

**MINUTES OF THE TOWN COUNCIL/PARKING
AUTHORITY/REDEVELOPMENT AGENCY**

AUGUST 7, 2006

The City Council of the Town of Los Gatos conducted a Regular Meeting on Monday, August 7, 2006 at 7:00 PM

CALL MEETING TO ORDER

Roll Call

Present:

Council Member Steve Glickman,
Vice Mayor Joe Pirzynski
Council Member Barbara Spector
Council Member Mike Wasserman
Mayor Diane McNutt

PLEDGE OF ALLEGIANCE

Spencer Bogart led the pledge of allegiance. The audience was invited to participate.

American Cancer Society relay for Life - **Renee Leilani** commented on the relay for life program being held at Vasona Park on Saturday, August 12, 2006.

CLOSED SESSION REPORT

Conference with Legal Counsel - Existing Litigation

(Government Code Section 54956.9[a])

Workers' Compensation Case - Horace Pete Settlement

Orry Korb, Town Attorney, stated direction was given and no action was taken.

Conference with Legal Counsel - Anticipated Litigation

(Government Code Section 54956.9[b])

Threat of litigation regarding Town Council decision denying a formula retail store (American Apparel) - Conditional Use Permit No. U-06-006

Orry Korb, Town Attorney, stated direction was given and no action was taken.

PRESENTATION

Proclamation 100 Year Celebration - Children's Library Services

Mayor Diane McNutt commented on the history of the Library in the Town of Los Gatos. A commendation was presented to **Peggy Conaway**, Library Director on behalf of the 100 year celebration.

Tim Mulligan, Manager - Santa Clara County Vector Control, West Nile Virus Eradication Program

Mr. Mulligan updated the Council and public on the resources regarding the West Nile Virus in the Santa Clara County. He also commented on the latest methods of controlling the virus.

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

1. **Accept Treasurer's Reports for May and June, 2006**
2. **Approve Council Minutes of June 19, 2006 Study Session**
3. **Accept report on Town Manager approved actions during Council recess.**
4. **Adopt resolution accepting the donation of an El Camino Real bell from the California Bell Company and the installation of the bell from Eagle Scout Brian Freund.
Resolution 2006-081**
5. **Appoint Debra Figone, Town Manager, as the primary voting delegate and Jenny Haruyama, Administrative Programs Manager, as the alternate voting delegate for the League of California Cities Annual Conference scheduled for September 6-9, 2006 in San Diego, California.**
6. **Adopt resolution approving the Final Map for Tract No. 9834 (14880 Los Gatos Boulevard)
Resolution 2006-082**
7. **Project 06-31 - Award of HVAC Maintenance Contract Adopt resolution declaring Therma Corporation to be the lowest responsible bidder on the project and awarding the contract in the amount of \$22,020.00 per year plus CPI increases in years 2 and 3.
Resolution 2006-083**

Consent Items (Continued)

8. **Project 06-32 - Award of Custodial Contract Adopt resolution declaring Santa Clara Valley Corporation to be the lowest responsible bidder on the project and awarding the contract in the amount of \$111,564.
Resolution 2006-084**
9. **PPW Project #06-07 - Curb, Gutter, and Sidewalk Replacement for Fiscal Year 2006-07.
Resolution 2006-085**
 - a. **Adopt resolution approving plans and specifications for curb, gutter, and sidewalk repair and replacement and authorize staff to advertise the project for bids**
 - b. **Authorize budget adjustment to transfer \$1,840 from Project 0349 to the N. Santa Cruz Avenue/Roberts Road Crosswalk Improvement Project 0713**
10. **Confidential and Temporary/Hourly Employees**
 - a. **Adopt resolution approving Confidential Compensation Plan and Salary Schedule Resolution 2006-086**
 - b. **Adopt resolution approving the Temporary/Hourly Employee Salary Schedule Resolution 2006-089**
11. **Adopt resolution approving the Fiscal Year 2006-07 Management Compensation Plan.
Resolution 2006-087**
12. **Adopt resolution denying an appeal of a Planning Commission decision denying approval to construct a new single family residence. APN 527-56-033. Architecture and Site Application S-06-022. Property Location: 107 Colorado Court. Property Owner/Applicant: Stewart and Colette Fahmy
Resolution 2006-088**

