

RESOLUTION 1995 - 161

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS CALLING A SPECIAL MUNICIPAL ELECTION TO BE HELD IN THE TOWN ON MARCH 26, 1996; ORDERING THE SUBMISSION OF A MEASURE REGARDING A UTILITY USERS TAX TO THE VOTERS; DETERMINING THE QUESTION TO BE SUBMITTED TO THE VOTERS REGARDING THE UTILITY USERS TAX; REQUESTING THE SERVICES OF THE COUNTY REGISTRAR OF VOTERS; REQUESTING THE COUNTY BOARD OF SUPERVISORS TO PERMIT CONSOLIDATION OF THE SPECIAL MUNICIPAL ELECTION WITH THE STATEWIDE DIRECT PRIMARY ELECTION; SPECIFYING CERTAIN PROCEDURES FOR THE CONDUCT OF THE SPECIAL MUNICIPAL ELECTION; AND PROVIDING FOR GIVING NOTICE OF THE SPECIAL MUNICIPAL ELECTION

WHEREAS, the Town Council of the Town of Los Gatos wishes to submit a utility users tax to the voters of the Town for approval pursuant to Elections Code § 9222 and Government Code §§ 53723 and 53724; and

WHEREAS, Exhibit A hereto is the exact form of the question to be voted on at the special election, as it is to appear on the ballot; and

WHEREAS, Exhibit B hereto is the proposed ordinance for submission to the voters as it would appear in the ballot pamphlet; and

WHEREAS, the earliest and most cost-effective election at which the voters might consider this tax would be on March 26, 1996, which is the statewide direct primary election and a general election in the State; and

WHEREAS, pursuant to Section 10403 of the Elections Code, a special Town election may be consolidated with such a general election; and

WHEREAS, this Resolution has been adopted by at least a two-thirds vote of all members of the Town Council,

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Los Gatos:

1. Pursuant to Elections Code § 12001, a special municipal election is hereby ordered and called to be held in and for the Town of Los Gatos on Tuesday, March 26, 1996. The question to be submitted to the voters at that election as it is to be stated on the ballot is contained in Exhibit A hereto, and the text of the measure being voted on in that question is contained in Exhibit B hereto.

2. The proposed utility users tax would be at the rate of two percent (2%) on specified utility services, collected by the providers of the utility services as part of their regular billings, and be used for general government purposes of the Town.

3. Pursuant to Elections Code § 10002, the Town Council hereby requests the Board of Supervisors of the County of Santa Clara to make available the services of the County Registrar of Voters for the purpose of performing the usual services necessary in the conduct of a consolidated election, including provision of election supplies and voters' pamphlets.

4. Pursuant to Elections Code §§ 10400, 10402, and 10403, the Town Council hereby requests the Board of Supervisors of the County of Santa Clara to consent to and order the consolidation of the special municipal election to be conducted within the boundaries of the Town of Los Gatos on March 26, 1996, with the statewide direct primary election to be conducted on that date, which the Board of Supervisors has the power to order. The Town Council further consents to and orders the consolidation of the special municipal election with the statewide direct primary election. Upon consolidation, the consolidated election shall be held and conducted, election officers appointed, voting precincts designated, ballots printed, polls

opened at 7:00 a.m. and closed at 8:00 p.m., ballots counted and returned, returns canvassed, and all other proceedings in connection with the election regulated and done by the Registrar of Voters of Santa Clara County in accordance with the provisions of law regulating the elections so consolidated.

5. The Town Clerk is hereby authorized and directed to publish a notice of the special municipal election and notice of measure to be voted on within the time and in the manner specified in Elections Code §§ 12109, 12110, and 12114(a) and (b). The Town Clerk is further authorized and directed to do all other things required by law to conduct the election.

6. Pursuant to Government Code §§ 9282 and 9286, the Town Clerk is further authorized and directed to establish and publish the last date for submittal of arguments for and against the measure; select the argument for and the argument against the measure to be printed and distributed to the voters as set forth in Election Code § 9287; enable preparation and submittal of rebuttal arguments as set forth in Elections Code § 9285. The Town Council hereby adopts the provisions of Elections Code § 9285(a) with regard to rebuttal arguments.

7. The Town Clerk is hereby authorized and directed to transmit a copy of the proposed measure to the Town Attorney. The Town Attorney is hereby authorized and directed to draft an impartial summary in accordance with Elections Code § 9280 and to submit that to the Town Clerk for transmittal to the Registrar of Voters no later than the last date for submittal of arguments for and against the measure.

8. The Town Clerk is hereby authorized and directed to certify to the adoption of this resolution and to transmit a certified copy of the resolution to the Board of Supervisors of the County of Santa Clara and to the Registrar of Voters of the County of Santa Clara.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 20th day of November, 1995 by the following vote.

COUNCIL MEMBERS:

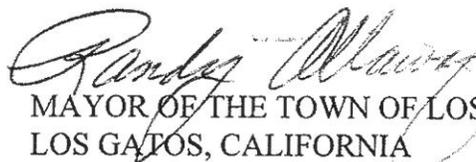
AYES: Joanne Benjamin, Steven Blanton, Linda Lubeck, Patrick O'Laughlin,
Mayor Randy Attaway.

NAYS: None

ABSENT: None

ABSTAIN: None

SIGNED:


MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:


CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

EXHIBIT A

TOWN OF LOS GATOS

MEASURE __

Shall the ordinance amending the Town Code to impose a two percent (2%) utility users tax on users of specified utility services within the Town of Los Gatos for a period of five (5) years be adopted?

EXHIBIT B

Measure __: Text of Proposed Ordinance

This ordinance is proposed by the Town Council of the Town of Los Gatos and imposes a two percent (2%) utility users tax on specified utility services with an automatic sunset clause in five (5) years.

PROPOSED ORDINANCE

THE PEOPLE OF THE TOWN OF LOS GATOS DO ORDAIN AS FOLLOWS:

SECTION 1.

A new section 25.50.005 is added as follows:

Sec. 25.50.005 Tax Imposed

(a) There is hereby established and imposed, commencing June 1, 1996, a utility users tax as follows:

(1) Telephone users tax. Upon every person in the Town, other than a telephone corporation, using intrastate telephone communication services in the Town at a rate of two percent (2%) of the charges made for such services, which tax shall be paid by the person paying for such services.

(2) Electrical energy users tax. Upon every person in the Town, other than an electrical corporation or a gas corporation, using electrical energy in the Town at a rate of two percent (2%) of the charges made for such energy, including minimum charges for such services, which tax shall be paid by the person paying for such energy.

(3) Gas users tax. Upon every person in the Town, other than a gas corporation or an

electrical corporation, using gas in the Town which is delivered through mains or pipes, at a rate of two percent (2%) of the charges made for such gas, including minimum charges for such services, which tax shall be paid by the person paying for such gas.

(4) Water users tax. Upon every person in the Town, other than a water corporation, using water in the Town which is delivered through mains or pipes, at a rate of two percent (2%) of the charges made for such water, which tax shall be paid by the person paying for such water.

(5) Cable television users tax. Upon every person in the Town using cable television services in the Town at a rate of two percent (2%) of the charges made for such services, which tax shall be paid by the person paying for such service.

(b) This tax shall be used for the general governmental purposes of the Town.

SECTION II

A new section 25.50.010 is added as follows:

Sec. 25.50.010 Duty to collect: time to begin

The duty to collect from a user shall commence with the beginning of the first regular billing period applicable to the person which starts on or after June 1, 1996.

SECTION III

A new section 25.50.012 is added as follows:

Sec. 25.50.012 Sunset

This ordinance shall expire by operation of law for purposes of taxes on any utility service in any regular billing period beginning on or after June 1, 2001. Following that date, this ordinance shall only be effective for purposes of collecting and disbursing taxes imposed on utility services provided before that date.

SECTION IV

This ordinance shall be considered adopted on the date that the Town Council declares the vote, and shall go into effect ten (10) days thereafter.

