

**MINUTES OF THE TOWN COUNCIL/PARKING AUTHORITY/REDEVELOPMENT
AGENCY MEETING
AUGUST 6, 2012**

The Town Council of the Town of Los Gatos conducted a Regular Meeting on Monday, August 6, 2012 at 7:00 P.M.

CLOSED SESSION – 6:00 P.M.

PUBLIC EMPLOYEE ANNUAL PERFORMANCE EVALUATION [Government Code Section 54957(b)(1)] Title: Town Manager

CONFERENCE WITH LABOR NEGOTIATOR (Government Code Section 54957.6)
Town Negotiator: Rumi Portillo, Human Resources Director Unrepresented Employee:
Town Manager

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

ROLL CALL

Present: Mayor Steve Rice, Vice Mayor Barbara Spector, Council Member Steven Leonardis, Council Member Diane McNutt, and Council Member Joe Pirzynski.
Absent: None

PLEDGE OF ALLEGIANCE

Matt Forbes from Van Meter Elementary School led the Pledge of Allegiance. The audience was invited to participate.

PRESENTATIONS

Dianne Anderson from the Los Gatos Chamber of Commerce presented Mayor Rice with an award for the Town of Los Gatos in recognition of the Jubilee Year and the partnership between the Chamber and the Town.

CLOSED SESSION REPORT

Judith Propp, Town Attorney, commented that Council took no reportable action.

COUNCIL/TOWN MANAGER REPORTS

Council Matters

Manager Matters

Greg Larson, Town Manager

- Commented that the Kiwanis Club is sponsoring Fiesta des Artes on August 11-12, 2012 and that the Los Gatos Library will be closed during this time.
- Commented that the Los Gatos Police Foundation's Taste of Los Gatos will be on September 9, 2012.
- Commented that there is an application for Planned Development for Saint Mary's proposed junior high and the story poles are up now before school begins.

Did You Know??

Pamela Jacobs, Assistant Town Manager

- Commented on the festivities to celebrate the Town's Jubilee on August 10, 2012.

Parthenia Hicks, Los Gatos Poet Laureate

- Recited her poem, "Song of Los Gatos" to commemorate the Town's Jubilee

Jubilee Commendations and Drawing

Mayor Rice acknowledged commendations received from President Obama, Congressman Mike Honda, and Assemblymembers Beall and Gordon.

Mike Wasserman, County Board Supervisor

- Presented a commendation to the Town from the Santa Clara County Board of Supervisors.

Town Council drew names to decide where each member would celebrate the Town's Jubilee:

- Mayor Rice - Bachman Park
- Vice Mayor Spector - La Rinconada Park
- Council Member Pirzynski - Live Oak Manor Park
- Council Member McNutt - Belgatos Park
- Council Member Leonardis - Blossom Hill Park

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

1. Approve Council minutes of:
 - a. June 12, 2012 Special Study Session
 - b. June 18, 2012 Regular Meeting
2. Accept report on Town Manager approved actions during Council recess

Consent Items - Continued

3. Appoint Council Member Joe Pirzynski as the primary voting delegate and Judith Propp, Town Attorney as the alternate voting delegate for the League of California Cities Annual Conference scheduled for September 5-7, 2012 in San Diego, California
4. Adopt resolution setting date for consideration of reorganization of an uninhabited area designated as Mireval Road No. 4, approximately 3.3 acres located at 17560 Mireval Road (APNs 532-25-025 and 023); File# AN12-002
5. PPW Job No. 11-12 Live Oak Manor Park ADA Upgrades Project 831-3803
 - a. Authorize the Town Manager to execute a construction contract with Jos. J. Albanese in an amount not to exceed \$138,836.00
 - b. Authorize staff to execute future change orders to the construction contract as necessary in an amount not to exceed \$15,000.00
 - c. Authorize a budget adjustment in the amount of \$14,000 from the Street Repair and Resurfacing Program 411-811-9901 to the Live Oak Manor Park ADA Upgrades Project
6. PPW Job No. 12-02 University Avenue Sidewalk/Creekside Sports Park 813-0210
 - a. Authorize the Town Manager to execute a construction contract with Bearden Construction Co., Inc. DBA CB Concrete Construction in an amount not to exceed \$98,351.00
 - b. Authorize staff to execute future change orders to the construction contract as necessary in an amount not to exceed \$10,000.00
7. PPW Job No. 11-09 Lark Avenue Traffic Signal Improvements Project 471-812-0116 Authorize the Town Manager to execute Certificate of Acceptance and Notice of Completion accepting work of Tennyson Electric Inc. and authorize recording by the Clerk Administrator
8. Tract No. 10131 Located at 223/227 W. Main Street Adopt resolution approving Final Map for Tract No. 10131 located at 223/227 W. Main Street
9. PPW Job No. 09-06 - Los Gatos Library Outdoor Lighting Project 411-821-2501 Authorize the Town Manager to execute Certificate of Acceptance and Notice of Completion accepting work of Republic Intelligent Transportation Services, Inc. and authorize recording by the Clerk Administrator

