

**MINUTES OF THE TOWN COUNCIL/PARKING
AUTHORITY/REDEVELOPMENT AGENCY
MAY 4, 2009**

The Town Council of the Town of Los Gatos conducted a Regular Meeting on Monday, May 4, 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/COMMENDATIONS

The following **Fisher Middle School French Students** participated in the American Association of Teachers of French, National French Contest and were honored as:

- Silver medalist, **Yuki Koide**
- Bronze medalists, **Brendan Nugent, Rachel Madden, Sudarshan Seshadri, Samantha Ji, Patrick MacNaughton, Shabab Siddiq, Olivia Flechsig, Ellen Field, Shreyas Kulkarni, Ari Rubin, Naoki Tsuda, and Brooke Ahmed.**

The **Fisher Middle School French Students** led the Pledge of Allegiance. The audience was invited to participate.

PRESENTATIONS

Northern California Solar Energy Association/Town of Los Gatos - 1st Place (City Solar Awards)

- **Mayor Mike Wasserman** introduced **Elisabeth Holmgren**, Executive Director, Northern California Solar Energy Association
- **Ms. Holmgren** presented the Northern California Solar Energy City Solar Award to the Town of Los Gatos for 1st place with the most solar panel installations.

Proclamations

National Foster Care Month (Resource Center for the Kinship, Adoptive & Foster Parent Association)

- **Mayor Mike Wasserman** proclaimed the month of May as National Foster Care month.
- **Lois Rapp** accepted the proclamation on behalf of all the foster families in the community.

Water Awareness Month (San Jose Water Company)

- **Mayor Mike Wasserman** proclaimed the month of May as Water Awareness Month.
- **Bob Day**, San Jose Water Company, accepted the proclamation on behalf of San Jose Water Company.
- **Mr. Day** thanked the Council and the community for using water wisely during this time of water shortfalls.

Municipal Clerks Week

- **Mayor Mike Wasserman** proclaimed the week of May 3 - May 9, 2009 as Municipal Clerks Week.
- **Jackie Rose**, Clerk Administrator and **Stefanie Angulo**, Deputy Clerk accepted the award on behalf of the Town.

Commendation

Father Justin Zawadki, St. Mary's Church

- **Mayor Mike Wasserman** and **Vice Mayor Diane McNutt** presented a commendation to **Father Justin Zawadzki**, St. Mary's Church for his 17 years of service to the community.
- **Vice Mayor Diane McNutt** thanked **Father Justin** for all his dedication to the community.
- **Father Justin** thanked the Council and the community for their dedication and community outreach through St. Mary's Church.

CLOSED SESSION REPORT

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Government Code Section 54956.8)

Property: APN 527-25-005 Union School District (Mirassou Elementary School)
APN 419-35-082 Union School District (DeVoss Elementary School)
APN 419-39-026 Union School District (Lone Hill Elementary School)
APN 529-25-001 Los Gatos High School District (Los Gatos High School)
APN 510-44-069 Robertson (224 W. Main)
Negotiator: Greg Larson, Town Manager

Mr. Korb

- Stated that direction was given and no action was taken.
- **Mayor Mike Wasserman** was not present for the discussion relating to 224 W. Main Street due to the location of his residence.

CONFERENCE WITH LABOR NEGOTIATOR

(Government Code Section 54957.6)

Town Negotiator (Lead): Rumi Portillo, Human Resources Director
Employee Organizations: American Federation of State, County and Municipal Employees (AFSCME) Police Officers' Association (POA) Town Employees Association (TEA) Confidential Employees Management Employees

Mr. Korb stated that direction was given and no action was taken.

