

**MINUTES OF THE TOWN COUNCIL/PARKING
AUTHORITY/REDEVELOPMENT AGENCY
AUGUST 18, 2008**

The Town Council of the Town of Los Gatos conducted a Regular Meeting on Monday, August 18, 2008 at 7:00 P.M.

TOWN COUNCIL SPECIAL MEETING – Interviews began at 6:45 P.M.

Arts Selection Panel

- Interviews were held for one vacancy on the Arts Selection Panel.
- Sharon Blasgen, Applicant, was interviewed.

TOWN COUNCIL/PARKING AUTHORITY/REDEVELOPMENT AGENCY

MEETING CALLED TO ORDER - 7:00 P.M.

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

Cady Chessin, 8th grader at Fisher Middle School led the Pledge of Allegiance. The audience was invited to participate.

CLOSED SESSION REPORT

There was no Closed Session scheduled for this meeting.

BOARDS/COMMISSION/COMMITTEES APPOINTMENTS

Art Selection Panel (1 applicant; 1 vacancy)

- **Sharon Blasgen** was appointed to the Arts Selection Panel.

PRESENTATIONS

Commendation for Pascagoula Day Participants

Mr. Henderson

- Presented information about the accomplishments of the Katrina Consortium volunteers.

Mayor Barbara Spector

- Presented commendations to **Lisa Hogan, Frank Bergandi, Tom Carson, Dave Henderson, Steve Rauwolf, Matt Turner, Valerie Lozowicki, Roger Murray, Joe Varozza, and Lee Neish** for their assistance with the Katrina Consortium.
- Commented that **Council Member Diane McNutt, Vice Mayor Mike Wasserman and Town staff** also contributed to helping the Katrina victims in Pascagoula.

TOWN COUNCIL

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

1. Ratify payroll for June and July 2008.
2. Ratify accounts payable for:
 - a. June 2008
 - b. July 2008
3. Appoint Barbara Spector as the primary voting delegate and Council Member Joe Pirzynski as the alternate voting delegate for the League of California Cities Annual Conference scheduled for September 24-27 in Long Beach, California.
4. Adopt resolution adopting revised Below Market Price Housing Program Guidelines and rescinding Resolution 2005-117.
Motion to send to Community Services Commission no Resolution
5. Adopt resolution setting date for consideration of reorganization of an uninhabited area designated as Hilow Road No. 3, Approximately 1.12 Acres located at 16362 Hilow Road (APN: 532-04-082); File #AN08-02.
RESOLUTION 2008- 092

Consent Items – Continued

6. **PPW Job No. 07-10 - Fiscal Year 08-09 - Retaining Wall Replacement Project at University Avenue and Wooded View Drive - Project 411-815-9930** Adopt resolution approving plans and specifications for the retaining wall replacement project at University Avenue and Wooded View Drive and authorize staff to advertise the project for bid.
RESOLUTION 2008-093
7. **PPW Job No. 07-17 - Fiscal Year 08-09 - Curb, Gutter, and Sidewalk Replacement Project 411-813-9921.** Adopt resolution approving plans and specifications and authorize staff to advertise the project for bid.
RESOLUTION 2008-094
8. **PPW Job No. 07-21 - Surface and Base Repair, Manhole, and Valve Adjustment to Grade Project 411-811-9901.** Adopt resolution approving plans and specifications for the and authorize staff to advertise the project for bid. **RESOLUTION 2008-095**

REDEVELOPMENT AGENCY

9. **Ratify accounts payable for:**
 - a. **June 2008**
 - b. **July 2008**

TOWN COUNCIL/REDEVELOPMENT AGENCY

10. **Approve Council/Agency minutes of August 4, 2008.**
11. **Adopt resolution rejecting all bids for Police Operations Building.**
Resolution 2008-096

Mr. Davis pulled Consent Item #10.

Mr. Gaikwad and **Council Member Diane McNutt** pulled Consent Item #4.

