

**MINUTES OF THE TOWN COUNCIL/PARKING  
AUTHORITY/REDEVELOPMENT AGENCY  
DECEMBER 15, 2008**

The Town Council of the Town of Los Gatos conducted a Regular Meeting on Monday, December 15, 2008 at 7:00 P.M.

**TOWN COUNCIL/PARKING AUTHORITY/REDEVELOPMENT AGENCY**

**MEETING CALLED TO ORDER**

**ROLL CALL**

**Present:** Mayor Mike Wasserman, Vice Mayor Diane McNutt, Council Member Joe Pirzynski, Council Member Steve Rice, Council Member Barbara Spector

**Absent:** None.

**PLEDGE OF ALLEGIANCE - LED BY LOS GATOS HIGH SCHOOL JAZZ  
PURR**

Alexis Richie, Haley Humphries, Kajsa Nelson, Sara Biron, Stewart Robinson, Ian McAdams, Jan Van Bruggen, Parissa Koo, Jordan Littleford, and Christabelle, Los Gatos High School Jazz Purrr, led the Pledge of Allegiance. The Audience was invited to participate.

**CLOSED SESSION REPORT**

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
(Government Code Section 54957)**

**Title: Town Attorney**

**Mr. Korb**, Town Attorney stated that direction was given and no action was taken.

**CONFERENCE WITH LABOR NEGOTIATOR  
(Government Code section 54957.6)**

**Agency Negotiator:** Rumi Portillo **Unrepresented Employee:** Town Attorney

**Mr. Korb**, Town Attorney stated that direction was given and no action was taken.

## TOWN COUNCIL

### COUNCIL/TOWN MANAGER REPORTS

#### Council Matters

##### Council Member Joe Pirzynski

- Presented Council with an update on the VTA Policy Advisory Committee meeting which included a review of funding for the Highway 9 bicycle lane project.

#### Manager Matters

##### Mr. Larson, Town Manager

- Commented on VTA's review of possible funding for the bicycle pedestrian passages along Highway 9 and that the Town is continuing to advocate for the Vasona light rail extension.
- Commended **Tim Boyer**, Parks and Public Works Superintendent, **Millie Sperath**, Parks and Public Works Administrative Assistant, **Tara Lang**, Customer Service Representative, on their retirement and service to the community, and **Fletcher Parsons**, Associate Engineer, on his service to the community.
- Commented about the train derailment at Winchester Boulevard and commended Parks and Public Works and the Police Department for their efforts and quick response.
- Commented about the Main Street Bridge lights and thanked the Community Foundation and P.G. & E. for their support.
- Commented about Town Hall work furloughs during the holidays and the hours that Town Hall services will be closed.

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

1. Ratify payroll for November 2008.
2. Ratify accounts payable for November 2008.
3. Accept Treasurer's Report for October 2008.
4. Adopt Council Committee Appointments effective January, 2009.
5. Accept donation from Yamagami's Nursery for 100 "Silicon Valley Diamond" Roses and approve the placement of a 4" x 7" plaque.

