

**MINUTES OF THE TOWN COUNCIL/PARKING
AUTHORITY/REDEVELOPMENT AGENCY
MARCH 17, 2008**

The Town Council of the Town of Los Gatos conducted a Regular Meeting on Monday, March 17, 2008 at 7:00 P.M.

TOWN COUNCIL/PARKING AUTHORITY/REDEVOPMENT AGENCY

MEETING CALLED TO ORDER

ROLL CALL

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

Absent: None.

PLEDGE OF ALLEGIANCE - LED BY FUTURE LEADER

Jessica Fee, 11th grader at Los Gatos High School led the Pledge of Allegiance. The audience was invited to participate.

PRESENTATION

Proclamation "Jade Ribbon Week" (Hepatitis B Awareness) - Youth Council of the Asian Liver Center at Stanford University

Mayor Barbara Spector

- Presented a proclamation to **Catherine Chiu** on behalf of the Youth Council for Jade Ribbon Week.

Ms. Chiu

- Thanked the Council and community for the proclamation and support.

TOWN COUNCIL

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

1. **Ratify payroll for the month of February 2008.**
2. **Ratify accounts payable for the month of February 2008.**
3. **Accept Treasurer's Report of January 2008.**

Consent Items – Continued

4. **Adopt resolution declaring the results of the Presidential Primary Election held February 5, 2008. RESOLUTION 2008-021**
5. **PPW Job No. A08-007 - Equipment Purchase of a Park Structure at Howes Play Lot - Project No. 411-831-3606 Adopt resolution authorizing the Town Manager to execute an agreement with Ross Recreation Equipment Company, Incorporated for the replacement purchase and installation of a park structure at Howes Play Lot in the amount of \$39,129.18. RESOLUTION 2008-022**
6. **Adopt resolution setting date for consideration of reorganization of an uninhabited area designated as Topping Way No. 5, approximately .66 acres located at 16538 Topping Way (APN 532-09-027). File #AN08-01. RESOLUTION 2008-023**
7. **Adopt resolution denying appeal of a Planning Commission decision approving the demolition of an existing single family residence and construction of a new residence on property zoned R-1:20. APN 532-05-025. Architecture and Site Application S-07-182 Property location: 16330 Englewood Avenue. Property owner/applicant: C. Patrick Munnerlyn. Appellants: Gil Perez, Ned Finkle, Kelly Coffey and Yvette Bonnet. RESOLUTION 2008-024**

REDEVELOPMENT AGENCY

8. **Ratify accounts payable for February 2008.**

TOWN COUNCIL/REDEVELOPMENT AGENCY

9. **Approve Council/Agency Minutes of March 3, 2008.**
10. **Adopt resolution authorizing the Town Manager/Executive Director to enter into an agreement with Design, Community and Environment to prepare the Housing Element Update. RESOLUTION 2008-025**

Council Member Steve Glickman and Mr. Davis pulled Consent Item #3. **Mayor Barbara Spector** stated that Consent Item #3 will be heard following the Public Hearing.

MOTION: **Motion by Council Member Steve Glickman to approve Consent Items #1, 2, and #4-10. Seconded by Council Member Joe Pirzynski.**

VOTE: **Motion passed unanimously**

VERBAL COMMUNICATIONS

Mr. Davis

- Commented about the Measure D petitions that were copied by the Clerk Department.
- Commented about the appeal for 41 Miles Avenue and stated that the appellant did not pay a deposit for the transcription of the Planning Commission minutes.

Closed Verbal Communications

PUBLIC HEARING - TOWN COUNCIL

11. **Consider an appeal of a decision by the Planning Commission approving a time extension to construct and operate a skate park on property zoned RC. A Mitigated Negative Declaration has previously been made for this proposal. Conditional Use Permit U-07-155 APN 529-05-049. Property location: 41 Miles Avenue Property Owner/Applicant: Town of Los Gatos Appellant: Julie Di Napoli.**

Mayor Barbara Spector recused herself from Item #11 due to the fact that she lives within 500 feet of 41 Miles Avenue.

Vice Mayor Mike Wasserman chaired the Public Hearing.