Council Member Steve Glickman pulled Consent Item #11.

Mayor Barbara Spector stated that the pulled Consent Items would be heard after Other Business.

MOTION: **Motion by Council Member Steve Glickman** to approve Consent Items #1-3, and #5-9.
Seconded by Vice Mayor Mike Wasserman.

VOTE: Motion passed unanimously
VERBAL COMMUNICATIONS

Mr. Capurso, Director of Parks and Public Works

- Commented about the Live Oak Manor Park arson fire.
- Commented that the main structure was a total loss.

Scott Seaman, Chief of Police

- Commented that an award has been offered in partnership with Crime Stoppers.
- Commented that the damage was assessed to be between \$7000 and \$10,000.

Mr. Davis

- Commended the Mayor, Vice Mayor, and Parks and Public Works Director.
- Commented about politics in Los Gatos.

Closed Verbal Communications

PUBLIC HEARING

12. Consider a request for a General Plan Amendment from Mixed Use Commercial to Office Professional, and a Zone Change from C-1 to O. No significant environmental impacts have been identified as a result of this project and a Mitigated Negative Declaration is recommended. Negative Declaration ND-07-150, General Plan Amendment GP-07-003, Zone Change Z-07-002. APNs 424-10- 017, 064 and 065. Property Location: 14881 National Avenue and 14830 Los Gatos Blvd. Property owner: Dr. Lee and Ms. Liz Walker. Applicant: John Lien. RESOLUTION 2008-091

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

Open Public Hearing

Mr. Lien, Applicant

- Commented that he would be available for any questions that Council may have.

Closed Public Hearing

Public Hearing Item #12 – Continued

Mayor Barbara Spector directed **Jackie Rose**, Clerk Administrator to read the title of the ordinance.

MOTION: **Motion by Council Member Steve Glickman** to approve a General Plan Amendment from Mixed Use Commercial to Office Professional, and a Zone Change from C-1 to O. No significant environmental impacts have been identified as a result of this project and a Mitigated Negative Declaration is recommended. Negative Declaration ND-07-150, General Plan Amendment GP-07-003, Zone Change Z-07-002. APNs 424-10- 017, 064 and 065. Property Location: 14881 National Avenue and 14830 Los Gatos Blvd.
Motion to include:

- a. Make the mitigated negative Declaration and adopt the mitigation monitoring plan for the General Plan amendment and zone change as stated in Exhibit 6 and 7 of Attachment 1.
- b. Make the required findings for the General Plan amendment and zone change as stated in Attachment 4.
- c. Adopt Resolution approving the General Plan amendment as stated in Attachment 5.
- d. Waive the reading of the zone change ordinance as stated in Attachment 6.
- e. Introduce the ordinance to effectuate the zone change as stated in Attachment 6.

Seconded by Council Member Joe Pirzynski.

VOTE: **Motion passed unanimously.**

OTHER BUSINESS

- 13. 347 Massol Avenue adopt Planned Development Ordinance making a zone change from RM:5-12 to RM:12-20:PD for a fifty-six lot residential subdivision to convert the existing apartments to condominiums at 347 Massol Avenue (APN 510-14-004) (Bay Tree Apartments).**

Council Member Steve Glickman recused himself from Item #13 due to the location of his residence.

Mr. Larson, Town Manager

- Clarified that there were two desk items relating to Item #13.

Other Business Item #13 – Continued

Staff report made by **Orry Korb**, Town Attorney and **Bud Lortz**, Director of Community Development.

Council Comments

- Questioned if the Fire Department has reviewed the proposed parking plan.
- Questioned if the condo conversion would have to comply with all building code requirements.
- Questioned if the condo conversion sets precedence for future applications.

Mr. Lortz

- Clarified that the Fire Department has reviewed the proposed parking and found it to be adequate.
- Commented that the project has to comply with Title 24 energy enhancement requirements.
- Commented that there are no modifications required for seismic retrofits, structural work, or disabled access under the Town Building Code.