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RESOLUTION 1996 - 56

**RESOLUTION OF THE TOWN OF LOS GATOS
DECLARING ELECTION RESULTS
OF THE SPECIAL MUNICIPAL ELECTION OF
MARCH 26, 1996**

WHEREAS, a Special Municipal Election was held in the Town of Los Gatos on Tuesday, the 26th day of March, 1996, and was conducted in form and manner as required by the law of the State of California governing the elections of General Law Cities and,

WHEREAS, Dwight M. Beattie, Registrar of Voters of Santa Clara County has declared that at the Primary Election held on March 26, 1996, and consolidated therewith, a Special Municipal Election was held in the TOWN OF LOS GATOS for the purpose of passing Measure "C" Utility Users Tax and,

WHEREAS, the results of said Election were canvassed by the Office of the Santa Clara County Registrar of Voters in accordance with applicable provisions of the California Election Code and,

WHEREAS, the Statement of Votes Cast, attached to the Certification, shows the whole number of votes cast for Measure "C" in said Town and in each of the respective precincts and,

WHEREAS, the total number of registered voters was 18,760 and the total number of votes cast was 9,386 including absentee ballots for

MEASURE "C" UTILITY USERS TAX

That the measure voted for, the number of votes received in each of said precincts, together with absentee votes, together with the whole number of votes which were received in the entire Town of Los Gatos are as follows:

NOW THEREFORE BE IT RESOLVED, that I, Marian V. Cosgrove, duly elected Clerk of the Town of Los Gatos hereby certify the special election for:

MEASURE "C" UTILITY USERS TAX

RESOLVE FURTHER, that the Clerk shall enter upon the records of this Council the results of said Special Municipal Election.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 6th day of May, 1996 by the following vote:

COUNCIL MEMBERS:

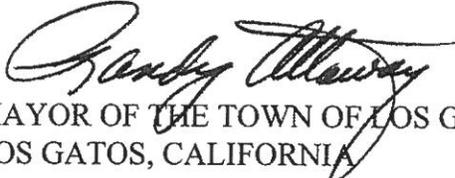
AYES: Joanne Benjamin, Steven Blanton, Linda Lubeck, Patrick O'Laughlin,
Mayor Randy Attaway

NAYS: None

ABSENT: None

ABSTAIN: None

SIGNED


MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:



CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ORDINANCE 2007

**AN ORDINANCE OF THE TOWN OF LOS GATOS
SUSPENDING OPERATION OF ARTICLE V, CHAPTER 25 (UTILITY USERS TAX)
OF THE TOWN CODE AND
AMENDING CHAPTER 25 TO PROVIDE THE ADMINISTRATIVE FRAMEWORK
FOR A UTILITY USERS TAX IF APPROVED BY THE VOTERS OF THE TOWN**

**THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN AS
FOLLOWS:**

SECTION I

The California Supreme Court in its decision in *Santa Clara County Local Transportation Authority vs. Guardino* determined that Proposition 62 adopted by the voters of the State of California in 1986 is constitutional and therefore imposes upon all local agencies, including the Town of Los Gatos, the requirement that before any new tax, whether special or general, can be imposed, the Town Council must submit that tax to the voters of the Town for approval. This ordinance is intended to suspend operation of Article V, Chapter 25 of the Town Code, Utility Users Tax, until the voters of the Town approve such a tax or the *Guardino* case is reversed or otherwise determined not to require submission of the utility users tax adopted in Ordinance No. 2001 to the voters. This ordinance is further intended to realign the provisions of Chapter 25, so that should the voters approve the utility users tax, the administrative provisions will be in place for prompt and efficient application of the tax.

SECTION II

Until such time as the voters of the Town of Los Gatos approve a utility users tax or the *Guardino* case is reversed or otherwise determined not to require submission of the utility users

tax adopted in Ordinance No. 2001 to the voters, the provisions of Article V, Chapter 25 are suspended.

SECTION III

If the voters of the Town of Los Gatos approve the utility users tax proposed in Resolution No. 1995-161 at the special municipal election on March 26, 1996, the following sections are repealed:

Section 25.50.030

Section 25.50.035

Section 25.50.045

Section 25.50.055

Section 25.50.060

SECTION IV

If the voters of the Town of Los Gatos approve the utility users tax proposed in 1995-161 at the special municipal election on March 26, 1996, Section 25.50.040 of the Town Code is amended to read:

Sec. 25.50.040 Electrical energy users tax

As used in Section 25.50.005 of this chapter, the words "using electrical energy" shall not mean:

(a) The storage of such energy by a person in a battery owned or possessed by him for use in an automobile or other machinery or device apart from the premises upon which the energy was received; provided, however, the term shall include the receiving of such energy for the purpose of using it in the charging of batteries; or

(b) The receiving of such energy by an electrical corporation or governmental agency at a point within the Town for resale to service users.

SECTION V

If the voters of the Town of Los Gatos approve the utility users tax proposed in Resolution No. 1995-161 at the special municipal election on March 26, 1996, Section 25.50.050 of the Town Code is amended to read:

Sec. 25.50.050 Gas users tax: Exclusions

As used in Section 25.50.005 of this article, the term "charges" shall not:

(a) Include charges made for gas used in the generation of electrical energy by a public utility or a governmental agency; or

(b) Be construed to mean the receiving of such gas by a gas corporation or governmental agency at a point within the Town for resale to service users.

SECTION VI

If the voters of the Town of Los Gatos approve the utility users tax proposed in Resolution No. 1995-161 at the special municipal election on March 26, 1996, Section 25.50.075(b) of the Town Code is amended to read:

(b) Where a person receives more than one billing, one or more being for different periods than another, the duty to collect shall arise separately for each billing period.

SECTION VII

This ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on November 20, 1995, and adopted by the following vote as an ordinance of the

Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on
December 4, 1995 . This ordinance takes effect immediately.

COUNCIL MEMBERS:

AYES: Joanne Benjamin, Steven Blanton, Linda Lubeck, Patrick O'Laughlin
Mayor Randy Attaway

NAYS: None

ABSENT: None

ABSTAIN: None

SIGNED:


MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:


CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ORDINANCE 2010

AN ORDINANCE OF THE TOWN OF LOS GATOS
AMENDING CHAPTER 25 TO AVOID ANY IMPLICIT CONFLICTS IN THE TOWN
CODE
IF THE VOTERS APPROVE MEASURE C ON MARCH 26, 1996

THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN AS
FOLLOWS:

SECTION I

The Town Council adopted Ordinance No. 2007 on December 4, 1995, to suspend operation of the Town Code provisions regarding a utility users tax and to establish the administrative framework for the tax if it is approved by the voters on March 26, 1996. In order to avoid any potential conflict between suspended code sections and the ordinance that is proposed for voter approval, this ordinance is adopted.

SECTION II

If the voters of the Town of Los Gatos approve the utility users tax ordinance proposed in Resolution No. 1995-161 at the special municipal election on March 26, 1996, Section 25.50.010 as it exists on the date of adoption of this ordinance is repealed, because a new section 25.50.010 is in the ordinance proposed to the voters that would replace it.

SECTION III

If the voters of the Town of Los Gatos approve the utility users tax ordinance proposed in Resolution No. 1995-161 at the special municipal election on March 26, 1996, Section 25.50.205 is repealed, because the ordinance being submitted to the voters establishes a new sunset date for the utility users tax.

SECTION IV

This ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on February 5, 1996 and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on February 20, 1996. This ordinance takes effect immediately.

COUNCIL MEMBERS:

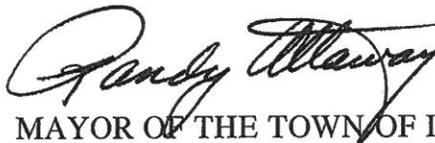
AYES: Joanne Benjamin, Linda Lubeck, Patrick O'Laughlin,
Mayor Randy Attaway.

NAYS: None

ABSENT: Steven Blanton

ABSTAIN: None

SIGNED:



MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:



CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

**TOWN OF LOS GATOS
CALIFORNIA
TOWN COUNCIL/PARKING AUTHORITY
June 5, 1995
Minutes**

TOWN COUNCIL

The Town Council/Parking Authority of the Town of Los Gatos met in the Council Chambers of the Town Hall, 110 East Main Street, at 7:35 p.m., Monday, June 5, 1995, in regular session.

ROLL CALL

Present: Randy Attaway, Joanne Benjamin, Steven Blanton,
Linda Lubeck and Mayor Patrick O'Laughlin.

Absent: None.

PLEDGE OF ALLEGIANCE

Given by all in attendance.