CONSENT ITEMS (Continued)

TOWN COUNCIL/REDEVELOPMENT AGENCY

13. Approve Council/Agency minutes of June 19, 2006

MOTION: Motion by Mayor Diane McNutt approve Consent Items #1-4, 6-13 with Reference to amended resolution on Item #12. Item # 5 was postponed until next meeting.

Seconded by Vice Mayor Joe Pirzynski.

VOTE: Motion passed unanimously.

VERBAL COMMUNICATIONS

Mr. Davis

- Commented on the City of San Jose's proposed "due process" document.
- Commented regarding the July 4th celebration held by the Town of Los Gatos.
- Commented regarding 13 acres at Vasona Park which the Town currently owns and leases to the County of Santa Clara.

Mr. Korb

- Stated that the transaction regarding the 13 acres is still in negotiations and will go to Council for public hearing if there is action to be taken.
- Commented regarding Mr. Davis's statement relating to due process and stated that the City of San Jose is a Charter City.

Mr. Brodsky

- Commented regarding a letter to Council asking for joint cooperation with the City of Monte Sereno regarding Winchester Boulevard

PUBLIC HEARINGS

**14. Abatement of Hazardous Vegetation (Weeds)
Resolution 2006-090 (14-33)**

- a. **Conduct public hearing to consider the report of the County Agricultural Commissioner's Office (available in the Clerk Department) on the abatement of hazardous vegetation (weeds) for the 2005-2006 season**
- b. **Adopt resolution approving said report (available in the Clerk Department)**

Staff report made by John Curtis, Director of Parks and Public works.

PUBLIC HEARINGS (Item #14 Continued)

Mayor Diane McNutt opened the public hearing. No one spoke to the agenda item. **Mayor Diane McNutt** closed the public hearing.

Council Discussion

MOTION: Motion by **Council Member Barbara Spector** to adopt resolution approving report on the abatement of hazardous vegetation (Weeds). **Seconded by Council Member Steve Glickman.**

VOTE: ~~Motion passed unanimously.~~

15. Abatement of Hazardous Vegetation (Brush)

- a. **Conduct public hearing to consider the report of the County Agricultural Commissioner's Office that all identified properties achieved voluntary compliance with regard to the abatement of hazardous vegetation for the 2005-2006 season**
- b. **Take no further action**

Staff report made by **John Curtis**, Director of Parks and Public Works. **Mayor Diane McNutt** opened the public hearing. No one spoke to the agenda item. **Mayor Diane McNutt** closed the public hearing.

Council Discussion

There was consensus from Council to take no further action.

- 16. Consider a request for to modify a Conditional Use Permit to increase the seating, allow special events, and wine bar with retail wine sale on property zoned C-2. Conditional Use Permit U-06-20 APN 529-03-035. Property location: 42 Elm Street. Property owner: Michael Cobler. Applicant: Belghis and Farhad Proushani**

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

Council Comments

- Questioned the number of seats versus the parking required.
- Questioned the use of the current loading area located along the sidewalk at Cafe Rouge.
- Clarification regarding violations and enforcement of a conditional use permit.

PUBLIC HEARINGS (Item #16 Continued)

- Clarification regarding the lack of parking spaces and the current ordinance pertaining to parking.
- Clarification on modifying the current Parking Ordinance.

Mayor Diane McNutt opened the public hearing.

