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**MINUTES OF THE TOWN COUNCIL STUDY SESSION  
FEBRUARY 17, 2009**

The Town Council of the Town of Los Gatos conducted a Special Meeting on Tuesday, February 17, 2009 at 6:00 P.M.

**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.

**VERBAL COMMUNICATIONS**

**Mr. Davis**

- Questioned if there would be Public Comment during the Study Session discussion.

**Closed Verbal Communication**

**STUDY SESSION DISCUSSION**

**Land use policy issues for the potential redevelopment of the Los Gatos Meadows located at 110 Wood Road.**

**Mayor Mike Wasserman** recused himself from the Study Session due to the location of his residence. **Vice Mayor Diane McNutt** chaired the discussion.

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

## **Open Public Comments**

### **Mr. Gerber**

- Commented on Los Gatos Meadows redevelopment proposal for a Continuing Care Retirement Community.
- Commented on the number of units that have declined over the years and that the existing units are very small.
- Commented that the developer has conducted two years of studies to determine the needs of the senior community at Los Gatos Meadows.
- Commented on the square footage of the proposed master plan.

### **Mr. Morley**

- Commented on original permit usage and the size of the current units.
- Commented that the current development is relatively hidden.
- Commented that a concept plan was provided to the Conceptual Development Advisory Committee last year and feedback was provided on project and policy issues.
- Commented that the proposed application has 259 units and 350 parking spaces.
- Commented on pushing the garage below grade to minimize height and conceal all parking.
- Commented that the removal of off-haul will have no impact on the downtown.
- Commented on the retaining wall construction for the proposed application.
- Commented that they have advised all surrounding neighbors of the proposed redevelopment and will have extensive neighborhood outreach during the process.
- Commented on a community-wide survey and that positive feedback had been received for the development.
- Commented that the developers agree with the Hillside Standards Guidelines, even though the Guidelines are not applicable to this property.
- Commented that they believe Below Market Housing would not be required for the proposed redevelopment, but Episcopal Senior Communities promotes affordable housing.
- Commented that green building and sustainability are critical elements in the design of the proposed application.

## Public Comment – Continued

### Mr. Gerber

- Commented that the redevelopment project will be done in phases.
- Commented that residents will have to be relocated off site and Episcopal Senior Communities will work with the residents' concerns.
- Commented on honoring all lifetime contracts for their residents.
- Commented that they will provide custom plans for each resident.
- Commented that Episcopal Senior Communities will fund the relocation of residents during the redevelopment.
- Requested Council feedback on policy, plans, and recommendations.
- Clarified that Episcopal Senior Communities is regulated by the Department of Social Services which allows senior community developments to enter into lifetime contracts with residents.
- Clarified that the lifetime contracts are not real estate transactions, but contractual agreements which allow Episcopal Senior Communities to guarantee care for the rest of the individual's life.

### Mr. Korb

- Clarified that Council is able to discuss the specific policy questions, but can not discuss the proposal from the zoning prospective, density and height issues, colors or any various matters that Council would normally discuss within the context of the review of a specific application.

### Council Comments

- Requested clarification about alternative approaches under recommendation #5.
- Questioned how to give appropriate feedback related to height and mass of the project.

### Mr. Lortz

- Commented that in terms of facilities, in order to move forward they will need to balance the ratio in the number of units and the overall square footage.
- Commented that at this time, Council should not be concerned with the square footage of the existing project verses the proposed project, but to make sure that the project is adequately addressed through the CQEA process and does not significantly impact the site with issues such as additional tree removal.

### Mr. Korb

- Suggested that Council should refrain from design and density issues and stick with policy issues.

### Council Comments

- Recommended that Council focus on the six recommended actions.

## Public Comment – Continued

### **Mr. Davis**

- Commented on the monstrosity of the building on the hillside.
- Commented on the view shed of the neighbors on the opposite ridge.
- Commented that **Mr. Lortz** should not make recommendations on the redevelopment project since he is not the Director of Community Development.