CLOSED SESSION

Larry Anderson, Town Attorney, reported that Council had met in Closed Session prior to this evening's meeting pursuant to Government Code Section 54956.9(a) to discuss Pending Litigation item regarding Ruth Gettler v. Town of Los Gatos, et al., Santa Clara County Superior Court 731847. This concerns a settlement agreement regarding a slip and fall in the downtown area. Settlement details are still being negotiated.

NATIONAL SKILLS OLYMPICS/COMMENDATIONS (00.42)

Mayor O'Laughlin presented commendations from the Town to the State Gold Medal Winners of the National Skills Olympics. Aaron Baker, Meredith Harrington and Jason Feldt were present to receive their awards. The Mayor wished them well as they advance to the National Finals in Kansas City.

SCHEDULE OF PUBLIC HEARINGS (01.01)

Informational report regarding currently scheduled public hearings was received and filed.

PLANNING COMMISSION/PLANNING DEPARTMENT MONTHLY STATUS REPORT (02.47)

Informational report regarding activity of Planning Commission and Department was received and filed.

COUNCIL CALENDAR OF MEETINGS (03.10)

Informational item presenting future Town Meetings for Council and other Town Boards and Commissions was received and filed.

PAYROLL RATIFICATION/MAY 1995 (04.V)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council ratify the check register for the payroll of April 23 through May 6, 1995 paid on May 12, 1995 and for the payroll of May 7 through May 20, 1995 paid on May 26, 1995 in the amount of \$431,281.96. Carried unanimously.

ACCOUNTS PAYABLE/RATIFICATION/MAY 1995 (05.V)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council ratify the accompanying check registers for accounts payable invoices paid on May 19 and 26, 1995 in the amount of \$386,851.68. Carried unanimously.

MINUTES OF MAY 15, 1995 (06A.V)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council approve the Minutes of May 15, 1995 as submitted. Carried by a vote of 4 ayes. Mrs. Benjamin abstained.

MINUTES OF MAY 22, 1995 (06B-1.V)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council approve the Minutes of May 22, 1995 as submitted. Carried unanimously.

MINUTES OF MAY 23, 1995 (06B-2.V)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council approve the Minutes of May 23, 1995 as submitted. Carried unanimously.

TIMING LIGHTS/TOWN COUNCIL CHAMBERS (09.28)

The Town Manager pulled this item and will place it on a future agenda.

COMPUTER EQUIPMENT/MAPPING ABILITY/BUILDING DEPARTMENT (10.28)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council transfer \$3,100 from Non-Point Source Account (Office Supplies) to Non-Point Source (Capital) and approve transfer of three 286-based PC's to the NOVA Program. Carried unanimously.

FILE CABINETS/TAB FILING SYSTEM/CLERK'S DEPARTMENT (11.28)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council authorize transfer in Clerk's Department budget of \$7,500 to Office Supplies from Benefits \$3,090 and Capital Purchases \$4,410 for the purchase of TAB filing cabinets. Carried unanimously.

GEOGRAPHIC INFORMATION SYSTEM/TEMPORARY STAFF (12.06)

This item was removed from the agenda by staff.

AMICUS/EHRLICH/CITY OF CULVER CITY (13A.01)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council approve amicus participation in Ehrlich v. City of Culver City, California Supreme Court S033642, at no cost to the Town. Carried unanimously.

AMICUS/BEHRENS/PELLETIER (13B.01)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council approve amicus participation in Behrens v. Pelletier, United States Supreme Court, at no cost to the Town. Carried unanimously.

AMICUS/CALIFORNIA BEVERAGE RETAILERS/CITY OF OAKLAND (13C.01)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council approve amicus participation in California Beverage Retailers v. City of Oakland, First District Court of Appeals, at no cost to the Town. Carried unanimously.

CAPITAL IMPROVEMENT PROGRAM 1995-2000/RESOLUTION 1995-59 (14.06)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1995-59 entitled, RESOLUTION OF THE TOWN OF LOS GATOS APPROVING 1995-2000 CAPITAL IMPROVEMENT PROGRAM. Carried unanimously.

MARK LINDER/ASSISTANT TOWN MANAGER/COMMENDED/RESOLUTION 1995-60 (15.42)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1995-60 entitled, RESOLUTION OF THE TOWN OF LOS GATOS COMMENDING MARK LINDER FOR HIS OUTSTANDING SERVICE TO THE TOWN OF LOS GATOS AS ASSISTANT TOWN MANAGER. Carried unanimously.

OCS TECHNOLOGIES/CHANGE ORDER 2B/RESOLUTION 1995-61 (16.28)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1995-61 entitled, RESOLUTION OF THE TOWN OF LOS GATOS AUTHORIZING THE TOWN MANAGER TO EXECUTE CHANGE ORDER 2B FOR THE AGREEMENT WITH OCS TECHNOLOGIES, INC. Carried unanimously.

HEWLETT PACKARD/SUPPORT SERVICES/RESOLUTION 1995-62 (17.28)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1995-62 entitled, RESOLUTION OF THE TOWN OF LOS GATOS AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT WITH HEWLETT PACKARD FOR SUPPORT SERVICES. Carried unanimously.

SANTA CLARA COUNTY CITIES ASSOCIATION BY-LAWS/RESOLUTION 1995-63 (18.17)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1995-63 entitled, RESOLUTION OF THE TOWN OF LOS GATOS APPROVING SANTA CLARA COUNTY CITIES ASSOCIATION BY-LAWS AND AUTHORIZING TOWN MANAGER TO EXECUTE AGREEMENT FOR THE ADMINISTRATION OF THE SANTA CLARA COUNTY CITIES ASSOCIATION, A SECTION OF THE PENINSULA DIVISION OF THE LEAGUE OF CALIFORNIA CITIES. Carried unanimously.

SANTA CRUZ AVE N 662/R&M PROPERTIES/RENTALS/RESOLUTION 1995-64 (19.09)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1995-64 entitled, RESOLUTION OF THE TOWN OF LOS GATOS GRANTING APPEAL OF PLANNING COMMISSION DECISION TO DENY A REQUEST TO MAINTAIN AN EIGHT UNIT APARTMENT COMPLEX IN THE C-1 ZONE INsofar AS TO CONTINUE THE APPEAL FOR A PERIOD OF SIX (6) MONTHS AND TO ALLOW THE CURRENT USE THAT IS NOT PERMITTED BY CURRENT ZONING TO CONTINUE DURING THAT TIME, SUBJECT TO CONDITIONS: CONDITIONAL USE PERMIT APPLICATION U-94-4. Carried unanimously.

SANTA ROSA HEIGHTS/TRACT 8400/OPEN SPACE MAINTENANCE DISTRICT AD VALOREM ASSESSMENT RATE/RESOLUTION 1995-65 (20.14)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1995-65 entitled, RESOLUTION OF THE TOWN OF LOS GATOS LEVYING THE AD VALOREM SPECIAL ASSESSMENT IN OPEN SPACE MAINTENANCE DISTRICT #2. Carried unanimously.

**VASONA HILLS/TRACT 8280/OPEN SPACE MAINTENANCE DISTRICT
AS VALOREM ASSESSMENT RATE/RESOLUTION 1995-66 (21.14)**

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1995-66 entitled, RESOLUTION OF THE TOWN OF LOS GATOS LEVYING THE AD VALOREM SPECIAL ASSESSMENT IN OPEN SPACE MAINTENANCE DISTRICT #3. Carried unanimously.

VERBAL COMMUNICATIONS

There was no one from the audience to speak on issues not on the agenda.

HEARINGS

BRUSH ABATEMENT/PUBLIC NUISANCE/RESOLUTION 1995-67 (22.26)

Mayor O'Laughlin stated that this was the time and place duly noted for public hearing to consider the abatement of brush which has been declared a public nuisance.

The following person from the audience spoke to this issue:

Himanshu Vaishnav, 16050 Greenridge Terrace, claimed his brush held the earth in place and was needed close to his home due to the slope of his property. Staff and Central Fire will contact Mr. Vaishnav.

No one else from the audience addressed this issue.

Motion by Mrs. Benjamin, seconded by Mr. Blanton, that Council close the public hearing. Carried unanimously.

Motion by Mrs. Lubeck, seconded by Mr. O'Laughlin, that Council adopt Resolution 1995-67 entitled, RESOLUTION OF THE TOWN OF LOS GATOS OVERRULING OBJECTIONS AND ORDERING ABATEMENT OF BRUSH AS A PUBLIC NUISANCE. Carried unanimously.