Consent Items - Continued

10. PPW Job No. 11-10 - Energy Efficient Lighting Project 421-821-2004 Authorize the Town Manager to execute Certificate of Acceptance and Notice of Completion accepting work of Republic Intelligent Transportation Services, Inc. and authorize recording by the Clerk Administrator

MOTION: **Motion by Council Member Joe Pirzynski** to approve Consent Items #1-10.
Seconded by Vice Mayor Barbara Spector.

VOTE: **Motion passed unanimously.**

VERBAL COMMUNICATIONS (Up to three minutes may be allotted to each speaker to address matters that are not on tonight's agenda.)

Mr. Miller

- Expressed appreciation for his street being paved.

OTHER BUSINESS

11. Adopt an ordinance between the Board of Administration California Public Employees' Retirement System and the Town Council of the Town of Los Gatos to add a second retirement tier for non-sworn ("miscellaneous") employees

Open/Close the public hearing.

MOTION: **Motion by Council Member Joe Pirzynski** to adopt an ordinance between the Board of Administration California Public Employees' Retirement System and the Town Council of the Town of Los Gatos to add a second retirement tier for non-sworn ("miscellaneous") employees.
Seconded by Council Member Steven Leonardis.

VOTE: **Motion passed unanimously.**

PUBLIC HEARINGS

12. Abatement of Hazardous Vegetation (Weeds)

- a. Conduct Public Hearing to consider the report of the County Agricultural Commissioner's Office on the abatement of hazardous vegetation (weeds) for the 2011-2012 season
- b. Approve said commencement report

Kevin Rohani, Town Engineer, presented the staff report.

Open/Close the Public Hearing

MOTION: **Motion by Council Member Joe Pirzynski to overrule objections and order abatement of hazardous vegetation (weeds).
Secoded by Vice Mayor Barbara Spector.**

VOTE: **Motion passed unanimously.**

13. Abatement of Hazardous Vegetation (Brush)

- a. Conduct Public Hearing to consider objections to hazardous vegetation abatement (brush)
- b. Overrule objections and order hazardous vegetation abatement (brush)

Kevin Rohani, Town Engineer, presented the staff report.

Open/Close the Public Hearing

MOTION: **Motion by Council Member Joe Pirzynski to overrule objections and order abatement of hazardous vegetation (brush).
Secoded by Vice Mayor Barbara Spector.**

VOTE: **Motion passed unanimously.**

14. Conditional Use Permit U-12-004. Property Location: 424 N. Santa Cruz Avenue. Property Owner: Los Gatos Shopping Center, LLC. Applicant: Michael Guerra & Joe Cannistraci for San Calogero, Inc. Consider a request to approve Conditional Use Permit U-12-004

Jennifer Savage, Associate Planner, presented the staff report.

Item # 14 – Continued

Council Discussion

- Questioned how often Town staff would review the agreement.
- Questioned whether the first condition of approval could be modified to be in compliance with the plans sent on February 28, 2012 or whether there would also be an operational agreement.
- Questioned whether the term "wine bar" is broad enough for this business or other ones, especially given that business models change, or whether "wine bar/restaurant" or "wine bar/retail establishment" is preferable.
- Commented that there should be general language explaining that the CUP runs with the land in every CUP staff report.
- Commented that operational agreements should not generally be part of CUP approvals.

Ms. Savage

- Commented that review would occur every six months for the first five years.
- Commented that the Council could reference the February 28, 2012 business plan.
- Commented that the term "wine bar" provides some flexibility, but that a CUP modification may be necessary if the business model changes significantly.

Mr. Larson

- Commented that the obligatory Council action is in reference to the wine service.
- Commented that parking is not an issue for the retail.

Ms. Propp

- Council could choose to broaden the language from just "wine bar."

Michael Guerra, Applicant

- Commented that Council should approve the proposed project.

Council Questions

- Questioned whether there are any changes from the letter of justification.
- Questioned whether there is any staff preference regarding an operational agreement

Ms. Savage

- Commented that staff has no preference regarding an operational agreement.

