

**MINUTES OF THE TOWN COUNCIL/PARKING AUTHORITY/REDEVELOPMENT
AGENCY MEETING
MARCH 21, 2011**

The Town Council of the Town of Los Gatos conducted a Regular Meeting on Monday, March 21, 2011 at 7:00 P.M.

TOWN COUNCIL/PARKING AUTHORITY/REDEVELOPMENT AGENCY

CLOSED SESSION BEGAN AT 6:00 P.M.

SPECIAL MEETING CALLED TO ORDER AT 6:45 P.M.

BOARD/COMMISSION/COMMITTEE INTERVIEW

Library Board (1 vacancy, 1 applicant)

- Council interviewed Tom Atkinson for the one vacant position on the Library Board.

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

ROLL CALL

Present: Mayor Joe Pirzynski, Vice Mayor Steve Rice, Council Member Steven Leonardis, Council Member Diane McNutt, and Council Member Barbara Spector.

Absent: None.

PLEDGE OF ALLEGIANCE

- Erin Hughes, Los Gatos Youth Commissioner, led the Pledge of Allegiance. The audience was invited to participate.

BOARD/COMMISSION/COMMITTEE APPOINTMENT

Library Board (1 vacancy, 1 applicant)

- Mr. Atkinson was appointed by a 4/0 vote to the Library Board. Council Member Barbara Spector abstained because she was not in attendance during the interview process.

PRESENTATIONS

Proclamation - Los Gatos Poetry Month - Parthenia Hicks, Los Gatos Poet Laureate

- Mayor Joe Pirzynski proclaimed the month of April as Los Gatos Poetry Month.
- Parthenia Hicks, Los Gatos Poet Laureate accepted the proclamation on behalf of the Town.
- Ms. Hicks thanked the Council and the community and commented on poetry events happening throughout the Town during the month of April.

CLOSED SESSION REPORT

CONFERENCE WITH LABOR NEGOTIATOR

(Government Code Section 54957.6)

To meet with Town Negotiators listed below in closed session pursuant to Government Code §54957.6 regarding negotiations with the Employee Organizations listed below:

Town Negotiators (Lead): Rumi Portillo, Human Resources Director/Greg Larson, Town Manager
Employee Organizations: Los Gatos Police Officers Association (POA)

Ms. Propp stated that no action was taken.

TOWN COUNCIL

COUNCIL/TOWN MANAGER REPORTS

Council Matters

- Mayor Joe Pirzynski commented about emergency preparedness and suggested that all residents register for County emergency advisories at www.alertscc.com

Manager Matters

Mr. Larson

- Commented about storm damage in Town and that sand bags are available at the Parks and Public Works corporation yard on Miles Avenue.
- Commented that the first community outreach meeting on the North Forty Specific Plan will be held on Saturday, April 2, 2011 from 10:00 a.m. to 12:00 p.m. at Calvary Church.
- Commented that the Town will not be bringing forward further action on the Dittos Lane project pending final State action on Redevelopment which may not occur until June, 2011. Further Council consideration and action will be fully noticed as required by law.

Did You Know??

Jill Logar, Friends of the Los Gatos Public Library

- Commented about the "Once in a Generation" campaign.
- Commented that the proceeds will go towards furniture, fixtures, and equipment for the new Library.
- Commented that the kick-off for the campaign is April 3, 2011 and more information can be found at www.FriendsOfLGlibrary.org, info@friendsoflglibrary.org, or by calling (408)425-7306.

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

1. PPW Job No. 10-11 Energy Efficient Lighting Project.
 - a. Authorize the Town Manager to execute a construction contract with Republic ITS Inc., in an amount not to exceed \$128,780.00.
 - b. Authorize staff to execute future change orders to the construction contract as necessary in an amount not to exceed \$10,000.00.
2. Billy Jones Wildcat Railroad Agreement
 - a. Authorize the Town Manager to execute the lease agreement between the Town of Los Gatos and Billy Jones Wildcat Railroad.
 - b. Authorize a one-time payment to Billy Jones Wildcat Railroad of \$13,000 to off-set soil disposal costs associated with track repair work conducted in 2010.
3. Electric Vehicle Charging Stations
 - a. Accept staff report regarding the status of electric vehicle charging stations in the downtown area and consider installation of EV charging stations at three recommended locations.
 - b. Authorize staff to issue Request for Proposals, if needed, for acquisition of three electric charging stations in downtown parking lots

TOWN COUNCIL/REDEVELOPMENT AGENCY

4. Approve Council/Agency minutes of March 7, 2011.
5. Accept the 2009/10 Comprehensive Annual Financial Report (CAFR)

Council Member Diane McNutt did not pull Consent Item #3, but requested the following information prior to the vote:

- Questioned if the signage for the electric vehicle charging stations would be clear that the spaces are not limited to electric vehicles, but are open spaces for all types of vehicles.