TOWN COUNCIL

COUNCIL/TOWN MANAGER REPORTS

Council Matters

Mayor Mike Wasserman

- Commented on the special events that have taken place in Los Gatos during the past two weeks.
- The events included:
Los Peros for a Day, two Arbor Day Events, a Chamber of Commerce mixer, a ribbon cutting event at the grand opening of a Town business, Los Gatos Little League's Annual Opening Day ceremony, Sustainability and Focus and the Photography Guild of Los Gatos each had shows featuring local middle and high school students, The Great Race, the Police Foundation event to thank supporters, The Meadows Annual Leila Atkin Awards Ceremony, the Unsung Heroes Award presentation was held in Los Gatos, and the Town's Annual Recognition Event to honor volunteers.
- **Mayor Mike Wasserman** introduced **Rebecca Elliott**, League of California Cities
- **Ms. Elliott** presented the Peninsula Division's 4th Annual Morley Brothers Bocce Ball Tournament trophy for the division champions to the Town of Los Gatos.
- **Mayor Mike Wasserman** accepted the award on behalf of the Town.

Manager Matters

Mr. Larson

- Commented that the Town has received notice from the State Finance Department that as of January 1, 2009 the Town had reached a new milestone with a population count of 30,497.
- Commented that the General Plan Update Advisory Committee met on May 2, 2009 for a community forum to discuss the four priority issues for the General Plan update.
- Commented that the bench dedication in honor of Adam Glover was held on May 4, 2009 and the bench is located in front of the Library for the community to enjoy.
- Commented that the next Town Council meeting will be dedicated to budget and that there will be difficult challenges ahead.

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

- 1. Adopt resolution approving the reorganization of territory designated as Englewood Avenue No. 8, containing approximately .17 acres located at 16561 Englewood Avenue (APN: 532-07-022); File #AN09-01. RESOLUTION 2009-38**
- 2. Landscape and Lighting Assessment Districts No. 1 & 2**
 - a. Adopt resolution preliminarily approving the Engineer's Report for Fiscal Year 2009/10. RESOLUTION 2009- 39**
 - b. Adopt resolution of intention to order the levy and collection of assessments for Landscape and Lighting No. 1-Blackwell Drive Benefit Zone. RESOLUTION 2009-40**
 - c. Adopt resolution of intention to order the levy and collection of assessments for Landscape and Lighting No. 1-Kennedy Meadows Benefit Zone. RESOLUTION 2009- 41**
 - d. Adopt resolution of intention to order the levy and collection of assessments for Landscape and Lighting District No. 1-Santa Rosa Heights Benefit Zone. RESOLUTION 2009-41**
 - e. Adopt resolution of intention to order the levy and collection of assessments for Landscape And Lighting District No. 1-Vasona Heights Benefit Zone. RESOLUTION 2009-43**
 - f. Adopt resolution of intention to order the levy and collection of assessments for Landscape and Lighting No. 1-Hillbrook Drive Benefit Zone. RESOLUTION 2009-44**
 - g. Adopt resolution of intention to order the levy and collection of assessments for Landscape and Lighting No. 2-Gemini Court Benefit Zone. RESOLUTION 2009-45**
- 3. Hazardous Vegetation Abatement (Brush)**
 - a. Adopt resolution declaring hazardous vegetation (brush) a public nuisance and providing for their abatement. RESOLUTION 2009-46**
 - b. Set June 15, as a public hearing to hear protests on this annual program.**

Consent Items – Continued

4. **Approve the FY 2009/10 Storm Water Management Budget and authorize the West Valley Sanitation District to collect program related fees on behalf of the Town.**
5. **Adopt resolution authorizing the Parks and Public Works Director and Town Engineer to sign Right of Way Certifications in connection with State and Federally Funded Projects. RESOLUTION 2009-47**
6. **Adopt resolution authorizing the Town Manager to apply for Transportation Development Act (TDA) Article 3 Funds for FY 2009/10 from the Metropolitan Transportation Commission. RESOLUTION 2009-48**
7. **PPW Job No. 09-07- University Avenue/Blossom Hill Road Intersection Improvements Project 421-812-0106.**
 - a. **Adopt resolution approving plans and specifications for the University Avenue/ Blossom Hill Road Intersection Improvements and authorize staff to Advertise the project for bids. RESOLUTION 2009-49**
 - b. **Adopt resolution of local support for American Recovery and Reinvestment Act of 2009 (ARRA) Funding. RESOLUTION 2009-50**
 - c. **Authorize a budget adjustment in the amount of \$529,000 from 421-812-0106.**
 - d. **Authorize a budget adjustment in the amount of \$60,000 from 471-812-0106.**

TOWN COUNCIL/REDEVELOPMENT AGENCY

8. **Approve Council/Agency minutes of April 20, 2009**

Mr. Davis pulled Consent Items #6 and #8.