Item # 14 – Continued

Mr. Larson

- Commented that the first condition of approval would achieve the same result as an operational agreement.

Mr. Cannistraci, Applicant

- Commented that the applicants need flexibility to expand their menu in the future.

Mr. Bianchi

- Expressed support for the proposed project.

Mr. Smith

- Expressed support for the proposed project.

Closed the public hearing.

MOTION: **Motion by Council Member Joe Pirzynski** to make the required findings and approve Conditional Use Permit U-12-004 with modifications as follows:

- use changed from wine bar to wine bar/restaurant/retail;
- approval includes compliance with the letter of justification received on February 28, 2012; and
- the bakery is not restricted to the hours of operation of the wine bar.

Seconded by Vice Mayor Barbara Spector.

VOTE: **Motion passed unanimously.**

MOTION: **Motion by Council Member Joe Pirzynski** to adopt a resolution of approval with recommended conditions for Conditional Use Permit (CUP) to operate a wine bar/retail/restaurant on property zoned C-1 (Attachment 2).

Seconded by Vice Mayor Barbara Spector.

VOTE: **Motion passed unanimously.**

15. Conditional Use Permit U-12-008. Property Location: 160 W. Main Street. APN 529-03-020. Property Owner: Robert and Muriel Brouwer, LLC. Applicant: Linda J. LeZotte Consider a request to approve Conditional Use Permit U-12-008

Diane McNutt recused herself because of a perceived conflict of interest.

Ms. Savage presented the staff report.

Ms. LeZotte, Applicant

- Explained the floor plan and general plans for the proposed project.

Mr. Sarnevesht, Applicant

- Commented that the proposed project would allow up to 8 private events per month, such as for corporate parties.

Mr. Larson

- Clarified condition #9 in the conditions of approval: no alcohol service without a meal also being served to the same customer.
- Clarified that members of the public could not buy entrance into a private event, such as through a cover charge.

Council Questions

- Commented that the Planning Commission followed the current alcohol policy and did not approve the live entertainment portion of the proposed project.
- Questioned the significance of the live entertainment portion of the proposed project.
- Questioned how 8 private events per month was determined.
- Questioned the timeline of the proposed project.

Ms. Sarnevesht

- Commented that entire concept of the restaurant includes music, but the focal point of the project is the corporate events.
- Commented that 8 private events per month seemed reasonable and is similar to what the applicants do at their other venues.
- Commented that the applicants would like to start construction as soon as possible and doors would open in 8-10 weeks.
- Commented that the applicants have paid rent for the past six months during this process.

Open/Close the Public Hearing

Item # 15 – Continued

Council Discussion

- Expressed concern about the 8 proposed private events per month with a disc jockey.
- Questioned whether there is a mechanism to allow for entertainment as a one-time exception.
- Questioned the source of the occupancy limitations.
- Requested clarification about the current use of the bar and how it allows service of alcohol without meals.

Ms. Savage

- Commented that the Town Code allows for special event permits, but an event within the establishment would not likely qualify.
- Commented that the seating limitations are in the existing CUP.
- Commented that in the existing floor plan there is a separate bar and seating area and the concern is eliminating that wall, such that there is a larger area that would allow alcohol consumption without meal service.

Mr. Larson

- Commented that the Town's alcohol beverage control policy states that the Town should discourage applications for entertainment establishments serving alcoholic beverages; therefore, staff recommended denial of the disc jockey aspect of the project.

MOTION: **Motion by Council Member Joe Pirzynski** to make the required findings (Attachment 1) and approve Conditional Use Permit U-12-008 with modifications as recommended by the Planning Commission. (No disc jockey but amplified music inside is acceptable).
Seconded by Vice Mayor Barbara Spector.

VOTE: **Motion passed 4/0.** Council Member Diane McNutt abstained. The other Councilmembers voted aye.

Item # 15 – Continued

MOTION: **Motion by Council Member Joe Pirzynski** to adopt a resolution of approval with recommended conditions for a Conditional Use Permit (CUP) to modify an existing CUP to operate a restaurant with a separate bar (Katsu) and full alcohol service on property zoned C-2:LHP (Attachment 2).
Seconded by Vice Mayor Barbara Spector.

VOTE: **Motion passed 4/0.** Council Member Diane McNutt abstained. The other Councilmembers voted aye.

ADJOURNMENT

The meeting adjourned at 8:57 p.m.

Attest:

/s/Mazarin A. Vakharia
Clerk Administrator