### **Ms. Quintana**

- Questioned the Town's public noticing process for this study session.
- Questioned why Public Comment was being heard prior to the Council Discussion.
- Commented that she feels that the proposed development should fall under the Town's Hillside Design Standards and Guidelines.
- Commented that she is not opposed of the existing use but feels there will be significant land use impacts from the proposed project.

### **Mr. Larson**

- Clarified that the recommendations in the staff report were made by the Town Manager.
- Clarified that Public Comment is always taken prior to Council Discussion.
- Commented that **Mr. Lortz** is currently the Director of Community Development and will remain the director until March 16, 2009.
- Commented that the project is outside of the Hillside Design Standards and Guidelines.

## **Study Session Council Discussion**

### **Discussion on recommendation #1**

- Suggested supporting the redevelopment of the Los Gatos Meadows.
- Commented that Los Gatos Meadows proposed application is an appropriate use for the property.
- Commented on the need for senior housing in the community.

### **Discussion on recommendation #2**

- Commented that the Hillside Development Standards are elective, not mandated to the application.
- Commended the applicant for their willingness to support the Hillside Standards and Guidelines.

## **ADJOURNMENT**

- Meeting adjourned to hold Board and Commission interviews.
- Discussion will continue during the Regular Town Council meeting of February 17, 2009.

## **COMMISSION INTERVIEWS**

- Community Services Commission (2 vacancies, 1 Applicant being interviewed tonight)
- **Michelle Thiebaud** was interviewed for the Community Services Commission.

**The Town Council of the Town of Los Gatos conducted a Regular Meeting on Tuesday, February 17, 2009 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/COMMENDATION - Los Gatos Lions Club**

**John Lochner and the Los Gatos Lions Club** sang "America" (My Country 'Tis of Thee.)

**The Lions Club** led the Pledge of Allegiance. The audience was invited to participate.

**Mayor Mike Wasserman** presented a commendation to the **Los Gatos Lions Club** for their contributions to the community.

### **CLOSED SESSION REPORT**

#### **ROSS CREEK vs. THE TOWN OF LOS GATOS (Government Code Section 54956.9[a])**

**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)**

**Properties:** 1. APN 424.31.055

2. APN 529.28.005

3. APN 424.08.074

4. APN 424.18.041

5. APN 527.25.005

**Negotiator:** Greg Larson, Town Manager

**Under negotiation:** Price and terms

**Mr. Korb** stated that APN 529.28.005 was not discussed. Direction was given and no action was taken.

**BOARDS/COMMISSION/COMMITTEES APPOINTMENTS**

**Community Services Commission (2 vacancies, 4 applicants)**

- **Michelle Thiebaud** and **Matt Guettler** were appointed to the Community Service Commission.

**PRESENTATIONS**

**Government Finance Officers' Association Award Certificate of Achievement for Excellence in Financial Reporting (CAFR)**

**Mayor Mike Wasserman** presented the Government Finance Officers' Association Award Certificate of Achievement for Excellence in Financial Reporting (CAFR) to **Steve Conway**, Finance Director.

**Santa Clara Valley Urban Run-Off Pollution Prevention Program Storm Water Award**

**Ms. Carroll**, Program Manager, West Valley Clean Water Program, presented two awards from the California Storm Water Quality Association to **Mayor Mike Wasserman**.

**Mayor Mike Wasserman** accepted the awards on behalf of the Town of Los Gatos and thanked **Ms. Carroll** for the Water Program's recognition.

## COUNCIL/TOWN MANAGER REPORTS

### COUNCIL MATTERS

- **Mayor Mike Wasserman** commented that long-time resident **Mr. Knowlton Shore** passed away.
- Commented on **Mr. Shore's** community service to the Town.
- Commented on Town Manager's birthday today and wished him a happy birthday.