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

MOTION: **Motion by Council Member Barbara Spector to approve Consent Items #1 - 5, and #7.
Seconded by Council Member Steve Rice.**

VOTE: **Motion passed unanimously**

VERBAL COMMUNICATIONS

Mr. Davis

- Commented that there are no Homeowner Associations in Los Gatos.
- Commented that the Mayor belittled his comments regarding tax revenues during the April 20, 2009 Town Council meeting.

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

Closed Verbal Communications

TOWN COUNCIL

PUBLIC HEARINGS

9. **Consider an appeal of a Planning Commission decision denying approval of a new single family residence on property zoned HR- 2½. APN 527-56-010 Architecture and Site Application S-05-115 Property Location: 520 Santa Rosa Drive Property Applicant: Iraj Etessam Property Owners: Mac Saberi and John Jahan Appellant: John Jahan.**

Staff report made by **Suzanne Davis**, Associate Planner

Council Comments

- Questioned the specific time constraint for completion of the project and questioned if there would be a time constraint associated with the denial.
- Requested clarification that the current story poles reflect the four foot height reduction to the home.
- Questioned the obstruction of the ridgeline between Shannon Road and Blossom Hill Road.
- Question why the specific site is not included in the ridgeline requirement from the Hillside Standards and Guidelines.
- Questioned if there were any changes to the home since the last Planning Commission meeting.
- Questioned the reference to ridgelines as stated in the staff report.
- Questioned if there were any changes to the design of the home since the last time Planning Commission heard the item.
- Questioned why the home was reduced by four feet and the roof was raised by two feet.
- Questioned the reference to building height standards and the reference to ridgelines from the Hillside Standards and Guidelines and as stated in the staff report.
- Commented about the Planning Commission's decision about the 18 foot requirement.

Public Hearing Item #9 – Continued

Council Comments – Continued

- Questioned if there are other options for the applicant to lower the home.
- Questioned if the current height of the story poles are the same ones that Planning Commission viewed.
- Questioned if the pitch of the roof could be lowered if a different material was used.
- Questioned if a flat roof is allowed in the Town's Class A Building requirements.

Ms. Davis

- Clarified that there is no further time constraint associated with the project if it is denied or remanded.
- Clarified that the current story poles do reflect the four foot height reduction and that due to design there were areas of the proposed home that were not reduced.
- Clarified that the ridgeline between Shannon Road and Blossom Hill Road was not included in the Blossom Hill Open Space Study.
- Clarified that there has been no changes in the design since the last Planning Commission hearing and that staff did recommend in the report to the Planning Commission that the applicant reduce the second floor.
- Commented that the applicant indicated that they would consider the recommendation, but has not presented any additional plans.
- Clarified that there are other options to lower the home.
- Clarified that the roof was raised in one area, but not the entire roofline of the home.
- Commented that if a proposed home is within the two specified ridgelines indicated in the Hillside Standards and Guidelines, then there is a height requirement if 18 feet, otherwise it is considered a subjective element by the deciding body.

Open Public Hearing

Ms. Etessam, Applicant/Appellant

- Commented that the project's height is in compliance with the Hillside Standards and Guidelines.
- Commented that the design is sensitive to the environment and blends in with the surroundings.
- Commented that the mass of the home has been lowered by four feet.
- Commented that the windows have been lowered to accommodate privacy issues.
- Commented about the proposed exterior materials and landscaping to help screen and soften the residence.
- Commented that the elevation of the home blends with the neighborhood.