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

Council Comments

- Commented that the appellant stated that the Planning Commission erred because conditions have changed and questioned if that would constitute new findings.
- Questioned the legal and ethical obligations concerning bias.

Mr. Korb

- Commented that the question whether conditions have changed was raised at the Planning Commission meeting.
- Commented that the appellant is stating that the Planning Commission erred in making its determination.

Council Comments

- Questioned if there are ethical considerations associated with Council's participation in the public hearing item.

Public Hearing Item #11 – Continued

Mr. Korb

- Clarified that the courts have found that Council Members who have expressed differing political views have the ability to be objective, and make a decision based on the evidence presented.

Mr. Larson, Town Manager

- Clarified that the Clerk Administrator has verified that the appellant paid the transcription fee, and that a transcription fee is part of the appeal fee for any project.

Open Public Hearing

Mr. Di Napoli, Appellant

- Commented on the amount of public use at the parking lot located at Miles Avenue.
- Commented that the 56 spots proposed along Miles Avenue do not provide adequate space for passing cars and pedestrians.
- Commented that safety issues have not been evaluated at the site.
- Commented on public safety issues and that the City of Scotts Valley has had 44 incidents of misdemeanors in a 1 year period.
- Commented that the basis of the extension was to allow fundraising to proceed.
- Commented the money from Monte Sereno must be used by the end of the year.
- Commented that only 1% of the funding has been raised for the proposed skate park.

Mr. Lang

- Commented about decreased available parking if the skate park was approved and traffic problems associated with heavy equipment on Miles Avenue.
- Expressed concerns about congested parking during baseball games, Town activities and summer traffic.
- Commented that the proposed skate park location is secluded and will be hard for police to monitor.

Public Hearing Item #11 – Continued

Mr. Van Bruggen

- Commented that he believes that the voters stated that the cost was too high.
- Commented that there is a lot of community support for a skate park.
- Suggested that the use permit be left in place to allow the continuation of fund raising.

Mr. Leonardis

- Commented that Council needs to be fair concerning the proposed CUP extension.

Vice Mayor Wasserman

- Clarified the process and read a memo from **Mr. Korb** relating to fair and impartial decisions.

Council Comments

- Commented that the Council can make a fair decision.

Mr. Wagner

- Commented on supporting a skate park in the Town.
- Commented that safety is not a concern for the Miles Avenue location.

Mr. Kahler

- Commented that he believes that the voters made a decision about financing of the skate park, not the location.
- Commented that Miles Avenue is a great location for the proposed skate park and that safety, noise and parking are not legitimate concerns for a proposed skate park at the Miles Avenue location.

Mr. Kahler Jr.

- Commented that the appellant has not proposed any changes relating to parking concerns for the project.
- Commented that the lot will be a far better use as a skate park.
- Commented about misdemeanors and that the appellant has not shown how the Miles Avenue location is a public safety risk.
- Requested that Council let the Planning Commission decision stand.

Ms. Wagner

- Thanked **Council Member Glickman** for his help and support with the skate park project.
- Commented on the success of the February 2008 Skate Park Day which was held at the Miles Avenue location.
- Commented that she would like the community to work together to give the kids a safe place to skate.

Public Hearing Item #11 – Continued

Mr. Stickney

- Commented about the hazards along Miles Avenue and believes that the Town and community could work together to solve issues associated with the Miles Avenue location.
- Commented that Measure D was voted on by adults not the youth.
- Commented that the youth in the community need a safe place to skate.

Mr. Peth

- Commented about sports facilities in Town and that there is no place for skateboarders to skate.
- Commented that skateboarding is a friendly sport and the youth would accept a portable skate park in Town.

Ms. Lang

- Expressed concerns that Miles Avenue is narrow and that emergency access is an issue.
- Commented on concerns regarding safety at the Miles Avenue location.

Mr. Deloumi

- Commented that the youth need a skate park in Town.
- Commented that portable ramps would be a great alternative.

Ms. Deloumi

- Suggested that a temporary park with portable ramps be built for the youth.
- Commented on working together to build a sports complex which would include a skate park.

