on Miles Avenue.
2. Clerk Administrator's Certification of Petition
3. Letter from Miki Vuckovich, Executive Director – Tony Hawk Foundation

Distribution:

Miki Vuckovich, Executive Director –Tony Hawk Foundation  
Karen DeLoumi  
Dennis Byron  
Julie DiNapoli  
Steve Leonardis

RESOLUTION 2007-\_\_\_\_\_

RESOLUTION OF THE TOWN OF LOS GATOS  
ORDERING AND CALLING A GENERAL MUNICIPAL ELECTION  
TO BE HELD IN THE TOWN OF LOS GATOS ON FEBRUARY 5, 2008;  
REQUESTING SANTA CLARA COUNTY BOARD OF SUPERVISORS  
TO AUTHORIZE REGISTRAR OF VOTERS TO PROVIDE ELECTION SERVICES;  
REQUESTING CONSOLIDATION OF PRESIDENTIAL PRIMARY ELECTION  
WITH LOS GATOS MUNICIPAL ELECTION AND SPECIFYING CERTAIN  
PROCEDURES FOR THE CONSOLIDATED ELECTION; TO PROVIDE NOTICE  
OF ELECTION FOR THE PURPOSE OF AN INITIATIVE MEASURE REQUIRING  
THE TOWN OF LOS GATOS TO SPEND UP TO ONE MILLION DOLLARS  
(\$1,000,000) FOR THE DESIGN AND CONSTRUCTION OF A SKATE PARK,  
AND FIFTY THOUSAND DOLLARS (\$50,000) ANNUALLY FOR THE  
OPERATION OF THE SKATE PARK ON TOWN-OWNED PROPERTY

**WHEREAS:**

- A. Los Gatos Town Code Section 2.30.010 provides that the general municipal election for the Town of Los Gatos shall be held on the day of the statewide general election.
- B. Pursuant to Part 3 of Division 10 of the California Elections Code, a general municipal election may be consolidated with a statewide election.
- C. A statewide election will be held on February 5, 2008.
- D. On May 29, 2007, a notice of intent to circulate a proposed initiative petition was filed with the Town, said proposed initiative requiring the Town to pay up to one million dollars (\$1,000,000) to construct a skate park on Town-owned property located on Miles Avenue, and further requiring the Town to pay up to fifty thousand dollars (\$50,000) per year to maintain an operate said skate park, which amounts could be offset by contributions.
- E. On October 1, 2007, signed petitions were filed with the Town regarding the aforesaid proposed initiative.
- F. On October 11, 2007, the Registrar of Voters for the County of Santa Clara notified the Town that the proposed initiative had received not less than ten percent (10%) of the number of registered voters in the Town.

**RESOLVED:**

- 1. A general municipal election hereby is called to be held in and for the Town of Los Gatos on Tuesday, February 5, 2008, to have a public vote on an initiative measure.
- 2. Pursuant to Elections Code Section 10002, the Town Council hereby requests the Board of Supervisors of the County of Santa Clara to make available the services of the Registrar of Voters for the purpose of performing the usual services necessary in the conduct of the consolidated general municipal election, including the provisions of election supplies and voters' pamphlets; and that upon approval of such requests, the Registrar of Voters of the County of Santa Clara shall be reimbursed for all costs incurred by said services.

3. Pursuant to Elections Code commencing with Section 10400, the Town Council hereby requests the Board of Supervisors of the County of Santa Clara to order the consolidation of the general municipal election to be conducted within the boundaries of the Town of Los Gatos on February 5, 2008, with respect to which the Board of Supervisors of the County of Santa Clara has the power to order a consolidation. The Town Council further consents to and orders the consolidation of the general municipal election hereby called with the presidential primary election. Upon consolidation, the consolidated election shall be held and conducted, election officers appointed, voting precincts designated, ballots printed, polls opened at 7:00 a.m. and closed at 8:00 p.m., ballots counted and returned, returns canvassed, and all other proceedings in connection with the election shall be regulated and done by the Registrar of Voters of the County of Santa Clara in accordance with the provisions of law regulating the elections so consolidated.
4. The Clerk Administrator is hereby authorized and directed to publish as may be necessary a notice of the general municipal election within the time and in the manner specified in Elections Code section 12110. The Clerk Administrator is further authorized and directed to do all other things required by law to hold the general municipal election above provided.
5. The Clerk Administrator is hereby authorized and directed to certify to the adoption of this resolution and to transmit a certified copy to the Board of Supervisors of the County of Santa Clara and to the Registrar of Voters of the County of Santa Clara.
6. The Town Attorney is hereby authorized and directed to prepare an impartial analysis pursuant to Elections Code section 9280.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos this 5<sup>th</sup> day of November, 2007 by the following vote:

**COUNCIL MEMBERS:**

AYES:

NAYS:

ABSTAINED:

ABSENT:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA



# TOWN OF LOS GATOS

## CLERK DEPARTMENT

CIVIC CENTER  
110 E. MAIN STREET  
P.O. Box 949  
LOS GATOS, CA 95031

November 1, 2007

Subject: Certification of the Sufficiency of the Skate Park Initiative Petition

Dear Honorable Mayor and Council:

The initiative measure petition submitted to the Clerk Department on October 1, 2007 contained 3,098 signatures. In order for the petition to pass, 1,796 valid signatures were required to pass, based on the 10% requirement of registered voters in the Town of Los Gatos pursuant to California Elections Code Section 2187.

The Santa Clara County Registrar of Voters performed the verification of 100% of the total signatures using petition guidelines set by the Secretary of State and found 1,833 valid signatures, which is greater than the valid signatures required to pass. Therefore, as the Town of Los Gatos Clerk Administrator and Elections Official, I am Certifying the Sufficiency of the Skate Park Initiative Petition.

Please feel free to contact me directly if you have any questions at 408-354-6834.

Thank you,

Jackie D. Rose  
Clerk Administrator/Elections Official  
Town of Los Gatos



16 October 2007

Mayor Joe Pirzynski  
Town Hall  
110 E. Main Street  
Los Gatos, CA 95030

RECEIVED

OCT 19 2007

TOP SECRET

Dear Mayor Pirzynski,

It has recently come to our attention that members of your community are working together to promote a public skatepark for Los Gatos. We applaud them for their interest in developing a facility that will benefit a recognizable sector of your young population, and commend your civic leaders who are working with them to see that their dream of a public skatepark in Los Gatos becomes a reality.

Since 2002 the Tony Hawk Foundation has been helping communities like yours work through the process of developing and designing quality public skateparks that their youth will enjoy. For low-income communities that meet our grant criteria, we also provide some funds to help in the effort.

Why are skateparks beneficial to communities? The easy answer is that they provide a place for kids who aren't attracted to traditional team sports to express themselves in an individual and athletic manner. Getting kids, particularly at-risk kids, involved in a personal and esteem-building activity like skateboarding helps them build the confidence to do well in other aspects of their lives. I know this because that's what skateboarding did for me. And Tony Hawk knows this because it did the same for him. That's why he started the Tony Hawk Foundation—to help today's kids by helping their communities build quality skateparks.

The 13-million skateboarders in America only have about 2,200 skateparks nationwide. That means the vast majority of them are skating in the streets. Many city officials that we speak with are still concerned about the liability they would assume if they opened a skatepark. But chances are that you already operate public facilities for football, basketball, and soccer—all sports that produce more injuries per participant, according to data compiled by the U.S. Consumer Product Safety Commission.

In any case, skating in the controlled environment of a skatepark is much safer than riding in the street, where approximately 80 percent of skaters (or 10.4-million) are practicing their sport of choice at the moment. And when parks are built right—with local skater input and involvement throughout the process—those youngsters develop a sense of ownership and pride.

The very existence of the park is the result of their hard work. They negotiate with civic and local business leaders, with each other on design elements, and with the community to find a suitable location. These previously disenfranchised skaters, who once ran from the police, find themselves working *with* the police and city and community as a whole. It's a transformational process for these young people.

So we urge you to support the community effort to establish a public skatepark in Los Gatos. We've seen hundreds of such projects go from dream to reality in communities all across the U.S. And it can happen in Los Gatos, too.

Thank you for your consideration.

Miki Vuckovich  
Executive Director  
Tony Hawk Foundation

**ATTACHMENT 3**