UTILITY USERS TAX/GAS, ELECTRIC, TELEPHONE, CABLE, WATER (23.05)

Mayor O'Laughlin stated that this was the time and place duly noted for public hearing to consider reintroduction of amended ordinance to establish a 2% utility users tax on gas, electric, telephone, cable and water.

Comments from the Town Manager:

Mr. Knapp gave a slide presentation of an overview of the information garnered from the Town's Community Financial Forums held last summer and the realities of the financial bind placed upon the Town by the State and County. Comparison of revenues and expenditures was made. The largest factor in our current fiscal crisis is the State take away program. The lack of sufficient funds for maintenance of infrastructure was discussed. He mentioned the tight budget controls that have been implemented in an attempt to keep the Town's budget balanced during these severe revenue shortfalls. Staff has been reduced about 25% in the last four years. Departments have been consolidated. Outside contracting is taking place. Automation has taken the place of additional staff and has improved service levels. Analysis of property tax and sales tax revenues was made as the State has taken back more of these funds. Commercial development is limited in the boundaries of Los Gatos. The large spaces for viable development

HEARINGS CONTINUED

UTILITY TAX CONT.

Manager's Comments continued:

are not on the market at the present time but could generate revenues if effectually used. The Town and community review all potential development with the view that it should enhance the quality of life for Los Gatos. One of the local taxes and revenue which the Town keeps for its own needs and which the State is unable to take away is the transient occupancy tax. The other strictly local revenue support which the community has full jurisdiction over is a utility users tax. The citizens who participated in the financial forums requested present levels of service be continued and quality of life remain stable. Of all revenue sources considered the utility users tax was considered the most feasible and controllable for the needs of our local municipality. The charm of the total community was considered of primary importance and a non obtrusive revenue source was the one chosen by the majority of the financial forum participants.

Question from Mrs. Lubeck: Why does this proposal not have to go to the people for a vote?

Answer from Mr. Anderson, Town Attorney: Prop 13, an amendment to the state constitution, capped property assessments and required a 2/3 vote of the people on any special local taxes. Taxes for general fund and operating expense purposes have no restrictions placed upon them and do not have to be placed on a ballot. Those revenues which may remain completely within our own community and go into the general fund are transient occupancy taxes, business licence taxes, transfer taxes, assessment districts and utility taxes, and they do not require a vote of the people.

The following people from the audience spoke to this issue:

Bill Quigley, 103 Belridge Drive, spoke for the tax with a five year sunset clause and noted the loans on the manager's and police chief's homes.

Jo Bartlett, 166 Oak Hill Way, asked for a five year sunset clause and a special election.

Ann Holley, 116 Hilow Court, urged Council adoption of the ordinance and the elimination of the special election.

Wilbur Lindsay, 328 Harding Ave., spoke against the tax and asked for an election.

Ed Gamble, P.O. Box 477, inquired about the new police vehicles. Noted that the various telephone services have different rates, and charges for the utility tax will vary on the part of town one lives in.

Rick Nelsick, 340 Bella Vista, commended staff on the look of the Town especially after the many visitors this weekend. Opposes the tax but if there must be a revenue source a sunset utility tax is best.

Anthony McKeon, 116 Sierra Linda, supports the 2% utility tax with a five year sunset clause. Spoke about the need to repair the infrastructure.

Dale Hill, 150 Robin Way, spoke against the vote due to the cost of an election and the amount of resources that will be expended in campaigning for this election. Expressly noted that the Town has made every effort to notify and include the citizens in the process to identify and solve its financial crisis. She asked that Council take a stand and pass the ordinance now.

Robert Wales, 101 Casa Grande, asked for an election on this issue and was in favor of the sunset clause.

HEARINGS CONTINUED

UTILITY TAX CONT.

Speakers continued:

Egon Jensen, 182 Lester Lane, spoke of development and fees. He submitted a letter for the record with suggestions for cost savings. He would prefer an election.

Lela Austin, 14742 Eastview Drive, opposes the utility tax and prefers an election. Spoke of downsizing to save and asked for alternatives to the tax.

Shirley Henderson, Antiquarium, 98 W. Main St., spoke for the town employees and supported adoption of the ordinance without an election.

Helga Ruby, 18400 Overlook Road #9, representing the League of Women Voters, supported the ordinance and did not wish to see the expense of an election.

Emma Vargo, 15400 Winchester Blvd., spoke of economy in the budget and is not in favor of the utility tax. Supports an election.

Bill Ferguson, 245 Vista de Sierra, asked that the budget be cut and the utility tax go to the people for a vote. Supports a five year sunset clause.

Marlene Lamb, 105 Arroyo Grande Way, asked that economies be taken.

Allan Beattie, Sr., 76 Alpine Ave., preferred an election and a sunset clause on the utility tax.

Ralph Fitzgerald, 14960 Larga Vista Drive, preferred a sunset clause and an election.

Mrs. Katan, 108 Auzerias Court, spoke in favor of living within a strict budget, placing the question of a utility tax on the ballot and having a sunset clause.

Marvin Smith, 237 Plaza La Pasada, spoke against the tax and for an election.

Mike Abkin, 122 El Olivar, spoke of the prompt need for the ordinance adoption so as to infuse the infrastructure with some immediate funds. The deterioration is beginning to multiply upon itself and needs to be attended to now.

Kurt Lemons, 54 N. Santa Cruz Ave., was in favor of utility tax for support of the current service level.

Lorraine West, 18 Oak Hill Way., spoke against the excessive and unnecessary use of the police department.

Joe Hargett, 95 Church Street, is in favor of the utility tax as an emergency measure to offset the immediate infrastructure needs of the Town. Need to relieve the fiscal crisis.

Mary Kloet, 229 Wilder Ave., spoke for an election on this issue.

Joe Pirzynsky, 350 Los Gatos Blvd., spoke in favor of immediate adoption of the tax and requested that the Town and Council correct the misinformation that is in circulation.

Charlene Boulais, 307 West Main, feels strongly that this issue should go to the vote.

No one else from the audience addressed this issue.

Council and staff comments:

Mrs. Lubeck noted that hearings have been held on the Capital Improvement Program during the last month and it was pointed out in those reports and studies that it will take 9.9 million dollars over the next five years to bring the streets back to the condition we would like them to be. At this time the amount that is going into street repair will not keep us on target and the street conditions will continue to deteriorate.

HEARINGS CONTINUED

UTILITY TAX CONT.

Council and staff comments continued:

Mr. Knapp the report on this topic, May 10, 1995, Item 5 of the May 15th agenda, specifically quantifies the impact resources will have on the streets. Metropolitan Transportation Commission Report is also included with their suggestions for a pavement management program. These reports are available from the Manager's and Clerk's Offices.

Mr. Attaway noted the Town's decline in the Commission rating schedule and the need to bolster the resources available for street repair. He asked to keep the vote on the budget separate from the question of the utility tax. If the utility tax is passed Council can determine whether to add back into the adopted budget.

Mr. Blanton referred to the 6.5 million dollars in the progressive alternative for road repair which would mean placing \$560 thousand a year into the CIP over and above what we are putting in it at the current time. He also commented that if Council adopted the present budget he was not willing to proceed with the utility tax.

Mrs. Benjamin spoke of the sewers and retaining walls that are failing and need repair. Once failed they will need to be replaced at far more cost. Noted that the restrictions and the requirements that the Town imposes create an ambiance that is attractive to many people including the residents and business owners. This service level and code enforcement is costly and those benefiting from the ambiance and service level should be willing to pay the extra cost or allow themselves to become like their neighboring communities and allow increased density on property and additional commercial development. The street trees, sidewalk repairs and other beautification programs carry a cost but at the same time they help keep our property values up.

Mr. Anderson noted that this evening's meeting was the first public hearing to be held concerning the utility tax ordinance. The second hearing is noticed for July 17, 1995.

Mayor O'Laughlin requested that Council keep the hearing of July 17th as scheduled and also continue this evening's hearing to June 19, 1995. He noted the five year sunset provision and the need of future Council to review and adopt another ordinance if needed. He asked if rates would be different according to which telephone service was being used.

Mrs. Lubeck noted five year sunset; circulation of information; police department cuts; election held.

Motion by Mrs. Benjamin, seconded by Mr. Attaway, that Council continue this public hearing two weeks to June 19, 1995 and then to continue it again to July 17, 1995. Carried unanimously.