### MANAGER MATTERS

#### **Mr. Larson**

- Introduced the Town's Interim Economic Vitality Manager, **Jessica Van Borck**.
- Introduced **Wendie Rooney**, who will join the Town in March as Director of Community Development.
- Commented that **Bud Lortz** will then assume the position of Deputy Town Manager to work on special projects.
- Commented that the Police Department has reported increased auto thefts over the past week and gave notice to the public to be aware and to lock their vehicles.
- Commented that the Town is in the midst of a storm event, and that the storm drains have been cleaned regularly, and that staff is on-call to address storm issues.

### RE-OPENED STUDY SESSION

**Mayor Mike Wasserman** re-opened the study session and recused himself from the meeting due to the location of his residence. **Vice Mayor Diane McNutt** chaired the discussion.

#### **Council Discussion**

##### **Discussion on recommendation #3**

- Commented on the Town's affordable housing requirements.
- Requested clarification on the reference to the Health and Safety Code 1569.147b.

#### **Mr. Lortz**

- Clarified that the Town is not agreeing that the affordable housing is not required, but would like direction whether or not off site opportunities exist.
- Requested direction on whether an off site solution or joint project is an appropriate mechanism to consider.

**Mr. Korb**

- Clarified that staff does take a position that the inclusionary housing requirements of the Town Code do apply to this project.
- Commented that there is a reference to the Health and Safety Code Section 1569.147b in the materials presented by the applicant and that the section generally prohibits cities from imposing rent control requirements on senior housing projects.
- Commented that the Town, through its inclusionary housing requirement doesn't impose rent control on anyone, but requires that if a residential development project is proposed that it is required to meet the Below Market Program requirements.
- Commented that in his opinion the Health and Safety Code Section does not apply to this project.

**Council Discussion**

- Commented that due to differing legal opinions, further studies need to be made regarding the Town's Below Market Program ordinance and requirements for the Los Gatos Meadows redevelopment.

**Mr. Larson**

- Clarified that the legal requirement for the Below Market Program will be addressed as the application moves forward.
- Clarified that as part of the Below Market Program, the developer could consider off-site Below Market Program units.

**Council Discussion**

- Commented on supporting the consideration of off-site BMP housing.
- Commented that the project is unique and will require unique solutions.
- Commented on supporting the project and that it supports the community as a whole.

**Discussion on recommendation #4**

- Commented on supporting green building practices and sustainability.
- Commented on encouraging LEED certification for the proposed project.

**Council Discussion****Discussion on recommendation #5**

- Commented on upcoming design elements and that the project will evolve throughout the process.
- Commented on supporting staff flexibility for alternative approaches.



## **Study Session – Continued**

### **Discussion on recommendation #6**

- Commented on the importance of reviewing the strategy to allow the seniors the least amount of disruption in their lives.
- Commented that the relocation process is a critical piece of the plan.
- Commented on the importance of outreach to the community as the redevelopment moves forward.
- Commented that the program presented in the staff report is a good start and Council will continue to monitor the plan to ensure the extra level of care.

**Meeting adjourned to the Regular Town Council Meeting at 7:45 p.m.**  
**Mayor Mike Wasserman** re-joined the meeting.

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

1. Ratify payroll for the month of January 2009.
2. Ratify accounts payable for the month of January 2009.
3. Adopt ordinance establishing Wild Land-Urban Interface Fire Area.  
**ORDINANCE 2173**
4. Adopt amended Council Committee Appointments effective January, 2009.
5. Adopt resolution setting aside and voiding approvals of a request to change the zone from R-1:8 to R-1:8 PD and to demolish a single family residence; APN: 523-25-020 and 523-25-036; Planned Development Application PD-05-02; Architecture and Site Application S-06-050; Negative Declaration ND-07-07; and related subsidiary applications; Property Location: 15881 Linda Avenue and 15950 Stephenie Lane. **RESOLUTION 2009-012**
6. PPW Job No. 08-14 - Town Plaza Fountain Filtration System Project.
  - a. Adopt resolution declaring Pacific Water Art Incorporated to be the lowest responsible bidder on the project and award a construction contract in the amount of \$300,000. **RESOLUTION 2009-013**
  - b. Authorize staff to issue change orders to the contract as necessary up to an amount of \$4,000.