Mr. Korb

- Stated that an individual land use application is considered separately on its own factual merits.

Council Comments

- Questioned the use of tandem parking in Town.
- Questioned Title 24 Energy Requirements for a condo conversion.
- Questioned if there are required distances for tandem parking with respect to entering and backing up.
- Requested clarification on what triggers the Title 24 requirements.
- Requested clarification on the parking spaces proposed by the applicant verses the required parking spaces per the Town ordinance.

Other Business Item #13 – Continued

Mr. Lortz

- Commented that the applicant is required to go through a Title 24 inspection which includes energy calculations.
- Commented that the applicant has doubled the amount of spaces which have reviewed by Engineering and Planning.
- Commented that a 26 foot back out space is required by code, but 24 feet is considered functional.
- Clarified the Title 24 requirements for a condo conversion.

Council Comments

- Questioned if there is a best practice for condo conversions.
- Requested clarification about the BMP units and Alternative #3 in the staff report.

Mr. Lortz

- Commented that recommendation #2 would allow amendments to the Below Market Guidelines (BMP) which would include special circumstance seniors to continue to live as renters and up to five units would be purchased by the Town under the BMP program.

Mr. Larson

- Stated that staff recommends Council considers option #1 or #2.
- Commented that recommendation #1 would grant special circumstances to seniors who reside in the project, giving them extra ranking points to help them qualify for the Bay Tree Below Market Program (BMP) units.
- Commented that recommendation #2 would require the applicant to delay the sale of the five units occupied by the Special Circumstance Seniors until they vacate their units. Rental rates would be fixed at what they are currently paying with an annual cost of living increase.
- Staff would modify the Below Market Program Guidelines (BMP) to reflect the proposed amendments.

Public Comments

Mr. Schloh

- Commented about the proposed architecture for the site and stated that the current building does not fit well with the neighborhood.
- Commented about the cosmetic design of the proposed project.

Other Business Item #13 – Continued

Council Comments

- Questioned if **Mr. Schloh** was advocating for a 360 degree design.

Mr. Silva

- Suggested that the Town should develop a best practices template for future condo conversions.
- Commented that the condo conversion would provide increased housing for the Town.

Mr. Cole

- Commented that the management company has addressed all issues except parking management and the resident assistance program.
- Clarified that the company hired an engineer to assess the parking and concluded that the proposed parking spaces would work for the site.
- Commented that the proposed parking includes one parking space for a one bedroom condo and two parking spaces for a two bedroom condo.
- Commented that the resident assistance package and the senior package are a priority.

Council Comments

- Questioned when the applicant had increased the amount of parking from 36 to 60 spaces.
- Questioned if the applicant has conducted any pre-Title 24 studies.
- Questioned the average age of the pre-existing tenants.

Mr. Cole

- Commented on the senior and the disabled relocation packages.

Council Comments

- Questioned when the official "notice to convert" was submitted and how much time a resident has after receiving the notice.

Mr. Cole

- Clarified the "notice to convert" process and provided an example of when the timeframe for relocation would begin.

Other Business Item #13 – Continued

Council Comments

- Questioned how many units and tenants are considered pre-existing.
- Questioned if other jurisdictions have a policy regarding parking and condo conversions.
- Questioned how the tandem parking would be allocated.
- Questioned when the recording of the final map would take place.

Mr. Cole

- Commented that forty units fall under the new the noticing process.
- Commented that five units qualify for the senior assistance package.
- Commented that two units will receive moving and relocation assistance with financial consideration.

Mr. Lortz

- Clarified that it would be about a 6 month process before the 180 day notice would take affect.

Mr. Withers

- Commented about project benefits and Lyon Realty's relocation program.
- Commented on the demand and affordability of the condos and smaller "down sized" homes in the community.
- Commented on parking enhancements, architecture improvements, and green enhancements.

Mr. Trapani

- Expressed support for the proposed project and the first time home buyer opportunities.