MARK LINDER/COMMENDATION/SERVICE AS ASSISTANT TOWN MANAGER (000.42)

Mayor O'Laughlin presented Town Commendation to Mark Linder for his service to the Town while serving as the Town's Assistant Manager. His many projects over the past four years were enumerated such as improving the annual budget process, establishing a viable financial future for the Town through community forums, organizing the cable television program, and managing the Los Gatos Creek Trail construction project among others.

June 5, 1995
Los Gatos, California

UNIVERSITY AVE 104/FEE ASSESSMENT (08.09)

Bert Millen, 104 University Ave., asked that his fees be reduced for the building repair of his business. He asked about the cost of adopting a new zoning ordinance.

Motion by Mr. Blanton, seconded by Mr. O'Laughlin, that Mr. Millen take this issue back to the Planning Commission with the notation that his time limit for appeal be waived since his question had been before Council for some time without resolution. Carried unanimously.

POLICIES/TOWN COUNCIL (07.10)

Motion by Mr. Attaway, seconded by Mr. Blanton, that Council refer the report to staff and the Planning Commission for formal adoption with the exception of Item F2. From one to three trees may replace one removed tree on a small lot at the discretion of the Parks, Forestry and Maintenance Department.

COUNCIL MEETING SCHEDULE 1995-96 (24.10)

Motion by Mr. Blanton, seconded by Mr. Attaway, that Council approve the Town Council Meeting Schedule for 1995-96 Fiscal Year, with the possibility of cancelling the August 21, 1995 meeting and noting that the February 12, 1996 Study Session was a mistaken notation and is to be deleted. Carried unanimously.

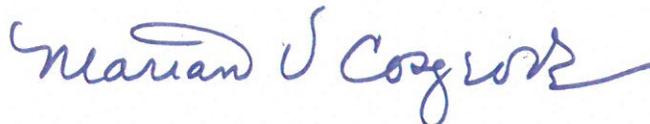
COUNCIL COMMITTEES/WEST VALLEY SANITATION (25.20)

Randy Attaway noted that the appointment to the West Valley Sanitation District Committee should always be a two year appointment so that the representative has time to learn the issues and to be able to make informed decisions beneficial to Los Gatos by the second year.

ADJOURNMENT

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that this evening's meeting be adjourned at 10:39 a.m. Carried unanimously.

ATTEST:



Marian V. Cosgrove
Town Clerk

TOWN OF LOS GATOS
CALIFORNIA
TOWN COUNCIL/PARKING AUTHORITY
June 12, 1995
Minutes

TOWN COUNCIL

The Town Council/Parking Authority of the Town of Los Gatos met in the Council Chambers of the Town Hall, 110 East Main Street, at 7:30 p.m., Monday, June 12, 1995, in **regular session**.

ROLL CALL

Present: Randy Attaway, Joanne Benjamin, Steven Blanton,
Linda Lubeck and Mayor Patrick O'Laughlin.

Absent: None.

PLEDGE OF ALLEGIANCE

Given by all in attendance.

CLOSED SESSION

Mayor O'Laughlin stated that the Council had not met in Closed Session this evening.

TREASURER'S REPORT (01.V)

Informational report submitted by the Treasurer to the Council as of March 31, 1995, was received and filed.

9510 PROJECT/ROBERTS ROAD PAVING AND SIDEWALK RECONSTRUCTION

PLANS & SPECS/AWARD OF CONTRACT/COLLISHAW CONST/RESOLUTION 1995-68 (02.35)

Motion by Mr. Blanton, seconded by Mr. Attaway, that Council adopt Resolution 1995-68 entitled, RESOLUTION OF THE TOWN OF LOS GATOS APPROVING PLANS AND SPECIFICATIONS, AWARDED CONTRACT TO LOWEST RESPONSIBLE BIDDER, AND AUTHORIZING TOWN MANAGER TO EXECUTE AGREEMENT WITH COLLISHAW CONSTRUCTION FOR PROJECT 9510-ROBERTS ROAD PAVING AND SIDEWALK.

Carried unanimously.

STORM DAMAGE/MARCH-APRIL 1995/FEMA-1046 DR-CA/RESOLUTION 1995-69 (03.37)

OFFICE OF EMERGENCY SERVICES FOR FINANCIAL ASSISTANCE

Motion by Mr. Blanton, seconded by Mr. Attaway, that Council adopt Resolution 1995-69 entitled, RESOLUTION OF THE TOWN OF LOS GATOS AUTHORIZING THE TOWN MANAGER TO FILE AN APPLICATION WITH THE OFFICE OF EMERGENCY SERVICES FOR FINANCIAL ASSISTANCE. Carried unanimously.

HEARING

**PRELIMINARY 1995-96/OPERATING BUDGET/CDBG FUNDS (04.06)
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS**

Mayor O'Laughlin stated that this was the time and place duly noted for public hearing to consider Preliminary 1995-96 Operating Budget including the use of Community Development Block Grant Funds.

Town Manager, David Knapp, gave an overview of the reductions that could be made in the budget due to reduced revenues of \$485,000. The suggested reductions in services and staff were: Closing the Library the week before Christmas; Reduce the code Compliance Officer to half time; Eliminate the ANET officer; Eliminate on e motorcycle officer; Reduce the tree trimming contract to an as needed basis; Cut back 10% in Community Grants Program; Close the Library on Fridays. These suggestions were addressed in this evening's staff report with some additional suggestions. Utility users tax and parking fees were two areas mentioned whereby revenues could be raised to offset the General Fund short fall. Both options would raise a proportionate amount each year.

Council Comments:

Mrs. Benjamin requested that staff analyze the suggested budget cuts for liability issues. If they may tend to raise liability costs they will not be wise cuts. Mr. Blanton requested further information on the parking programs of other cities for the August meeting. Mayor O'Laughlin requested that the Parking Commission report to Council in August regarding various options concerning parking meters or attendant gated parking.

The following people from the audience spoke to this issue:

Barbra Toren, 15933 Orange Blossom Drive, Executive Director of Downtown Association, spoke of self funding of the organization within a six month time frame. A marketing plan is underway. Music in the Plaza is a major summer tradition. Spoke of a 1-800 number for general information regarding the downtown.

Sandy Decker, 207 Belmont Ave, spoke of the ambiance of the Town, and the planning that is needed to preserve the years of work already in place. Asked for additional staffing in the Planning Department and noted the reduction in staff that has taken place in that department since the budget cuts. **Support of the utility users tax was expressed and parking attendant at Lot 4.**

Laura Nachison, 115 Ann Arbor, spoke of the lack of staffing in the Planning Department and requested no additional cuts in that department. **She supported the utility tax.**

Elizabeth Smith, 17551 Vineland, Monte Sereno, told of the work being done on the Boulevard Community Alliance, and the need for support of the Boulevard plan and of the vision for that section of Town. **She supported the utility users tax for the needed funding on projects already initiated by the Planning Department.**

Sue Ellen Sterling, 21900 Summit Road, spoke of the Downtown Beautification Program and the need to establish and work with the Newsrack Committee. **She supported the utility users tax as a means to fund this planning concern.**

HEARING CONTINUED

OPERATING BUDGET CONT.

Speakers continued:

Steve Boersma, 2173 Rosswood Drive, San Jose, representing the Boulevard Alliance, spoke of the need for additional Planning Department staff so as to work with the community concerning Los Gatos Boulevard plans. The utility tax is the suggested method for funding this project.

Mark Brodsky, 17306 Grosvenor Court, Monte Sereno, suggested that Council take the step for the utility tax as a method of funding the planning of the Los Gatos Boulevard concepts. Noted that these improvements and beautifications will raise additional sales tax revenues and increase the value of the neighboring residential areas.

Donald Peck, Oak Knoll Drive, Monte Sereno, representing the Los Gatos Boulevard Alliance, supported the utility tax, and parking meters.

Frank Treseader, 408 Bella Vista, spoke for the Museum Association, and requested the proposed funding for the association.

Mary Kloet, 229 Wilder, supports the utility tax as an answer to the sewer and street problems downtown. She requested the utility tax to support the infrastructure of the Town. She is strongly in favor of taking the question of the utility users tax to the vote of the people.

No one else from the audience addressed this issue.

Motion by Mr. Attaway, seconded by Mr. Blanton, that Council close the public hearing. Carried unanimously.