## **Consent Items – Continued**

6. **Designation of Fiscal Year 2007/08 Budget Savings and Associated Fiscal Year 2008/09 Budget Transfers.**
  - a. **Approve designation of Fiscal Year 2007/08 General Fund revenue and expenditure budget savings in accordance with Council reserve policies.**
  - b. **Authorize budgeted transfers in Fiscal Year 2008/09 from General Fund Designated Reserves as provided for in the Town Fiscal 2008/09 Operating and Capital budget.**
7. **Adopt resolution updating the employer pickup pre-tax payroll deduction plan for service credit purchases. RESOLUTION 2008-134**
8. **Massol Avenue Permanent Installation of Traffic Calming Devices. Accept report on the permanent installation of traffic calming devices for Massol Avenue Neighborhood.**
9. **PPW Job No. 08-14 - Town Plaza Fountain Filtration System 411-831-4201. Adopt resolution approving plans and specifications for the Town Plaza Fountain Filtration System Upgrade. RESOLUTION 2008-135**
10. **PPW Job 06-03 - Federal Project STPL -5067(013) Street Resurfacing of Hillside Streets [Surface Transportation Improvement Program (STIP)] - College Avenue/Prospect Avenue/Kennedy Road Adopt resolution authorizing the Town Manager to execute a Program Supplement Agreement under the Master Agreement with the State of California Department Transportation. RESOLUTION 2008-136**
11. **Street Repair & Resurfacing Project 411-811-9901 (Surface and Base Repair, Manhole, and Valve Adjustment to Grade Project - PPW Job No. 07-21 Adopt resolution accepting work of Joseph J. Albanese and authorizing the Town Manager to execute Certificate of Acceptance and Notice of Completion for recording by the Clerk Administrator. RESOLUTION 2008-137**
12. **PPW Job No. 07-04 - Fiscal Year 2007-08 Annual Street Repair and Resurfacing Project 411-811-9901 Adopt resolution accepting work of G. Bortolotto & Company and authorizing the Town Manager to execute Certificate of Acceptance and Notice of Completion for recording by the Clerk Administrator. RESOLUTION 2008-138**

**Consent Items – Continued**

13. **Tract No. 9428 - Terreno de Flores (14880 Los Gatos Blvd) Adopt resolution accepting work of Cupertino Development Corporation, and authorizing the Town Manager to execute a Certificate of Acceptance and Notice of Completion for recording by the Town Clerk Administrator. RESOLUTION 2008-139**

**REDEVELOPMENT AGENCY**

14. **Ratify accounts payable for November 2008.**

**TOWN COUNCIL/REDEVELOPMENT AGENCY**

15. **Approve Council/Agency minutes of:**
- a. **December 1, 2008**
  - b. **December 8, 2008**
16. **Consider adopting resolution approving the 2007/08 Annual Report for the Los Gatos Redevelopment Agency. RESOLUTION 2008-140**

**Mr. Davis** pulled Consent Items #9.

**Mayor Mike Wasserman** stated that Consent Item #9 would be heard next on the agenda.

**MOTION:** **Motion by Vice Mayor Diane McNutt to approve Consent Items #1-8 and #10-16.**  
**Seconded by Council Member Barbara Spector.**

**VOTE:** **Motion passed unanimously.**

## **Consent Items - Continued**

### **PULLED CONSENT ITEM #9**

**9. PPW Job No. 08-14 - Town Plaza Fountain Filtration System 411-831-4201  
Adopt resolution approving plans and specifications for the Town Plaza  
Fountain Filtration System Upgrade. RESOLUTION 2008-135**

#### **Mr. Davis**

- Commented that the ultra violet system proposed for the Town Plaza Fountain does not eliminate cryptosporidium and that cryptosporidium can only be eliminated with sand filters.
- Suggested that the Town invest in sand filters and not ultra violet filtration.

**Mr. Davis** received his first warning for disrupting the meeting.

**MOTION:**                   **Motion by Council Member Joe Pirzynski to approve  
Consent Item #9.  
Seconded by Council Member Steve Rice.**

**VOTE:**                   **Motion passed unanimously.**

## **VERBAL COMMUNICATIONS**

#### **Mr. Davis**

- Commented against the parking issues along Blossom Hill Road at Baggerly Field.
- Commented that Monte Sereno is willing to put up \$100,000 to help build a parking lot along Blossom Hill Road at Baggerly Field.
- Commented about **Council Member Steve Rice's** literature relating to economic vitality and keeping a balanced budget.

#### **Mr. Dallas**

- Commented on the subject of keeping Los Gatos beautiful.
- Requested that the Town Council help to rid the community of unwanted newspapers and asked to uphold the Town Code section 18.10.010.
- Requested that the community visit [www.keeplosgatosbeautiful.org](http://www.keeplosgatosbeautiful.org).