Ms. Pugliese

- Commented on supporting the proposed project.

Ms. Smith

- Commented on supporting the proposed project.

Mr. Forbes

- Commented on supporting the proposed project and the senior package offered by Lyon Reality.
- Commented that the creek is next to the project and the building may need a stronger structure.
- Commented about Palo Alto's condo conversion ordinance.

Other Business Item #13 - Continued

Council Comments

- Questioned the amount of parking that Palo Alto requires for condo conversion projects.

Mr. Goldman

- Commented that the building is forty to fifty years old and needs a lot of work.
- Commented on the parking issues that currently exist at the complex.
- Commented that he is in walking distance to town and does not require use of his car for daily errands.

Council Comments

- Questioned if **Mr. Goldman** feels that Massol Avenue currently has parking issues.

Mr. Goldman

- Commented that Massol Avenue has parking issues during the evening hours.

Mr. Burges

- Expressed concerns that an investor may purchase units to sell at a higher price.
- Indicated that there are parking issues along Massol Avenue.

Council Comments

- Questioned if investors could be prevented from purchasing units for resale at a higher price.

Mr. Korb

- Clarified the Below Market Program (BMP) requirements and that an additional requirement could be added to prevent the resale of units at a higher price.

Mr. Larson

- Suggested that a requirement could be added to specify that only a percentage of complexes could be rented.

Other Business Item #13 – Continued

Ms. Pelley

- Would like to see an ordinance adopted to govern condo conversion projects.
- Commented that parking along Massol Avenue is congested and would become worse with the condo conversion.

Mr. Houge

- Commented that the parking map is incorrect because there is no such thing as tandem parking in the Town Code.
- Commented that the proposed parking plan is 16 spaces short and that units should have 3 spaces each.
- Commented about the lack of visitor parking at the Bay tree Apartment complex.

Mr. Kaschub

- Commented against the proposed project.
- Commented that the Housing Element should come before the approval of the project.
- Commented that vacancy rates and parking would be part of the Housing Element.
- Commented that a vacancy rate survey was conducted which found the rate to be less than .1%.

Council Comments

- Questioned the size of the radius if an alternate rental location could not be found near the site.
- Questioned the total vacancy rate for Los Gatos.
- Questioned the number of households in Town.

Mr. Lortz

- Clarified that the radius would expand if there were no acceptable vacancies within the established perimeters.
- Commented that the vacancy rates are seasonal.
- Commented that there has not been a vacancy rate survey done by the Town since the 2003 Housing Element.
- Commented that another rental availability survey will be completed as part of the 2009 Housing Element.

Other Business Item #13 – Continued

Ms. Douglas

- Suggested increasing the relocation radius.
- Suggested removal of the pass-through fee which the Bay Tree residents are being charged.
- Commented on the congested parking and the lack of visitor parking.
- Commented that it is very difficult to find a place to live in Los Gatos.

Ms. Kaschub

- Commented that the parking plans proposed by Lyon Realty violate Town regulations and do not plan for overflow or guest parking on the premises.
- Commented that the proposed Below Market Program (BMP) units are against Town regulations.

Ms. de Mos

- Suggested that the Town conduct an apartment availability study.
- Commented against the proposed project.
- Commented that her rental availability study was done by calling all apartments in Los Gatos listed in the Yellow Pages.

Mr. Bohm

- Commented against the proposed project and lack of rental units in Town.

Council Comments

- Commented that the Town currently has a 35% rental ratio.

Mr. Keegan

- Commented that there is a need for quality rental units, smaller homes and condos in Town.
- Commented on supporting the proposed project.

Mr. Carter

- Commented on supporting the proposed project.
- Commented that parking would be much easier on Massol Avenue without parking restrictions.

Mr. Davis

- Commented against the proposed project.
- Commented on the challenge of remodeling a fifty-year-old building.

Closed Public Comments

Mr. Davis received his first warning for disrupting the meeting at 9:36 p.m.