Mr. Larson.

- Clarified that the Town's plan would require clear signage that the spaces are not limited to electric vehicles, but are open spaces for all types of vehicles, and any changes to this plan would come back to Council in the future.

Consent Items - Continued

MOTION: **Motion** by Council Member Diane McNutt to approve Consent Items #1-5.

Seconded by Council Member Steven Leonardis.

VOTE: **Consent Items #1-3 and #5 passed 5/0.**
Consent Item #4 passed 4/0. Council Member Barbara Spector
recused due to the fact that she was not in attendance for the
March 7, 2011 meeting.

VERBAL COMMUNICATIONS

Mr. Bevis

- Urged Council not to support the Dittos Lane Project.
- Expressed concerns about the Environmental Impact Report and feels that ROEM Development is not the appropriate developer for the project.
- Suggested that the Town look at the option of partnering with Habitat for Humanity.

Ms. Bosomworth

- Requested that the Town of Los Gatos investigate a safer traffic pattern for the Charter Oaks development.
- Submitted petitions on behalf of their association to urge Council to begin a traffic study and an immediate plan for the intersection.

Closed Verbal Communications

TOWN COUNCIL

PUBLIC HEARINGS

6. Consider a request to allow outdoor seating, live entertainment, dance lessons, and exterior modifications for a restaurant (Pedro's Restaurant) on property zoned C-2. Conditional Use Permit Application U-10-019. Architecture and Site Application S-10-044. APN 529-04-090. Property Location: 316 N. Santa Cruz Avenue. Property Owner: Peter Rizio. Applicant: Pedro's Restaurant/Mike Dipietro. (Continued from 2/7/11)

RESOLUTION 2011-016

Staff report made by Jennifer Savage, Associate Planner:

Public Hearing Item #6 – Continued

Council Comments

- All Council Members disclosed that they have met with or talked to the applicants.
- Questioned if the maximum occupancy as stated under Condition #6 is established by the Fire Marshall and if it is routine to place the occupancy count as a condition for all applications.
- Questioned if Council's concerns from the February 7, 2011 meeting relating to Architecture and Site have been addressed.

Ms. Savage

- Clarified that the maximum occupancy is established by Fire and Building Codes and has not typically been listed under the Conditions of Approval on past applications, but if there is a concern, such as the removal of some of the seats, then staff does provide the occupancy number as part of the application.
- Clarified that the revised plans show consistency with the existing architectural style and the applicants have proposed changes to satisfy those requirements.

Open Public Hearing

Mr. Dipietro and Mr. Anderson, Applicants

- Commented that they changed the architecture by eliminating the windows in the courtyard and added double-paned windows facing N. Santa Cruz Avenue.
- Commented about the changes to the business plan regarding hours of operation, security, and sound monitoring.

Council Comments

- Questioned why food service with alcohol only applies to the outside dining area.
- Questioned if the applicants are comfortable with the hours of operation as recommended by staff.
- Questioned if they are comfortable with dropping the dance lessons.
- Questioned if nachos could be considered food as an exception to the Alcohol Policy.
- Questioned if the applicant would consider serving food until the establishment closes.
- Questioned the hours of entertainment and where the public would be eating during the entertainment.
- Questioned if the music and comedy would be amplified.

Public Hearing Item #6 – Continued

Mr. Dipietro

- Clarified that if Council prefers food service with alcohol inside the bar area, then that is acceptable.
- Clarified that they have always followed their current hours of operation, but Council could give their recommendation for proposed hours of operation.
- Clarified that they are comfortable with dropping the dance lessons.
- Clarified that they could provide food service of some type until closing time.
- Clarified that the music would be amplified and the comedy would not.

Mr. Maldonado

- Commented that he is a neighbor and supports the expansion of the restaurant.