Consent Items – Continued

7. **PPW Job No. 09-03 Pollard Road Lighted Crosswalk Project.**
  - a. **Adopt resolution declaring Republic ITS to be the lowest responsible bidder on the project and award a construction contract in the amount of \$58,400. RESOLUTION 2009-014**
  - b. **Authorize a budget adjustment in the amount of \$10,000 from the funds received from City of Campbell.**

**REDEVELOPMENT AGENCY**

8. **Ratify accounts payable for the month of January 2009.**

**TOWN COUNCIL/REDEVELOPMENT AGENCY**

9. **Approve Council/Agency minutes of February 2, 2009.**
10. **PPW Job No. 07-22 - Los Gatos/Monte Sereno Police Operations Building Facility Project 821-2401 Adopt resolution authorizing Town Manager to execute an amendment to the professional services agreement with Ross Drulis Cusenbery Inc., to provide construction support services in an additional amount not to exceed \$35,100. RESOLUTION 2009-015**

**Mr. Davis** pulled Consent Items #5 and #9.

**Mayor Mike Wasserman** stated that the pulled Consent Items would be heard after Other Business.

**Council Member Joe Pirzynski** requested amendments to pages 7 and 9 from the February 2, 2009 Town Council/Agency Minutes. Amendments include:

- **Page 7 – Change Carlton Avenue to Gateway Drive**
- **Page 9 - Change bullet to read: Would like to see a 4 lane road from Gateway Drive to Blossom Hill Road.**

## Consent Items – Continued

**MOTION:** Motion by **Council Member Steve Rice** to approve Consent Items #1-4, #6-8, and #10 and to include the requested amendments to the minutes of February 2, 2009.  
**Seconded by Council Member Barbara Spector.**

**VOTE:** Consent Items #1, #2, #4, #6-8, and #10 carried unanimously. Consent Item #3 carried 3/0. Mayor Mike Wasserman and Council Member Steve Rice recused themselves due to the location of their residences.

## VERBAL COMMUNICATIONS

### Mr. Davis

- Stated that **Mayor Mike Wasserman** violated the Brown Act.
- Commented on the rules of the Brown Act.
- Commented on the Intent to Circulate Petitions, including one on Term Limits for council members.

### Mr. Thrall

- Commented about raising awareness of the issue of teen suicide.
- Invited the Council, staff, and the community to attend suicide prevention training on Saturday, February 21st at the Los Gatos Methodist Church.

### Mr. Crites

- Commented on the Ross Creek Development and stated that the property is flagged as a flood plain area.
- Commented that the project density is far greater than the developer calculated.
- Commented on concerns over the recommended 100' setback.
- Urged Council to reverse the approval and ask the developer to redesign the project.

## **OTHER BUSINESS**

### **11. FY 2008/09 Mid-Year Budget Performance and Status Report - Six Months ending December 31, 2008.**

- a. Accept 2008/09 Mid-Year Second Quarter Budget Performance Status Report, including FY 2008/09 Fiscal Year Financial Projections**
- b. Authorize budget adjustments as recommended in the attached second quarter budget performance report**

Staff report made by **Steve Conway**, Finance Director.

#### **Council Comments**

- Requested clarification on the amount of surplus funds used to calculate the revenue stabilization reserve.
- Requested clarification on the category "Other" under the projected sales tax revenues.

#### **Mr. Conway**

- Clarified some of the retail generators that are included in the "Others" category for sales tax revenues.

#### **Council Comments**

- Requested clarification regarding State budget cuts and sales tax increase, and if those would be included in the Town's budget.

#### **Mr. Conway**

- Clarified that if the detailed information becomes available early enough it will be included in the Town's proposed budget.