Public Hearing Item #9 – Continued

Council Comments

- Questioned if the applicant would consider redesigning the plans to give the proposed home a one story appearance and to reduce the profile of the home from the street.
- Questioned if the applicant has any options that would reduce the height and square footage of the home.
- Questioned if moving more of the home underground could be an option.
- Clarified that the four foot reduction is reflected by the current story poles.
- Questioned if the project is at the Town's limit for cut and fill.
- Questioned if the applicant has worked with Town staff to make any alterations to reflect the Planning Commission's recommendations and if there has been any discussion or change that has taken place since the Planning Commission hearing.

Ms. Davis

- Commented that the cellar could potentially be the size of the footprint of the proposed home.
- Clarified that the project is not at the limit for cut and fill and suggested that the applicant could haul off dirt instead of spreading on the site.
- Commented that a geotechnical review would determine the topography and cut and fill options.

Ms. Etessam

- Clarified that the applicants did not raise the roof line two feet and that they have corrected the plans to reflect that.
- Commented that there would be more cut and fill if the proposed home was lowered and moved underground and that the engineer has stated that they are at the max for cut and fill at the site.
- Commented that more cut and fill would require returning to the engineering stage and adding retaining walls.
- Commented that they are considering redesigning the roof, but reducing the roof would restrict the space that they would like for the home.
- Commented that the square footage of the home has been drastically reduced from the original design and reducing the square footage of the home more may not have any impact to the height of the second story.
- Clarified that the owner and architect met with Ms. Davis when the appeal was filed, but there was not any different direction that came out of the meeting.

Public Hearing Item #9 – Continued

Mr. Davis

- Commented that the Planning Commission Chair should be present during the Public Hearing process.
- Commented that the home is a monster home and should not be on the ridge unless the back is dropped into the hillside.
- Commented that the Town staff consists of “tax generators” and that they should serve the people not the developers.

Mr. Meyer

- Expressed concerns about the size of the home and the view from his property which is located below and behind the proposed residence.
- Requested that the design comply with the Hillside Standards and Guidelines.
- Commented that the proposed landscape plan would not work and does not solve the view shed from below.

Council Comments

- Questioned if **Mr. Meyer** has seen the extensive landscape plan that was presented in the staff report and does it solve the view shed problems from behind and below the proposed project.
- Questioned if **Mr. Meyer** feels that the project could be screened by a different landscape design.

Mr. Meyer

- Clarified that that current landscape design does not resolve the view shed issues from behind and below the proposed home.
- Commented that the view shed issues could be resolved if the home was lowered a bit and screened with the proper landscape.
- Commented that the home could be lowered by placing the garage under the home.

Mr. Leupp

- Commented that the applicants have not addressed the recommendations from the neighbors or the Planning Commission which were presented at the August 20, 2008 Planning Commission meeting.
- Would like to see a design that has the appearance of a one story home when viewed from the street.

Council Comments

- Questioned if the applicants ridgeline is different from **Mr. Leupp's** ridgeline.

Mr. Leupp

- Clarified that he did not think that the ridgelines differed much.

Public Hearing Item #9 - Continued

Mr. Kasper

- Commented that he does not support the proposed project.
- Commented that the ridge line views are blocked by the height of the home.

Ms. Halim

- Commented that the proposed home is too high and that she does not support the proposed project.
- Expressed concerns about the height represented by the story poles and the outcome of excavating the site.

Ms. Etessam, Applicant/Appellant

- Commented that they are meeting with landscape architects to design an extensive landscape plan that would hide and soften the home.
- Commented that the only way to reduce height is to reduce the roof.
- Commented that they have reduced square footage to obtain a larger view shed for the neighbors.
- Commented that they cannot grade into the slope more than 30 feet.
- Commented that the project has been in the Town's Planning process for five years.