#### **Mr. Larson, Town Manager**

- Presented awards to **Mayor Mike Wasserman** and **Council Member Barbara Spector** for their Holiday Parade entries on behalf of the Los Gatos-Saratoga Recreation Department and the Los Gatos Lions.

## **Closed Verbal Communications**

## **OTHER BUSINESS**

### **TOWN COUNCIL**

- 17. 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) (continued from 8/18/08 and 10/20/08) ORDINANCE 2171**

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

#### **Council Comments**

- Questioned if modifications to the Below Market Program (BMP) would require a Public Hearing.
- Questioned if approval of the proposed ordinance would allow for modifications to the Below Market Program which was adopted by the Town.

#### **Mr. Lortz**

- Clarified that the zoning ordinance would not be effectuated unless the amendments occur to the Below Market Program adopted by the Town.

#### **Mr. Korb**

- Clarified that the proposed ordinance does not change the requirements for the Below Market regulations.
- Commented that both the Below Market Guidelines and ordinance have the same introductory language that requires that the Below Market Units must be provided at the time of the subdivision application or at the time of the sale of property.
- Commented that if Council were to approve the language of the proposed ordinance then the developer would be obligated at the time of conversion to allow the "special circumstances seniors" to hold over as tenants in the market rate units and not the below market units as our Below Market Ordinance states.

#### **Mr. Larson**

- Clarified the process alternatives for the special circumstance seniors.
- Clarified the process alternatives for amendments to the Below Market Program (BMP) Guidelines.

## **Other Business Item #17 – Continued**

### **Public Comments**

#### **Mr. Raymond**

- Questioned if the assistance program would be available to all residents.
- Questioned if the Town would consider other parking solutions than towing if the vehicle is parked in one location for more than 72 hours.
- Questioned if all apartments would be renovated or just the vacant units.
- Questioned the buy-in program offered by the management.

#### **Council Comments**

- Questioned if **Mr. Raymond** has posed his questions to Town staff and the applicant.

#### **Ms. De Mos**

- Stated that she would rather remain at the Bay Tree Apartments as a renter.
- Commented against the treatment by Lyon Management and the prior construction inconveniences.
- Suggested to appoint a liaison to help the senior tenants who remain at Bay Tree Apartments.
- Questioned if all tenants are covered by the assistance program.

#### **Mr. Bohm**

- Commented that the Below Market Program Guidelines should be in place and followed by Lyon Development.
- Suggested that compensation be available to all tenants.
- Suggested to place the item on hold to setup relocation guidelines.

#### **Mr. Mendez**

- Commented about the parking issues and that the proposed project relies on too much tandem parking, marginal driveways and diagonal parking spaces.
- Suggested that there should be more landscaping between the proposed parking spaces.

#### **Mr. Kaschub**

- Commented against the design of the project.
- Commented that they received little information from the Town.
- Commented that he still does not know the number of units proposed for the conversion project.
- Commented against the term "practical affectability" and feels that the BMP units should be supplied by the developer.

## Other Business Item #17 – Continued

### **Mr. Houde**

- Commented against the condo conversion project.
- Would like to see a "best practice" policy for future condo conversions in Town and the surrounding communities.
- Commented that parking is still a problem for the proposed project.

### **Mr. Cole**

- Commented about the history of the property.
- Commented about the opportunity to live in Los Gatos as a first-time home buyer if the proposed project was approved.
- Commented that the proposed project addresses parking issues and increases parking spaces at the location.