Vice Mayor Wasserman

- Clarified that the CUP issue is about the current plans for a concrete skate park at the Miles Avenue location.

Mr. Reichwein

- Commented that a lot of ramps could be built with the money the committee has raised.
- Commented on his ramp designs and the cost to build them.

Ms. Pech

- Commented that many of the youth in Town would like to have a skate park.
- Commented that for every youth that has spoken tonight they represent at least 50 more people that support a skate park in Town.

Public Hearing Item #11 - Continued

Mr. Spilsbury

- Commented about the land use issue related to the location of the proposed park.
- Commented that parking is a significant issue in the downtown area and that cars are beginning to get towed.

Mr. Silva

- Commented about losing parking spaces in the downtown area.
- Commented on supporting a skate park at a different location.
- Commented that the current land use for the CUP is for a concrete park and not a portable skate park.

Ms. Morgan

- Commented that the residents voted no on Measure D and would like to see an end to the proposed project.

Mr. Loya

- Commented that the appeal is not about Measure D, but about the location of the proposed park.
- Commented that he feels that the Planning Commission did not error.

Mr. Calderwood

- Commented on supporting the skate park.
- Requested that Council keep the CUP in place.
- Commented that if someone is against the proposed skate park then you are against the kids.

Mr. Davis

- Commented that the bias of Council was articulated by Stanford Stickney.
- Commented that he supports a lawsuit against the Town.

Mr. Kapp

- Commented that he loves sports, but does not support a skate park at the 41 Miles location.
- Commented that the neighborhood does not need more traffic impacts from a skate park at that location.

Ms. Decker

- Commented that the merchants in the downtown area use the Miles Avenue lot daily.
- Commented that the lot is used heavily during the summer months.
- Commented about the liability issues associated with the proposed skate park.

Public Hearing Item #11 - Continued

Mr. Murphy

- Commented that he would like to have a skate park in Town.
- Commented that kids like to skateboard and need a safe place to skate.

Mr. Burke

- Commented about CEQA and the Negative Declaration related to the location of the proposed park.
- Commented that at the Planning Commission meeting for the extension of the CUP the issues of CEQA and the Negative Declaration were not introduced until after the public hearing was closed.
- Stated that when the issue was continued to another meeting no public testimony about the Negative Declaration was allowed.
- Commented that the item should be returned to the Planning Commission to be heard fairly.
- Commented that he believes that the appeal fees should be refunded.
- Commented that the Council is the applicant and has the right to withdraw the application.

Mr. Burke Jr.

- Commented that the location of the skate park is next to the baseball park and that there is no safety issue.
- Commented that police are always driving by Miles Avenue to fill up their gas tanks.

Mr. Murphy

- Commented that no frontage improvements have been made to the Miles Avenue area.
- Commented that the Town will be liable and that street parking is illegal.

Ms. Kennedy

- Commented that she believes that conditions have changed due to increased trail and evening parking use.
- Commented that the biggest change is the State budget.
- Commented that the Town may no longer be able to afford a skate park.

Ms. Groth

- Commented on representing the youth of Los Gatos.
- Commented that she believes that parking and safety is not an issue at the Miles Avenue location.

Mr. Avey

- Commented that he supports a skate park in Town.
- Commented that the community should spend money equally between skate parks and baseball fields.

Public Hearing Item #11 - Continued

Ms. Quintana

- Commented on the land use issues relating to the proposed skate park and that new evidence has come forward.
- Commented that the Skate Park Committee can't raise the funds in time to continue the project.
- Commented that portable ramps would be a different project than what is in the current CUP.

Mr. Knowles, Appellant

- Commented that the skate park should not be at the Miles Avenue location.
- Commented that the Measure D voters voted against the location and the money.
- Showed a video reflecting traffic activity on Miles Avenue.
- Commented that a real traffic study should be done by the Town.
- Commented that over the weekend the parking lot and overflow lot were full.

Council Comments

- Requested that staff comment about the traffic studies on Miles Avenue.

Mr. Lortz

- Commented that video images of traffic on Miles Avenue are not evidence that there has been an increase in vehicle activity over the baseline used as part of the Negative Declaration.