Council Comments:

Mr. Blanton favored an election if Council moves forward with the Utility Users Tax. He noted he favors freezing one position in Planning, cutting the second motorcycle, having Code Compliance handled by a Community Service Officer, reducing to a half time Arborist, and not funding the Downtown Association. He would allocate the additional \$2,300 in CDBG funds to the Museum Association.

Mrs. Lubeck favored the use of reserves for one time expenses, requesting staff to identify the additional \$9,000. There appears to be more than enough rolling forward from last year so that there would be no need to have further cuts or additional repositioning of staff such as the CSO's assigned the Code Enforcement duties. She would like a Senior Planner added back to staff and supports the \$2,135 CDBG funds allocation to the Museum Association.

Mayor O'Laughlin strongly supports the need for a Senior Planner replacement in the Planning Department particularly since Old Town will be undergoing renovation and the encouragement of the Los Gatos Boulevard Community Association is essential. The Town needs wherewithal to keep the vision alive on the Boulevard.

Mr. Attaway voiced the need to invest in the economic future of our Town and the necessity to find a vehicle to do that. The suggestions have been parking meters, parking attendants, utility users tax, and staying with the budget. At this time he supports the use of one time funds carried over from last year but does not want to use the fund balance for economic uncertainty.

HEARINGS CONTINUED

OPERATING BUDGET CONT.

Motion by Mrs. Lubeck, seconded by Mr. Attaway, that Council approve the use of the funds rolled over from last year's budget to fund the \$40,000 for the Downtown Association, and the \$21,600 in Capital Purchases. Staff to make some \$9,000 cuts somewhere and that the \$2,135 remainder in the CDBG funds be allocated to the Museum Association. Investing in our economic future is of primary importance especially the need to help the Boulevard Alliance with the vision for that area and the priority to support the Planning Department. Many special projects are slowing or stalled because of lack of trained personnel to work on plans and sufficient staff to carry through on the projects. Carried unanimously.

Mayor O'Laughlin requested that staff write to the Downtown Association and inform them about the Association's budget allocation and the Council's anticipation that as of January 1996 the Association will have become self-funding.

COUNCIL COMMITTEES

Mrs. Benjamin noted that the Santa Clara County Cities Association had their meeting last week and she noted the theme of the evening was regional cooperation, such as the animal control program, Transit Assist and street sweeping with Monte Sereno. As the county has their short fall of \$34,000,000 the Town of Los Gatos will be feeling the impact of this revenue deficit as the county will be unable to maintain its former service levels.

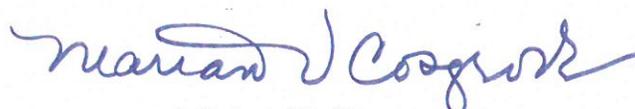
Mr. Knapp noted that the County does funding for non profits which will be loosing funds. Non-profits are a very efficient way to deliver services to those in need. Both the private and public sectors charge much more to deliver those services.

Mr. Attaway reported that West Valley Sanitation District is doing a sewer upgrade on University Ave. A newly hired company will be inserting a sleeve inside the existing pipes. A bond for full replacement of sewers and street repair will be carried in event of project failure.

ADJOURNMENT

Motion by Mr. Blanton, seconded by Mrs. Lubeck, that this evening's meeting be adjourned at 8:46 a.m. Carried unanimously.

ATTEST:



Marian V. Cosgrove
Town Clerk

**TOWN OF LOS GATOS
CALIFORNIA
TOWN COUNCIL/PARKING AUTHORITY
November 20, 1995
Minutes**

TOWN COUNCIL

The Town Council/Parking Authority of the Town of Los Gatos met in the Council Chambers of the Town Hall, 110 East Main Street, at 7:35 p.m., Monday, November 20, 1995, in regular session.

ROLL CALL

Present: Randy Attaway, Joanne Benjamin, Steven Blanton,
Linda Lubeck and Mayor Patrick O'Laughlin.

Absent: None.

PLEDGE OF ALLEGIANCE

Given by all in attendance.

CLOSED SESSION

Mayor O'Laughlin announced that Closed Session was not held this evening.

TOWN EMPLOYEE/RANDY VILLATA/COMMENDATION (ZZ.44)

Mayor O'Laughlin presented a commendation to Randy Villata for his fifteen years of service in the police department of the Town of Los Gatos. Mr. Villata accepted the commendation and thanked the Mayor for the opportunity to serve.

PLANNING COMMISSIONER/ALLEN RUDOLPH/COMMENDATION (ZZZ.20)

Mayor O'Laughlin noted that Mr. Rudolph was unable to be present for his commendation due to illness. Mr. Rudolph will receive his commendation at a later date.

CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING (00.06)

Mayor O'Laughlin presented the award for Excellence in Financial Reporting to Michele Braucht, Town Finance Director, in recognition of her professional work on the Annual Financial Report of June 30, 1994.

MAYOR'S OUTGOING COMMENTS (000.10)

Mayor O'Laughlin noted the dedication and cooperation of staff, Council and community on the financial forums which were held to consider the Town's financial well being. These dialogues led to discussions and consideration of the adoption of a utility tax and became educational and informative exercises for everyone involved. The severe financial restraints faced by the Town were reviewed and a variety of solutions were offered for solving these problems. The Police Department contract with Monte Sereno being one of the many financial avenues explored and initiated in the spirit of financial security and conservative resource management.

APPOINTMENT OF MAYOR AND VICE MAYOR FOR 1996 (000.10)

Mayor O'Laughlin nominated Joanne Benjamin to be Mayor for the coming year, seconded by Steven Blanton. Mrs. Benjamin declined and nominated Randy Attaway for Mayor, seconded by Linda Lubeck. Mr. Attaway said he would accept the nomination if Mrs. Benjamin would be the Vice-Mayor. The previous nomination was withdrawn by Mr. O'Laughlin.

Motion by Mrs. Lubeck, seconded by Mr. O'Laughlin, that Randy Attaway be Mayor for the year 1996 and Mrs. Benjamin be the Vice-Mayor. Carried unanimously.

SCHEDULE OF PUBLIC HEARINGS (01.01)

Informational report regarding currently scheduled public hearings was received and filed.

COUNTY REFERRALS (02.47)

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council accept staff recommendations on County Referrals as follows:

REF. #	LOCATION	APPLICANT	REQUEST	RECOMMENDATION
661	10 Eagle Crest Heights	Dotter	Building Site/Design Review	Approval/One Condition
6138	16731 Loma Ave.	Lewis	Variance	Approval/One Recommendation
5814	S. Side Bear Creek Rd.	Denevi	Draft EIR Review	None Required

Carried unanimously.

PAYROLL/RATIFICATION/OCTOBER-NOVEMBER 1995 (03.V)

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council ratify the check register for the payroll of October 22, through November 4, 1995, in the amount of \$280,857.64, paid on November 10, 1995. Carried unanimously.

ACCOUNTS PAYABLE/RATIFICATION/NOVEMBER 1995 (04.V)

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council ratify the accompanying check registers for accounts payable invoices paid on November 3, and November 10, 1995 in the amount of \$382,933.95. Carried unanimously.

TREASURER'S REPORT/SEPTEMBER 1995 (05.V)

Informational report from the Town Treasurer as of September 30, 1995 was received and filed.

SMYTHE EUROPEAN GRANT ALLOCATION/COMMUNITY GRANT RECIPIENTS (06.19)

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council allocate \$3,000 of the Smythe European Grant to the following Community Grant Recipients: Santa Clara County Senior Nutrition Program (\$500); San Jose State University Foundation Health Place (\$500); A Place for Teens (\$500); Emergency Housing Consortium (\$500); Family Services Association (\$500); Live Oak Adult Day Services (\$500). Carried unanimously.

RENT MEDIATION PROGRAM/1994-95 (07.14)

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council accept informational report regarding 1994-95 Rent Mediation Program. Carried unanimously.

LOS GATOS BOULEVARD/CONCEPTUAL DESIGN/GENERAL PLAN COMMITTEE (08.47)

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council approve transfer of \$400.00 from Account 100-36010 to Account 3150-61004 for Wildan Associates to prepare an operational analysis of the Los Gatos Boulevard conceptual design plan. Carried unanimously.