### **Council Comments**

- Questioned if the current tenants have been informed about the relocation assistance program.
- Questioned if the special circumstance senior program is agreeable to

### **Mr. Cole.**

- Questioned if the Special Circumstance Seniors would be required to relocate.
- Questioned if all tenants have parking spaces at this time.
- Questioned if the applicant understands the risk to modify the BMP Guidelines.
- Questioned the enforceability of CC&R's relating to parking issues at the location.
- Questioned if Lyon Management has provisions for the tenants who would be directly impacted during the renovation process.
- Questioned the resident relocation package for seniors with special needs.
- Questioned the applicant's response to violations of CC&R's relating to parking.
- Questioned if relocation assistance would be offered to everyone and if renters would be able to purchase their unit.
- Questioned if all units would be renovated.
- Questioned when the residence relocation assistance program would begin.



## Other Business Item #17 – Continued

### **Mr. Cole - Continued**

- Clarified that Lyon Management has had a resident meeting and gave out packages and contact information.
- Commented that they are agreeable to the special circumstance senior program.
- Commented that he would like to pursue the BMP Guidelines as soon as possible.
- Clarified that the special circumstance seniors would not be required to relocate.
- Commented that he is not aware of any tenant that does not have a parking space.
- Commented that they are willing to take the risk to modify the BMP Guidelines.
- Commented that he does not have any problem with enforcing CC & R's and that it has worked at their other locations.
- Commented for the record that Lyon Management would relocate a tenant during the renovations, if the renovation directly affects them.
- Commented that they have a relocation coordinator to assist seniors with special needs.
- Commented that they would work with the Town's enforcement and work with the homeowners to avoid long term parking on Massol Avenue.
- Commented that all of the long term tenants would be able to keep and purchase their units or be eligible for the relocation assistance program.
- Commented that rents would be subject to rent control and the five seniors' rent would be limited to the CPI increases.
- Clarified that the relocation assistance program would start when the notices are given.

### **Mr. Korb**

- Clarified that the Town would not be enforcing the CC & R's relating to parking at the location and that enforcement would be the responsibility of the management company or homeowners association.

### **Ms. Kaschub**

- Commented that there continues to be parking issues on Massol Avenue.
- Questioned why the Town would not take responsibility to ensure that the tenants of the condo conversion park on their property.
- Commented on the residential parking program for the Almond Grove.

## Other Business Item # 17 – Continued

### **Mr. Larson, Town Manager**

- Clarified that there is no action tonight regarding changes to the Almond Grove parking program.
- Commented that the parking assistance plan will address parking for tenants at the location.

### **Mr. Forbes**

- Commented on current parking issues at the location.
- Commented that the Town should create a model ordinance for condo conversions.

### **Mr. Carter**

- Commented on supporting the condo conversion project.
- Commented that parking will be better than it currently is at the location.
- Commented about the lack of condo housing in Town.

### **Mr. Davis**

- Commented against the public hearing process for this item.
- Commented that he has spent 40 years in the condo conversion field and feels that the business failed because of deferred maintenance problems.

## **Closed Public Comments**

### **Mr. Larson, Town Manager**

- Clarified that the Public Hearing for 347 Massol Avenue was closed at a prior Town Council meeting.

## **Council Discussion**

- Questioned the Town's process for parking enforcement along Massol Avenue.
- Questioned the ADA parking allowances for the proposed project.
- Questioned parking restrictions in the Parking Management Plan and the CC&R process.

### **Mr. Lortz**

- Commented that ADA does not require parking allowances in condo conversions.
- Clarified that the Town could allow for parking requirements through the CC&R process.

## Other Business Item #17 – Continued

### Mr. Korb

- Stated that the Town would require an agreement with the management company that would enforce the residence assistance program and all of the covenant components.

### Council Discussion

- Questioned how the process alternatives would be presented to Council and what would be the timeframe for the presentation.
- Requested clarification under Attachment#21 regarding the process to amend the Below Market Program Guidelines.
- Questioned if the current ordinance would need to be amended and be brought back to Council for approval in January, 2009.
- Questioned the process to add the CC&R's to the proposed ordinance.
- Questioned if wording could be added to the motion to reflect that the CC&R's shall include language clearly stating that the owners of two bedroom units are permitted a maximum of two vehicles and one units are permitted to a maximum of one vehicle and the deed restriction shall be required for all units.