Closed Public Hearing

Council Discussion

- Commented that the discussion is about the land use issue in the CUP.
- Commented that voters voted on three issues at the election in February: The construction and operation of a skate park, financing of the skate park, and location of the skate park.

Public Hearing Item #11 – Continued

MOTION: **Motion by Council Member Joe Pirzynski** to withdraw the conditional use permit time extension to construct and operate a skate park on property zoned RC. A Mitigated Negative Declaration has previously been made for this proposal. Conditional Use Permit U-07-155 APN 529-05-049. Property location: 41 Miles Avenue Property Owner/Applicant: Town of Los Gatos. Appellant: Julie Di Napoli and to terminate the discussion of the Miles Avenue Site.
Seconded by Council Member Diane McNutt.

Council Discussion

- Commented that the voters did not have had the ability to vote on all three issues separately.
- Commented that the voters may have implied that it was too expensive.
- Commented that the skaters have asked for portable ramps and that an extension would allow time to raise funds for a portable skate park.
- Commented that the youth did not want a portable skate park when the CUP was first brought to Council in 2004.
- Commented that the Town did not conduct a safety or parking study.
- Commented that the land use issue before Council is for a concrete park at the Miles Avenue location.
- Commented that Miles Avenue is the best location for a skate park.
- Questioned if the proposed skate park is economically feasible at this time.
- Commented on pursuing other types of skate parks which would require a different Conditional Use Permit.
- Commented on including skate parks as part of the recreational facilities assessment for the General Plan update.

VOTE: **Motion passed 3/1. Council Member Steve Glickman** Voted no. **Mayor Barbara** had recused from Item #11.

Mayor Barbara Spector re-joined the meeting.

OTHER BUSINESS

There was no Other Business scheduled for this meeting.

PULLED CONSENT ITEM #3

3. Accept Treasurer's Report of January 2008.

Council Member Steve Glickman

- Commented that a portion of the Town's investments are in mortgage related fields and requested Council to have staff analyze the Town's investment practices.

Mr. Larson, Town Manager

- Suggested that staff could work with the Town Treasurer to respond to Council.
- Commented that less than 25% of the Town's portfolio is mortgage backed securities.
- Suggested that staff review the portfolio and advise Council.

Mr. Davis

- Commented that an update of investment activities should be provided to the community.
- Commented on the \$4 million dollar increase at the end of December.
- Commented that the Town can afford to spend money to build a skate park.

MOTION: **Motion by Council Member Joe Pirzynski to approve Consent Item #3.**
 Seconded by Council Member Steve Glickman.

Council Discussion

- Commented that the Town makes about \$250,000 to \$275,000 a month in interest from revenue investments.
- Commented that if the Town revenue shows as \$4 million in one month then it is just a question of what deposits were received that month.

Pulled Consent Item #3 – Continued

Mr. Larson, Town Manager

- Clarified that the \$4 million increase for the month of December was attributed to property taxes and business license renewal.

VOTE: **Motion passed unanimously.**

COUNCIL/TOWN MANAGER REPORTS

12. Council Matters

None this evening.

13. Manager Matters

Mr. Larson, Town Manager

- Commented that the Town suffered its first homicide in four years.
- Commented that the Los Gatos-Monte Sereno Police Department released sketches of the suspect.
- Suggested that if anyone has any information about the homicide they should call the Los Gatos-Monte Sereno Police Department at 408-354-8600.

Scott Seaman, Chief of Los Gatos-Monte Sereno Police Department

- Commented that staff is partnering with other cities to identify resources that will help them solve the case.
- Asked the public to bring forward information related to the case.
- Commented that they believe the person involved was seen in Town before and after the incident.

Council Comments

- Questioned where the public can obtain copies of the sketches.
- Questioned if it would be appropriate to make the downtown businesses aware of the sketches.

Manager Matters – Continued

Chief Seaman

- Commented that the sketches would be available on the Town and police website, and be distributed widely.
- Commented that the sketches will get the highest distribution.

ADJOURNMENT

Attest:

Jackie D. Rose, Clerk Administrator