Other Business Item #13 – Continued

Mayor Barbara Spector called for a recess at 9:37 p.m. Meeting resumed at 9:45 p.m.

Council Discussion

- Questioned the process for adopting the ordinance.
- Questioned the relocation assistance program offered by Lyon Management.
- Commented on staff's recommendation not to purchase the BMP units.
- Commented on supporting Recommendation #1 and #2.
- Commented that the parking does not seem to be an issue on Massol Avenue.
- Commented that the spacing for tandem parking needs to be addressed.
- Commented about the rules and regulations used for a Planned Development.
- Expressed concerns about the 16 tenants who were residents prior to noticing.
- Expressed concerns about the parking requirements.
- Commented on supporting the Title 24 improvements.
- Commented on other municipalities' relocation programs.
- Suggested creating a matrix that reflects the number of disabled tenants, children, and seniors that fall under the "pre-notice" category.
- Commented that the building is in need of structural upgrades.
- Questioned parking requirements for the converted units verses apartment units.
- Commented on supporting the re-location packages provided by the developer.
- Questioned if there was a "best practice" for dealing with parking issues related to condo conversions.
- Expressed concerns about the proposed relocation plan for seniors and the "pre-noticed" tenants.

MOTION: **Motion by Mayor Barbara Spector** to continued the adoption of the ordinance to October 6, 2008 and request further information on best practices about parking, environmental issues, and pre-notification of tenants, current vacancy rates, and the timeframe to vacate and relocate.

Seconded by Vice Mayor Mike Wasserman.

VOTE: **Motion passed unanimously.**

Mr. Korb

- Commented on the procedure for introducing and adopting an ordinance.

Other Business Item #14

14. Adopt resolution to encourage the preservation of and improvements to the Los Gatos Community Hospital. RESOLUTION 2008-097

Staff report made by **Greg Larson**, Town Manager.

Open/Close Public Comments

MOTION: **Motion by Vice Mayor Mike Wasserman** to adopt resolution to encourage the preservation of and improvements to the Los Gatos Community Hospital.
Seconded by Council Member Joe Pirzynski.

VOTE: **Motion passed unanimously.**

TOWN COUNCIL/REDEVELOPMENT AGENCY

15. Accept status report and consider disposition of Fannie Mae and Freddie Mac Federal Home Loan coupon notes investment strategies.

Staff report made by **Greg Larson**, Town Manager and **Steve Conway**, Director of Finance.

Council Comments

- Commented that the Town holds Fannie Mae and Freddie Mac bonds, not stocks.
- Commented on the alternatives recommended to Council and that there may be a loss of principal if the bonds were sold before maturity.
- Questioned if the Town could recover its investment if the bonds were held to maturity.
- Suggested selling the lower interest bonds and replacing them with other bonds of comparable interest.

Mr. Larson, Town Manager

- Clarified that the Town would receive a one time gain if the bonds were sold early.

Council Comments

- Suggested that Recommendation #3 may protect the Town's principal.
- Commented that the State may limit the amount insured.
- Commented on Bloomberg reports relating to Fannie Mae, Freddie Mac, and MBIA.
- Commented that the Town does not have investments in MBIA or Fannie Mae stocks.

Other Business Item #15 – Continued

MOTION: **Motion by Vice Mayor Mike Wasserman** to accept status report and consider disposition of Fannie Mae and Freddie Mac Federal Home Loan coupon notes investment strategies.
Motion to include strategy #2 which states:
Continue to hold to maturity the Federal Home Loan Bank bonds and sell selected holdings of Fannie Mae and Freddie Mac yielding less than 4.25%, totaling approximately \$2.3 million and explore opportunities to reinvest in other government sponsored enterprises the yield approximately 3.85%.
Seconded by Council Member Diane McNutt.

Open/Close Public Comments

Orry Korb, Town Attorney

- Commented that pursuant to Town Code and the Council Investment Policy, the Town Treasurer has been delegated investment responsibilities.