Mr. Dipietro and Mr. Anderson

- Commented that they have talked with the neighbors and the neighbors support the project.

Closed Public Hearing

Council Discussion

- Recommended the following changes:

Conditions of Use:

- #1 Approval - Incorporate the staff report edits and correct the matrix in the desk item.
- #7 Alcoholic Beverage Service - Require meal service with alcohol service in the restaurant with the exception of the bar area and to exclude the word "nachos" as an example of appetizers.
- #8 Hours of Operation - Suggested changing the hours of operation to Sunday - Thursday closing at 11:00 p.m., Friday and Saturday closing at 12:00 a.m., and special event nights closing at 1:00 a.m.
- #9 Hours of Entertainment - Accept the edited versions that are in the staff report.
- #10 Entertainment - Accept the edited versions that are in the staff report with the exception to eliminate dance lessons.
- #11 Events - Eliminate sentence stating food service shall be available from 11:00 a.m. to 9:00 p.m. on Year's Eve, Cinco de Mayo, Carnaval, and Halloween.
- #12 Dancing - Eliminate dance lessons.

Architecture & Site Conditions

- Suggested that Items #1, 4, 5, and #6 be accepted according to staff report.

Public Hearing Item #6 – Continued

Council Discussion – Continued

- Commented that Council should follow the Town's Alcohol Policy which requires meal service with alcohol service.
- Questioned which of the establishments within the matrix have been granted amplified music and when was it granted.

Ms. Savage

- Clarified that each establishment within the matrix that allows entertainment has very specific conditions placed on them and were approved at various dates.

Mr. Larson

- Clarified that the likely change to Condition #7 would be to leave it as originally worded, to strike "nachos" from the list, and add "meal service is not required with alcoholic beverage service for the 30 seats in the designated bar area."

Re-open Public Hearing

- Mayor Pirzynski re-opened the public hearing to ask if the applicants would agree to the proposed changes.
- Mr. Di Pietro stated that he agreed to the proposed changes.

Closed Public Hearing

MOTION: **Motion** by Council Member Diane McNutt to approve Conditional Use Permit U-10-019 and Architecture & Site application S-10-044 and to adopt resolution approving outdoor seating, live entertainment, and exterior modifications with all of the changes previously discussed.

Seconded by Vice Mayor Steve Rice.

Council Discussion

- Council Member Spector commented that she will not be supporting the motion since it is inconsistent with the alcohol policy.

VOTE: **Motion passed 4/1. Council Member Barbara Spector voted no.**

Council Member Barbara Spector left the Town Council meeting.

7. Consider a request to allow exterior modifications to a commercial structure and to operate a wine bar and retail wine shop with outdoor seating on property zoned C-2. APN 510-17-091 Conditional Use Permit Application U-10-020, Architecture and Site Application S-11-003. Property Location: 217 N. Santa Cruz Avenue, Suite B. Property Owner: Rugani Family. Applicant Joseph McCarthy, Jr. **RESOLUTION 2011-017**

Staff report made by Jennifer Savage, Associate Planner.

Council Comments

- Questioned the difference between a wine tasting shop and a wine bar.
- Questioned the business plan for the establishment.
- Questioned how narrowly defined the Town's requirements are for a wine shop and will they be able to expand the retail portion of the business.
- Questioned maximum occupancy for the establishment.
- Questioned the Town's standards for outdoor seating.
- Questioned what type of barrier would prohibit passing alcohol to the right-of-way area.
- Questioned if the establishment would revert back to full retail if the establishment were not to survive.

Ms. Savage

- Clarified that wine tasting would be permitted and defined specifically by the Alcohol Beverage Control with specific sized pours of wine. Wine tasting does not require serving food with alcoholic service. A wine bar would be permitted to serve full sized pours of wine and typically has a larger menu of food available.
- Clarified that the proposed Conditional Use Permit would allow retail sales and that retail is encouraged.
- Clarified that the Santa Clara County Fire Code established the occupancy number.
- Clarified that the outdoor seating would need to be separated to the satisfaction of the hearing body.

Mr. Seaman, Chief of Police

- Clarified that they would prefer either a closure to the outdoor seating area or an attendant during open business.
- Commented that a barrier would control the use of alcohol in public right-of-way areas.