Closed Public Hearing

Council Discussion

- Clarified that the project has not consistently been in the Town's application process for five years.
- Clarified that the Hillside Standards and Guidelines occurred during the building of the Alta Vista Subdivision.
- Commented that the hillsides are precious and significant.
- Commented that the Planning Commission ran out of time to work with the applicant to redesign the plans.
- Requested clarification on the process for a Council decision.
- Expressed concerns about the proposed plans and feels that there is more work to be done to refine the project.

Mr. Korb

- Clarified the process to remand the item back to the Planning Commission.

Public Hearing Item #9 – Continued

MOTION: **Motion by Council Member Steve Rice** to remand the project back to the Planning Commission for redesign with the following direction:

- Give the home a one story appearance from the front and back view.
- Expand the use of the cellar or redesign of the roof.
- Note that the ridgeline is a significant ridgeline.

Seconded by Council Member Barbara Spector.

Council Discussion

- Encouraged the applicant to work with staff to redesign the project.
- Questioned the significance of dedicating the ridge line and restricting applicants to 18 feet.
- Commented on supporting the redesign of the proposed project.
- Commended Planning Commission for their work and dedication on this project.
- Requested that the **motion be amended** to eliminate the designation of the ridgeline as significant.
- The **motion maker** and the **seconded** agreed to the amendment.

Mr. Korb

- Clarified that if Council identifies the ridgeline as significant, then the applicant would be required to adhere to the 18 foot height restriction under the terms of the Hillside Standards and Guidelines.

**AMENDED
MOTION:**

Amended Motion by Council Member Steve Rice to remand the project back to the Planning Commission for redesign with the following direction:

- Give the home a one story appearance from the front and back of the home.
- Expand the use of the cellar or redesign of the roof.

Seconded by Council Member Barbara Spector.

VOTE: **Motion passed unanimously.**

Public Hearings - Continued

- 10. Arnerich Road No. 2 (APNs: 537-11-009 & 030, 537-17-015, 537-07-018, 537-17-020, 021, 024, 027 & 032) File #AN08-003 Adopt resolution rescinding Resolution No. 2009-034, terminating annexation proceedings, and directing staff to initiate new proceedings. RESOLUTION 2009-51**

Staff report made by **Jennifer Savage**, Planner

Council Comments

- Requested clarification on the process for the new annexation proceedings.

Open Public Hearing

Mr. Kokinos

- Commented against the proposed annexation.
- Commented that the annexation creates an island and is a direct violation of LAFCO policy.

Mr. Puette

- Commented on supporting the proposed annexation.

Ms. Hirsch

- Commented against the proposed annexation.
- Stated that only one parcel of her land is listed in the current annexation and requested that the Town address both parcels of land that she owns.

Ms. Savage, Planner

- Clarified that the County Assessor will determine the final parcel map.
- Clarified that staff will meet with **Ms. Hirsch** to confirm the process and address the issue to include her parcels.

Ms. Perzow

- Commented on supporting the proposed annexation.

Mr. Sulic

- Commented on supporting the proposed annexation.

Mr. Durbin

- Commented against the proposed annexation.
- Would like to keep the rural character of Arnerich Road.

Closed Public Hearing

Public Hearing Item #10 – Continued

- MOTION:** **Motion by Council Member Joe Pirzynski to adopt resolution rescinding Resolution No. 2009-034, terminating annexation proceedings, and directing staff to initiate new proceedings.**
 Seconded by Council Member Barbara Spector.
- VOTE:** **Motion passed unanimously.**

OTHER BUSINESS

Council Member Joe Pirzynski recused himself from Item #11 due to the location of his residence.

11. Consider a request to demolish a convalescent facility and three pre-1941 single family residences and approval of a Planned Development to change the zone from R-1D:LHP to R-1D:LHP:PD and RM:5-12:PD to construct 19 new residences and renovate the historic Thrash house (total of 20 units) on property zoned R-1D:LHP. APN 529-22-044 PD-07-143, ND-07-145 Property Location: 371 Los Gatos Boulevard Property Owner: Thrash House Investors LLC Applicant: Santa Clara Development Company (continued after close of public hearing from 4/20/09 to provide site plan & ordinance changes for decision)

Staff report made by **Suzanne Davis**, Associate Planner.