Public Comments

Mr. Proushani (Applicant)

- Commented regarding the mitigation of Cafe Rouge's past code violations.
- Commented regarding the three parking spaces allocated to the business.
- Clarification regarding the terms used in the staff report.
- Commented that twelve seats in his restaurant make it impossible for the restaurant to thrive.
- Commented regarding the times for wine service in the proposed application.
- Commented regarding the loading zone located in front of Cafe Rouge.
- Would like to turn the loading bay into a seating area by adding flower boxes.

Council Comments

- Clarification regarding applicants request for wine service during special events.
- Clarification regarding a Conditional Use Permit running with the land.
- Clarification regarding the occupancy rates of downtown businesses.
- Clarification relating to other business's Conditional Use Permits.
- Questioned the parking during various times of the year.
- Clarification regarding special events without liquor or entertainment.
- Questioned Planning Commission's requirement regarding the planter between the street and restaurant.
- Questioned addressing the alcohol policy regarding future Conditional Use Permits.
- Questioned if staff could draft restrictions to grant certain conditions for the use permit.
- Clarification on the seating currently in the restaurant.
- Clarification regarding Cafe Rouge's business plan.
- Commented regarding parking within the Parking Assessment District.

PUBLIC HEARINGS (Item #16 Continued)

Public Comments

Mr. Brodsky

- Commented on supporting the proposed Conditional Use Permit.

Mr. Updyke

- Commented on supporting the proposed conditional Use Permit.

Mr. Proushani (applicant)

- Suggested giving them a trial use permit, which would be reviewed after one year and could be extended.

Mayor Diane McNutt closed public hearing.

Council discussion

- Clarification regarding the current parking ordinance.
- Clarification regarding Council's options to change the code regarding parking.
- Questioned the criteria for granting a variance.

Mr. Korb, Town Attorney

- Commented on the options relating to parking requirements for the Conditional Use Permit.
- Clarified the criteria for granting a variance.

Mr. Lortz, Director of Community Development

- Clarified that the changes to the Parking Ordinance would require staff work and a public process.

MOTION: **Motion by Vice Mayor Joe Pirzynski** to adopt the Planning Commission's recommendation to approve the Conditional Use Permit located at 42 Elm Street. **Seconded by Council Member Barbara Spector.**

Council Discussion

- Commented on the Town's current Alcohol Policy.
- Commented regarding the Town's current Parking Ordinance.
- Suggested Council consider modifying the Alcohol Policy to allow wine service with or without food.
- Questioned if staff could draft conditions for wine service with or without food.

PUBLIC HEARINGS (Item #16 Continued)

MOTION: Motion by Council Member Steve Glickman to table Item #16 until staff could draft conditions to serve wine with or without food. **Motion failed due to lack of second.**

Mayor Diane McNutt called for a vote relating to the first motion.

VOTE: Motion passed unanimously.

OTHER BUSINESS

17. Council discussion and authorization regarding West Valley Solid Waste Management Authority Board process for setting rates effective March 1, 2007

Staff report made by **Regina Falkner**, Director of Community Services. Presentation made by **Marva Sheehan**, Senior Associate, Hilton, Farnkopf, and Hobson.

Council Comments

- Commented on the proposed rates for garbage service.
- Supports the proposal made by West Valley Solid Waste Management Authority Board.

Public Comment

No one spoke to this agenda item.

Council Discussion

- Direction was to **Council Member Steve Glickman** to share Council comments about the rate proposal with West Valley Solid Waste Management Authority Board.

COUNCIL/TOWN MANAGER REPORTS

18. Council Matters

Council Member Barbara Spector

- Commented that she is reviewing material related to sustainable energy and may bring the issue forward for Council consideration to agendaize it for discussion.

19. Manager Matters Los Gatos Prepared, A Community Self-Sufficiency Campaign, Concept Paper

Staff report made by **Debra Figone**, Town Manager.

Council Comments

- Commented on supporting the program.
- Commented on the community/Town preparing for disasters by becoming self sufficient.
- Thanked all the CERT volunteers for their continued support in programs that help the community prepare for disasters.

ADJOURNMENT

Attested by:

Jackie D. Rose, Deputy Clerk