VOTE: **Motion passed 4/1. Council Member Joe Pirzynski voted no.**

Mr. Larson, Town Manager

- Commented that staff will advise the Treasurer of Council direction and concerns.
- Indicated that over the next few months staff will be working on the transition of the Elected Treasurer to the appointed position.

PULLED CONSENT ITEMS

4. Adopt resolution adopting revised Below Market Price Housing Program Guidelines and rescinding Resolution 2005-117. Motion to send to Community Services Commission no Resolution

Pulled consent Item #4 – Continued

Council Member Diane McNutt

- Expressed concerns about the Below Market Program (BMP) requirements and the policy change should be reviewed by the Community Services Commission prior to coming to Council.

Mr. Gaikwad was not present to speak on Item #4.

Council Comments

- Questioned if there is a "waiting list" for the Below Market Program and if they fall under the new guidelines.

Open Public Comments

Mr. Miller

- Suggested that Council consider amending the Below Market Guidelines to address all public service employees.
- Questioned why Town employees receive extra points over other public employees.

Council Comments

- Inquired about whether or not the school district provides inter-district transfers for Town employees.

Closed Public Comments

MOTION: **Motion by Council Member Steve Glickman** to adopt resolution adopting revised Below Market Price Housing Program Guidelines and rescinding Resolution 2005-117.
 Seconded by Vice Mayor Mike Wasserman.

Council Discussion

- Commented that the amendment to the guidelines limits the program to first time home buyers and not others who may have previously owned a home, but are not currently home owners.
- Suggested that the Community Services Commission discuss the amendment.

VOTE: **Motion failed 1/4. Council Member Steve Glickman voted yes.**

Pulled Consent Item #4 – Continued

MOTION: **Motion by Council Member Diane McNutt** to return the Below Market Program Guidelines to the Community Services Commission for discussion and recommendation back to Council.
Seconded by Mayor Barbara Spector.

VOTE: **Motion passed 4/1. Council Member Steve Glickman**
voted no.

10. Approve Council/Agency minutes of August 4, 2008.

Mr. Davis

- Expressed concerns that his comments under verbal communications on August 4, 2008 about the De Santis project were not reported accurately.

MOTION: **Motion by Council Member Joe Pirzynski** to approve the minutes of August 4, 2008.
Seconded by Council Member Steve Glickman.

Council Discussion

- Suggested that Council Members names be reflected in the minutes under Council Discussion and Council Comments.
- No action was taken on the suggestion.

VOTE: **Motion passed unanimously.**

11. Adopt resolution rejecting all bids for Police Operations Building.

Council Member Steve Glickman

- Requested clarification on the issues related to the rejection of the bids for the police operations building.
- Questioned if the project would require an increased budget.

Mr. Larson, Town Manager

- Clarified the bid process and indicated that efforts would be made to keep the project within budget.

Open/Closed Public Comments

Pulled Consent Item #11 – Continued

MOTION: **Motion by Council Member Steve Glickman** to adopt resolution rejecting all bids for Police Operations Building.
 Seconded by Council Member Joe Pirzynski.

VOTE: **Motion passed unanimously.**

COUNCIL/TOWN MANAGER REPORTS

16. Council Matters

Mayor Barbara Spector

- Commented that the University Avenue repaving project is complete and University Avenue is open.

Council Member Steve Glickman

- Updated the Council about a recent VTA Policy Advisory Committee meeting and that VTA encourages cities to support Measure B.

17. Manager Matters

Mr. Larson, Town Manager

- Reminded Council and the community that a Study Session is scheduled for August 25, 2008 to discuss the North Forty Specific Plan.
- Commented that the Town is now accepting credit cards.
- Stated that the Town opposes any additional State "borrowing" or taking of local government revenue to balance the budget.

ADJOURNMENT

Attest:

Jackie D. Rose, Clerk Administrator