FAMILY SERVICES ASSOCIATION/COMMUNITY SERVICE/RESOLUTION 1995-154 (10.19)
Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council adopt Resolution 1995-154 entitled, RESOLUTION OF THE TOWN OF LOS GATOS AMENDING LEASE AGREEMENT BY AND BETWEEN THE TOWN OF LOS GATOS AND FAMILY SERVICE ASSOCIATION, INC., REPRESENTING THE LOS GATOS DOWNTOWN NEIGHBORHOOD CENTER, and amending Community Services Department budget for the year 1995-96. Carried unanimously.

9514 PROJECT/TREE PRUNING AND REMOVAL/RESOLUTION 1995-155 (11.35)
Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council adopt Resolution 1995-155 entitled, RESOLUTION OF THE TOWN OF LOS GATOS TO AUTHORIZE TOWN MANAGER TO EXECUTE AN AGREEMENT WITH DAVEY TREE CARE EXPERTS TO COMPLETE PROJECT 9514 - TREE PRUNING AND REMOVAL. Carried unanimously.

LANDSCAPING/LARK & WINCHESTER/PROJECT 473CH185/RESOLUTION 1995-156 (12.35)
Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council adopt Resolution 1995-156 entitled, RESOLUTION OF THE TOWN OF LOS GATOS APPROVING PLANS AND SPECIFICATIONS FOR PROJECT 473CH185 LARK AVE. AND WINCHESTER BLVD. LANDSCAPING - PHASE 1. Carried unanimously.

SIGNAL MAINTENANCE SERVICES/PEEK TRAFFIC CO/RESOLUTION 1995-157 (13.28)
Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council adopt Resolution 1995-157 entitled, RESOLUTION OF THE TOWN OF LOS GATOS TO AUTHORIZE TOWN MANAGER TO EXECUTE AGREEMENT WITH PEEK TRAFFIC COMPANY FOR SIGNAL MAINTENANCE SERVICES. Carried unanimously.

VEHICLE IMMOBILIZER/POLICE DEPARTMENT (14.09)
This item was removed from the agenda.

CUPOLA RESTORATION/9503 PROJECT/OAK MEADOW/RESOLUTION 1995-158 (15.35)
Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council adopt Resolution 1995-158 entitled, RESOLUTION OF THE TOWN OF LOS GATOS AUTHORIZING TOWN MANAGER TO EXECUTE AGREEMENT WITH CAREY & CO., INC. FOR CONSULTING SERVICES ON LYNDON CUPOLA RESTORATION PROJECT 9503 (475CUPOK) AT OAK MEADOW PARK. Carried by a vote of 4 ayes. Mrs. Benjamin voted no because the project was \$3,800 over the \$50,000 budgeted grant funding.

LOS GATOS BOULEVARD 15553/D'AMICO TIRE SERVICE COMPANY PAINT BOOTH APPEAL/RESOLUTION 1995-159 (16.09)
Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council adopt Resolution 1995-159 entitled, RESOLUTION OF THE TOWN OF LOS GATOS GRANTING APPEAL OF PLANNING COMMISSION DECISION APPROVING A REQUEST TO OPERATE AUTOMOBILE RELATED SERVICES INCLUDING RETAIL TIRE SALES AND SERVICE, BODY WORK, GENERAL AUTOMOTIVE REPAIR, AND AUTOMOBILE PAINTING AND DETAILING WITHIN AN EXISTING AUTOMOBILE SERVICE FACILITY IN THE CH ZONE. Carried unanimously.

LOS GATOS BOULEVARD 15166/OFFICE DEPOT/RESOLUTION 1995-160 (17.09)

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council adopt Resolution 1995-160 entitled, RESOLUTION OF THE TOWN OF LOS GATOS DENYING APPEAL OF PLANNING COMMISSION DECISION APPROVING PLANS TO DEMOLISH AN EXISTING COMMERCIAL STRUCTURE AND TO CONSTRUCT AN APPROXIMATELY 28,000 SQUARE FOOT RETAIL STORE IN THE CH ZONE. Carried unanimously.

VERBAL COMMUNICATIONS

Thank You to Outgoing Mayor:

Mardi Bennett, 38 Alpine, thanked Pat O'Laughlin for his work as the Mayor this past year.

BELOW MARKET PRICE/IN-LIEU FEES/RESIDENTIAL UNITS (18.47)

Mayor Attaway stated that this was the time and place duly noted to consider report on Los Gatos Estates, Incorporated's request to use required below market price in-lieu fees to construct below market price residential units, which was received and filed.

William Hirschman, 230 Old Blossom Hill Road, spoke of a mixed use project on Los Gatos Boulevard at the corner of Shannon in which a greater number of BMP units might be made available.

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council direct staff to place the subject of Below Market Price Units Program on the agenda for discussion at the Council Workshop January 6, 1996. Carried unanimously.

BUILDING REGULATIONS/TOWN CODE AMENDMENT/ORDINANCE INTRODUCTION (19.28)

Mayor Attaway stated that this was the time and place duly noted to consider introducing ordinance rescinding, amending and adding to the Code of the Town of Los Gatos, Chapter 6 - Building Regulations.

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council waive the reading of the Draft Ordinance. Carried unanimously.

The Town Clerk read the Title of the Draft Ordinance.

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council introduce Draft Ordinance entitled, ORDINANCE OF THE TOWN OF LOS GATOS AMENDING ARTICLES III THROUGH X OF CHAPTER 6 OF THE TOWN OF LOS GATOS TOWN CODE RELATED TO BUILDING REGULATIONS AND TO ADOPT THE 1994 CALIFORNIA STATE BUILDING STANDARDS REGULATIONS WITH THE 1995 CALIFORNIA STATE BUILDING STANDARDS REGULATIONS WITH THE 1995 STATE OF CALIFORNIA AMENDMENTS AND TOWN AMENDMENTS (UNIFORM BUILDING CODE, UNIFORM HOUSING CODE, UNIFORM PLUMBING CODE, NATIONAL ELECTRICAL CODE, UNIFORM CODE FOR ABATEMENT OF DANGEROUS BUILDINGS, UNIFORM MECHANICAL CODE, AND UNIFORM CODE FOR BUILDING CONSERVATION). Carried unanimously.

MILLENNIUM CELEBRATION/DECEMBER 31, 1999/COMMUNITY FOUNDATION (20.23)

Mayor Attaway stated that this was the time and place duly noted to consider proposal by the Los Gatos Community Foundation, Incorporated to sponsor the "Millennium Celebration December 31, 1999."

MarLyn Rasmussen, 119 Tait, spoke of the need to initiate the making of provisional plans for the Millennium Celebration. Contracts for locations and equipment need to be placed shortly because many other similar events will be taking place across the valley and the resources will be already spoken for.

Council consensus that the Foundation return to Council with annual reports on the Millennium Celebration plans; that the reports occur more often as the time of the celebration draws nearer; that Council recognize the ability of the Foundation to garner corporate backing and community support by acquiring Council's support for the concept at this time.

Motion by Mr. Blanton, seconded by Mrs. Benjamin, that Council accept the proposal by the Los Gatos Community Foundation, Inc., to sponsor the "Millennium Celebration" December 31, 1999. Carried unanimously.

UTILITY USERS TAX/SPECIAL ELECTION/RESO 1995-161/ORDINANCE INTRO (21.21)

Mayor Attaway stated that this was the time and place duly noted to consider Utility Users Tax, call for special election, introduction of ordinance and budget amendment for election costs.

Robin Tolen, speaker representing the Los Gatos Chamber of Commerce, thanked the Town for support in the reorganization of the Chamber, and spoke in full support of the Utility Tax as proposed with the five year sunset clause.

Council Comments:

Pat O'Laughlin noted the time involved by the community in public forums and the conclusion reached to initiate a utility tax with a sunset clause. Due to judicial opinion the tax will need to go before the public for a vote. The Presidential Primary, March 26, 1996, appears to be the most logical time to place the measure on the ballot for public decision. **Steve Blanton** noted that although he does not support the utility tax he does support the decision to place it on a ballot for a vote of the people and agrees with the March Primary choice of election dates. **Randy Attaway** regarding the immediate need of placing the question of the utility tax on the ballot, noting the years of cut backs the Town has managed successfully and the community's desire to have services cut no further. **Joanne Benjamin** spoke of the Town's infrastructure needing complete restoration. The Town has deferred maintenance to the point that repair will no longer suffice and a more expensive replacement will be required.