### Mr. Lortz

- Clarified that the Council would receive the information as an informational item or as Other Business on a future agenda.

### Mr. Korb

- Clarified that the language that he has previously proposed would authorize the Town Manager to approve the agreement and that the final language would return to Council.
- Clarified that the language in 8a and 8b would be part of the approvals that the Director of Community Development would be requiring.
- Clarified that changing the wording in the ordinance would require a new Public Hearing.
- Clarified that general wording to give direction to staff to ensure issues be addressed would allow Council to approve the ordinance.
- Suggested that Council may give direction to staff to bring back plans and approve ordinance wording as it currently stands.
- Requested clarification on approving the proposed ordinance without amendments.

### Mr. Larson

- Clarified that the process to add parking restrictions to the ordinance is located in part 8a and 8b in the proposed ordinance.
- Commented that Council may provide additional direction to staff about what they would like to see in the CC&R and the deed restriction.

Other Business Item #17 – Continued

**MOTION:**

**Motion by Council Member Joe Pirzynski** to adopt a 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) and to direct staff to:

- Include option #2 of Attachment 21 to approve the relocation assistance program.
- Add the Title 24 relating to the double paned window requirement.
- Require a deed restriction with the CC&R's regarding the number of vehicles as indicated on Attachment 21.
- Bring forward the prepared amendments to the
- Below Market Program Guidelines as references under the Below Market Program bullets in Attachment 21 which include:
  - Allow the 5 units who are "special circumstance seniors" to live at Bay Tree as owners or tenants.
  - Grant the "special circumstance seniors" who reside within the project extra ranking points to help them qualify to purchase Bay Tree Below Market Program units.
  - Direct staff to prepare amendments to the Below Market Program Guidelines and or ordinance that will allow the 5 units who are "special circumstance seniors" to live at Bay Tree as tenants and require the applicant to delay the sale of any of the 5 units occupied by these tenants until they voluntarily vacate their units. The rent will be fixed at the rate the tenant is currently paying with an annual increase consistent with the cost of living. When the units are voluntarily vacated they will become part of the Below Market Program.

**Seconded by Vice Mayor Diane McNutt.**

## Other Business Item #17 – Continued

### **Council Discussion**

- Requested clarification on the items that would be brought back to Council or through the public process.
- Questioned when the Santa Clara Housing Authority would monitor the relocation process.
- Encouraged the applicant to put together a clear and comprehensive document that would explain the process and when the tenants could expect any changes.
- Requested clarification on the motion relating to the Below Market Program amendments.

### **Mr. Lortz**

- Clarified that the Architecture and Site would be considered by the Planning Commission.
- Commented that the tentative map could be determined by the Development Review Committee in a noticed Public Hearing.
- Clarified that the ordinance amendments to the Below Market Program and the Below Market Program Guidelines would be reviewed by the Community Services Commission, the Planning Commission, and the Town Council.
- Clarified that the applicant would first notify the tenants and upon adoption of the Compliance Memorandum, the Santa Clara Housing Authority would begin monitoring the relocation process.
- Clarified that the Below Market Program amendments which were included as part of the Desk Item (Attachment 21) and the direction given by Council will be reviewed by staff then brought back to Council for approval.

### **Council Discussion**

- Commented that the amendments seem to be inconsistent with the language under Condition 3 in the current ordinance.