#### **Council Comments**

- Questioned where the \$100,000 would be coming from to fund the railroad related project and Plaza Park turf renovation.
- Commented on the revenue from the sale of Vasona and questioned when the \$6 million would become a line item and not shown as a General Fund item.
- Questioned the parking citation revenue increase.

#### **Chief Seaman**

- Clarified that the parking program revenues have increased due to the department filling Parking Control Officer positions.

#### **Council Comments**

- Commented on the increase in development activity fees and staffing adjustments.

## Other Business Item #11 - Continued

### Mr. Larson

- Clarified the process for the fee increases to the Community Development Department.

### Council Comments

- Requested that information from the County Assessor's Office on pre-Proposition 13 homes be agendaized to the March 7th retreat if possible.
- Requested information on sales tax leakage for Los Gatos.

### Open Public Comment

### Mr. Davis

- Commented that the earned interest from the \$6 million goes towards recreation, not open space, as stated by **Mr. Conway**
- Commented that the Town should not worry about NetFlix in their budget discussions.

### Closed Public Comments

### Council Discussion

- Commended staff for the depth and clarity of the report that reflects the recent changes in the Town's economic situation.
- Supported making the revenue adjustments as recommended.

### MOTION:

**Motion by Council Member Barbara Spector** to approve FY 2008/09 Mid-Year Budget Performance and Status Report - Six Months ending December 31, 2008 and to include:

- a. Accept 2008/09 Mid-Year Second Quarter Budget Performance Status Report, including FY 2008/09 Fiscal Year Financial Projections.
- b. Authorize budget adjustments as recommended in the attached second quarter budget performance report.

**Seconded by Council Member Joe Pirzynski.**

## Other Business Item #11 - Continued

### **Council Discussion**

- Suggested to breakout the "Other" category, and add "Downtown Retail" and "Other Sources."
- Would like to see the \$6 million plus the interest earned removed from General Fund revenue and be shown as a separate line item.
- Questioned if the 23 defunded fulltime positions listed on Page 3 of the staff report are compared to the same number of positions listed in the 2001-2002 budget.
- Questioned the projection of General Fund revenue.

### **Mr. Conway**

- Commented that the numbers have changed and that the 23 defunded positions are the latest count.
- Commented that each year had a different authorized position count and that in 2001 Council suggested defunding positions until the economy became more stable.

### **Council Discussion**

- Would like to see the list of defunded positions be updated or eliminated from the books.
- Would like more information about the positions and impacts to service levels.
- Commended staff for including Internet retail sales taxes.

**VOTE: Motion passed unanimously.**

## **PULLED CONSENT ITEMS**

**5. Adopt resolution setting aside and voiding approvals of a request to change the zone from R-1:8 to R-1:8 PD and to demolish a single family residence; APN: 523-25-020 and 523-25-036; Planned Development Application PD-05-02; Architecture and Site Application S-06-050; Negative Declaration ND-07-07; and related subsidiary applications; Property Location: 15881 Linda Avenue and 15950 Stephenie Lane.  
RESOLUTION 2009-012**

**9. Approve Council/Agency minutes of February 2, 2009.**

### **Mr. Davis**

- Commented that Council relied on the CEQA interpretations that were false.
- Commented that the minutes did not accurately reflect his statements.

Pulled Consent Items – Continued

**MOTION:**                **Motion by Council Member Steve Rice to approve  
Consent Items #5 & #9.  
Seconded by Council Member Joe Pirzynski.**

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

**Mr. Korb, Town Attorney**

- Commented that **Mayor Mike Wasserman** did not violate the Brown Act.
- Stated Government Code Section 54954.2 subsection A2 which reads,  
"No action or discussion shall be undertaken on any item not appearing on  
the posted agenda, except that members of a legislative body or its  
staff may briefly respond to statements made or questions posed by  
persons exercising their public testimony rights under Section 54954.3."

**ADJOURNMENT**

Attest:

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Jackie D. Rose, Clerk Administrator