Public Hearing Item #7 – Continued

Open Public Hearing

Mr. Foley and Mr. Fumia, Applicants

- Commented about the dream of opening a business in the Town that he has grown up in.
- Commented about the benefits of having local wines showcased in Los Gatos.

Council Comments

- Questioned the hours of operation for the proposed establishment and if the applicants would agree to earlier hours of operation.
- Questioned if the applicants would agree to requiring food with alcohol service.
- Questioned if the side door is a must for the proposed plans.
- Would like to see an easy flow for the entrance point to the establishment.
- Questioned if the applicants would agree to have spring loaded gates and “no alcohol” signs posted near the right-of-way areas.
- Questioned if there is an entrance to the second floor.
- Questioned the applicant’s plan for the retail component.
- Questioned if the applicant supports the 16 seats for the proposed outdoor plan.

Mr. Foley

- Clarified that their hours of operation were based on trends in Los Gatos.
- Clarified that they would prefer to be flexible with food service indoors since some customers want to come in to taste a wine to purchase or to sample wines before joining the wine club.
- Clarified that they would prefer the front entrance and would like to have openings on each side to welcome patrons.
- Clarified that the patio would be limited as a main entrance or single entrance because it is a very small area and that they would request clear direction from staff on the entrance for the patrons.
- Clarified that wine and retail products will complement the business.

Ms. Roidoux

- Commented on supporting the proposed business plan.

Mr. Dorsa

- Commented on supporting the proposed business plan.
- Commented that there are many wineries in Los Gatos and feels that there is a great opportunity for Los Gatos to be the gateway to those wineries.

Mr. Davies

- Commented on supporting the proposed business plan.

Public Hearing Item #7 – Continued

Mr. O'Brien

- Commented on supporting the proposed business plan.

Mr. Roley

- Commented on supporting the proposed business plan.

Mr. Anderson

- Commented on supporting the proposed business plan.

Mr. Manganello

- Commented on supporting the proposed business plan.

Mr. Hannegan

- Commented on supporting the proposed business plan.

Mr. Guerra

- Commented on supporting the proposed business plan.

Mr. Foley

- Commented on supporting the proposed business plan.

Ms. Najour

- Commented on supporting the proposed business plan.

Mr. Foley and Mr. Fumia, Applicants

- Requested that Council approve the proposed business plan.

Closed Public Hearing

Council Discussion

- Questioned the number of seats for the establishment.
- Recommended working with staff on the outdoor closure for the patio area.
- Questioned the requirement for food service as part of the proposed business plan.
- Questioned if the Conditional Use Permit was allowing 16 or 17 seats for the outdoor patio area.
- Suggested that food service be required for the outdoor patio area and offered inside the establishment.
- Questioned the hours of operation for the outdoor area.

Ms. Savage

- Clarified that 17 seats would place the establishment over the required parking.
- Commented that staff recommends a 10:00 p.m. closure for the patio area.

Public Hearing Item #7 – Continued

Mr. Seaman

- Commented that one opening would be better than two and that a gate would add a level of protection.
- Suggested revising the condition to allow for staff approval for the barrier style for the outdoor area.

MOTION: **Motion** by Council Member Diane McNutt to approve CUP U-10-020 and A&S application S-11-03 and to adopt the resolution to approve exterior modifications to a commercial structure and to operate a wine bar and retail wine shop with outdoor seating and to include the following recommended changes:
CUP Conditions - Accept recommended changes per staff report for Item #6 - Outdoor Seating Separation, #9 - Outdoor Furniture, #13 Hours of Operation; as recommended by the Planning Commission and including Monday as an available day, and #14 - Deliveries
A&S Conditions -
Item # 12 - Alcoholic Beverage Service - availability of food verses mandatory food, as specified in the staff report.
Seconded by Vice Mayor Steve Rice.

Re-Open Public Hearing

- Mayor Joe Pirzynski re-opened the public hearing to ask if the applicant is agreeable to the proposed hours of operation.
- Mr. Dipietro agreed to the proposed hours of operation.

Closed Public Hearing

VOTE: **Motion passed 4/0. Council Member Barbara Spector was not in attendance.**

OTHER BUSINESS

- There was no Other Business scheduled for this meeting.

ADJOURNMENT

Attest:

Jackie D. Rose, Clerk Administrator