Open Public Comments

Mr. Cunningham

- Commented against the proposed project.
- Commented that there are problems with density and traffic associated with the proposed project.
- Commented that there are too many homes and too few open spaces.
- Commented that the egress and ingress onto Los Gatos Boulevard need to be addressed.

Closed Public Comments

Other Business Item #11 – Continued

MOTION: **Motion by Mayor Mike Wasserman to make the Mitigated Negative Declaration.**
 Seconded by Council Member Steve Rice.

Council Discussion

- Commented that there was not enough information presented to Council to show the effects associated with reducing the number of homes.
- Would like to see a housing development that complies with the Town's ordinances and questioned the use of the Planned Development process for this project.
- Commented on the FAR guidelines provided by the Town.
- Commented on the benefits of the Planned Development and that it will preserve a historical structure in the community.
- Commented that the objectives presented by the developer are good, but there are still concerns with the density and intensity of the proposed project.
- Commented that the Planned Development process allows for this type of project.
- Commented that a Planned Development Application was considered due to the size and configuration of the lots.
- Commented that the proposed project complements the surrounding neighborhood.
- Comments on the benefits associated with the project and that the proposed project is an improvement to the site.

Mr. Korb

- Suggested that Council table the current motion and direct the Clerk Administrator to read the title of the ordinance and then amend the motion to include all recommendations in the staff report.

Mayor Mike Wasserman directed **Jackie Rose**, Clerk Administrator to read the title of the ordinance.

Other Business Item #11

MOTION: **Motion by Mayor Mike Wasserman motion to include:**

- a. Make the Mitigated Negative Declaration
- b. Adopt the Mitigated monitoring Program (Attachment 25)
- c. Make the required findings (Attachment 26) and approve the application subject to the conditions included in the Planned Development Ordinance (Attachment 27)
- e. Move to waive the reading of the ordinance
- f. Move to introduce the ordinance to effectuate Planned Development PD-07-143

Seconded by Council Member Steve Rice.

VOTE: **Motion carried 3/1. Council Member Joe Pirzynski recused himself due to the location of his residence and Council Member Barbara Spector voted no.**

Council Member Joe Pirzynski re-joined the meeting.

PULLED CONSENT ITEMS

6. Adopt resolution authorizing the Town Manager to apply for Transportation Development Act (TDA) Article 3 Funds for FY 2009/10 from the Metropolitan Transportation Commission. RESOLUTION 2009-48

8. Approve Council/Agency minutes of April 20, 2009

Mr. Davis

Item #6

- Expressed concerns about recommendations to build an asphalt sidewalk on Mitchell Avenue; would like to see concrete sidewalks along Mitchell Avenue.
- Requested that Council put a hold on the sidewalk project and have staff re-evaluate the issue and come back with a sensible plan.

Item #8

- Commented that he could not criticize the minutes during Municipal Clerk's Week, stated that the Clerk "ain't the best and she ain't the worst" and passed on his statements about the minutes of April 20, 2009.

Pulled Consent Items – Continued

MOTION: **Motion by Council Member Steve Rice to adopt Consent Items #6 and #8.**
 Seconded by Council Member Joe Pirzynski.

Council Discussion

- Requested clarification that the asphalt sidewalks along Mitchell Avenue are a temporary fix and not intended to be a final outcome.

Pamela Jacobs, Assistant Town Manager

- Clarified that the Town Engineer recommended moving forward with the asphalt treatment at this time due to available funding from Transportation Development Act (TDA).
- Commented that Mitchell Avenue is an unimproved street and the treatment would allow safety along the sides.

Mr. Larson, Town Manager

- Clarified that the asphalt treatment would be temporary until funding becomes available.

VOTE: **Motion passed unanimously.**

ADJOURNMENT

Attest:

Jackie D. Rose, Clerk Administrator