## Other Business Item #17 – Continued

### Mr. Korb

- Clarified that the language as proposed in the current Condition 3 anticipates what happens when the Below Market Program units become available.
- Commented that the issue is that the applicant would like to defer the sale of the Below Market Program units to allow the tenants to remain in the units. By directing staff to bring forward amendments to the Town's Below Market program regulations, Council would have to ultimate opportunity to change the regulations to allow the requirement to be deferred. When the units become available the current requirements would take effect. Clarified that the following items would need to occur as part of the motion:
  - Staff would bring forward the proposed amendments to the Below Market Program Guidelines.
  - Commented that the amendments would not be specific to this project, but specific to condo conversions.
  - Commented that these amendments could be brought forward after review by the Community Services Commission and the Planning Commission.
  - Commented that the balance of the requirements could be defined under an agreement between the applicant and the Town.

### Council Discussion

- Clarified that the amendments to the BMP requirements are in the current motion.
- Commented that the focus of the ordinance is to protect the seniors involved in the process.
- Clarified that the amendment to the BMP guidelines is a parallel process.

**VOTE:**                      **Motion passed unanimously.**

**Mayor Mike Wasserman** called for a 5 minute recess at 8:30 p.m. Meeting resumed at 8:35 p.m.

## **TOWN COUNCIL/REDEVELOPMENT AGENCY**

- 18. PPW Job No. 07-22 - Los Gatos/Monte Sereno Police Department Building Facility Project 821-2401.**
- a. Adopt resolution declaring Santa Clara Valley Corporation DBA Swenson Development and Construction Inc. to be the lowest responsible bidder on the project and award a construction contract in the amount of \$3,061,000. RESOLUTION 2008-141**
  - b. Authorize staff to execute future change orders to the construction contract as necessary up to an amount of \$306,000**
  - c. Authorize budget adjustment in the amount of \$375,000 from the General Fund designated reserve for police operations building.**

Staff report made by **Todd Capurso**, Director of Parks and Public Works.

### **Council Comments**

- Questioned how the designated EOC space could double as a community space.

### **Chief Scott Seaman**

- Clarified that the EOC space will be used as a place for staff to meet with the community and not as a space available for community use in general.

### **Open/Close Public Comment**

**MOTION:**                    **Motion by Council Member Joe Pirzynski to adopt PPW Job No. 07-22 - Los Gatos/Monte Sereno Police Department Building Facility Project 821-2401.**

- a. Adopt resolution declaring Santa Clara Valley Corporation DBA Swenson Development and Construction Inc. to be the lowest responsible bidder on the project and award a construction contract in the amount of \$3,061,000.**
- b. Authorize staff to execute future change orders to the construction contract as necessary up to an amount of \$306,000.**
- c. Authorize budget adjustment in the amount of \$375,000 from the General Fund designated reserve for police operations building.**

**Seconded by Council Member Steve Rice.**

**VOTE:**                    **Motion passed unanimously.**

## **PUBLIC HEARINGS - TOWN COUNCIL**

19. Consider a request to modify a Conditional Use Permit to allow beer and wine service and outdoor seating on property zoned C-1. APN 529-07-094. File #U-08-015 Property Location: 440 N. Santa Cruz Avenue (Aldo's Deli) Property Owner: Los Gatos Shopping Center LLC; Applicant: Barbara Lonsbury. RESOLUTION 2008-142

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

### **Council Comments**

- Questioned the maximum number of seating for the establishment and suggested wording to read a maximum of 2 of the 22 seats be placed outdoors.

### **Open/Close Public Hearing**

**MOTION:**                   **Motion by Council Member Barbara Spector** to make the required findings (Attachment 1) and to approve the modification of a Conditional Use Permit to allow beer and wine service and outdoor seating on property zoned C-1. APN 529-07-094. File #U-08-015 Property Location: 440 N. Santa Cruz Avenue (Aldo's Deli) Property Owner: Los Gatos Shopping Center LLC; Applicant: Barbara Lonsbury. Motion to include modification to Condition #2 as Follows: A maximum of 2 of the 22 seats be placed outdoors.  
**Seconded by Vice Mayor Diane McNutt.**

**VOTE:**                   **Motion passed unanimously.**

## **ADJOURNMENT**

Attest:

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Jackie D. Rose, Clerk Administrator