Motion by Mrs. Lubeck, seconded by Mr. O'Laughlin, that Council adopt Resolution 1995-161 entitled, RESOLUTION OF THE TOWN OF LOS GATOS CALLING A SPECIAL MUNICIPAL ELECTION TO BE HELD IN THE TOWN ON MARCH 26, 1996; ORDERING THE SUBMISSION OF A MEASURE REGARDING A UTILITY USERS TAX TO THE VOTERS REGARDING THE UTILITY USERS TAX; REQUESTING THE SERVICES OF THE COUNTY REGISTRAR OF VOTERS; REQUESTING THE COUNTY BOARD OF SUPERVISORS TO PERMIT CONSOLIDATION OF THE SPECIAL MUNICIPAL ELECTION WITH THE STATEWIDE DIRECT PRIMARY ELECTION; SPECIFYING CERTAIN PROCEDURES FOR THE CONDUCT OF THE SPECIAL MUNICIPAL ELECTION; AND PROVIDING FOR GIVING NOTICE OF THE SPECIAL MUNICIPAL ELECTION. Carried unanimously.

UTILITY USERS TAX CONTINUED

The Town Clerk read the Title of the Draft Ordinance.

Motion by Mrs. Lubeck, seconded by Mr. O'Laughlin, that Council waive the reading of the Draft Ordinance. Carried unanimously.

Motion by Mrs. Lubeck, seconded by Mr. O'Laughlin, that Council introduce Draft Ordinance entitled, ORDINANCE OF THE TOWN OF LOS GATOS SUSPENDING OPERATION OF ARTICLE V, CHAPTER 25 (UTILITY USERS TAX) OF THE TOWN CODE AND AMENDING CHAPTER 25 TO PROVIDE THE ADMINISTRATIVE FRAMEWORK FOR A UTILITY USERS TAX IF APPROVED BY THE VOTERS OF THE TOWN. Carried unanimously.

Motion by Mrs. Benjamin, seconded by Mr. Attaway, that the ballot argument statement be drafted by Mr. O'Laughlin because of his legal experience as an attorney and by Mrs. Lubeck because of her financial experience as an accountant. (This argument to be ready for submittal to the Registrar of Voters by January 5, 1996.) Carried unanimously.

Motion by Mrs. Lubeck, seconded by Mr. O'Laughlin, that Council amend the 1995-96 operating budget to include \$7,500 for election expenses. Carried unanimously.

DEVELOPMENT APPLICATION FEES/MARDI & CARL BENNETT (09.05)

Mardi Bennett, 38 Alpine, explained the history of her application and requested a waiver of fees. She felt that the FAR formula had not been applied correctly to her property.

Benjamin Gardarian, 103 Cedarcrest, architect and realtor, representing the Bennetts, asked for waiver of fees and removal of restriction.

Council consensus that the mechanism for the application on this property is already in place to move forward for approval, with the possibility of going to the Planning Commission. That Council will deny request for waiver of development application fees.

TOWN COUNCIL MEETING SCHEDULE/1995-96 (22.10)

Council consensus to have staff request a change of date for hearings of one of the appeal applicants, from December 18, 1995 to January 16, 1996. Staff will contact 15294 Kennedy Road, regarding tennis court first; and 16330 Los Gatos Boulevard, Calvary Baptist Church construction second; for their written consent to changed hearing schedule. That the interviews scheduled for December 18, 1995 be moved to January 16, 1996.

Council consensus to incorporate the January 8, 1996 Strategic Plan Study Session with the January 6, 1996 Council Goals Workshop and hold that meeting January 6, 1996 at Service Center conference room. That the Study Sessions of March 25 and April 22 be combined to April 22, 1996 and run from 6 p.m. to 10 p.m. if staff is able to work those reports together. That the Budget Hearings of May 28 and May 29 be incorporated into one meeting and run from 6 p.m. to 10 p.m.

COUNCIL COMMITTEES (23.20)

Mayor Attaway noted that there were no Council committee reports this evening.

ADJOURNMENT

Motion by Mrs. Lubeck, seconded by Mr. Blanton, that this evening's meeting be adjourned at 9:38 p.m. Carried unanimously.

ATTEST:

Marian V. Cosgrove, Town Clerk:



**TOWN OF LOS GATOS
CALIFORNIA
TOWN COUNCIL/PARKING AUTHORITY
December 4, 1995
Minutes**

TOWN COUNCIL

The Town Council/Parking Authority of the Town of Los Gatos met in the Council Chambers of the Town Hall, 110 East Main Street, at 7:35 p.m., Monday, December 4, 1995, in regular session.

ROLL CALL

Present: Joanne Benjamin, Steven Blanton, Linda Lubeck,
Patrick O'Laughlin and Mayor Randy Attaway.

Absent: None.

PLEDGE OF ALLEGIANCE

Given by all in attendance.

CLOSED SESSION

Larry Anderson announced that Council had met in Closed Session prior to this evening's meeting to discuss a matter of anticipated litigation in which the plaintiffs may not be aware.

PLANNING COMMISSIONER/ALLEN RUDOLPH/COMMENDATION (XX.20)

Mayor Attaway presented a commendation from the Town to Allen Rudolph enumerating his many contributions during his years of service on the Planning Commission. Mr. Rudolph accepted his commendation and thanked the Council and Town for the opportunity to serve.

SENIOR DEPUTY TOWN CLERK/MARLYN RASMUSSEN, CMC/PRESENTATION (XXX.44)

Mayor Attaway presented the Certified Municipal Clerk's certificate to MarLyn Rasmussen, Senior Deputy Clerk of Los Gatos. Mrs. Rasmussen received her certificate and thanked Council and staff for their help and support as she worked toward this goal.

SCHEDULE OF PUBLIC HEARINGS (01.01)

Informational report regarding currently scheduled public hearings was received and filed.

COUNTY REFERRALS (02.47)

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council accept staff recommendations on County Referrals as follows:

REF. #	LOCATION	APPLICANT	REQUEST	RECOMMENDATION
6178	17311 Hicks Road	Iyer	Building Site	Approval

Carried unanimously.

PLANNING COMMISSION/PLANNING DEPARTMENT MONTHLY STATUS REPORT (03.47)

Informational report regarding activity of Planning Commission and Department was received and filed.

COUNCIL CALENDAR OF MEETINGS (04.10)

Informational item presenting future Town Meetings for Council and other Town Boards and Commissions was received and filed.

PAYROLL/RATIFICATION/NOVEMBER 1995 (05.V)

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council ratify the check register for the payroll of November 5 through November 18, 1995, in the amount of \$307,940.43 paid on November 22, 1995. Carried unanimously.

ACCOUNTS PAYABLE/RATIFICATION/NOVEMBER 1995 (06.V)

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council ratify the accompanying check registers for accounts payable invoices paid on November 17, and November 22, 1995 in the amount of \$318,170.51. Carried unanimously.

MINUTES OF NOVEMBER 20, 1995 (07A.V)

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council approve the Minutes of November 20, 1995 as submitted. Carried unanimously.

MINUTES OF NOVEMBER 27, 1995 (07B.V)

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council approve the Minutes of November 27, 1995 as submitted. Carried unanimously.

CLAIM REJECTION/BRUCE WEINSTEIN (08.01)

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council reject claim of Bruce Weinstein for alleged damage to personal property occurring on September 8, 1995. Carried unanimously.

SCHOOL CROSSING GUARDS/ALL CITY MANAGEMENT/RESOLUTION 1995-162 (10.09)

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council adopt Resolution 1995-162 entitled, RESOLUTION OF THE TOWN OF LOS GATOS AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT WITH ALL CITY MANAGEMENT SERVICES INC., FOR CROSSING GUARD SERVICES, and the changes from 3,000 hrs to 2,400 hrs. Carried unanimously.

SANTA ROSA HEIGHTS/LANDSCAPE & LIGHTING DISTRICT/RESOLUTION 1995-163 (12.28)

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council adopt Resolution 1995-163 entitled, RESOLUTION OF THE TOWN OF LOS GATOS INITIATING PROCEEDINGS TO ANNEX THE SANTA ROSA HEIGHTS OPEN SPACE MAINTENANCE DISTRICT INTO LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT #1, DESIGNATING IT AS SANTA ROSA HEIGHTS BENEFIT ZONE, AND DIRECTING PREPARATION OF AN ENGINEERING REPORT. Carried unanimously.

**VASONA HILLS SUBDIVISION/300 BLOSSOM HILL ROAD/TRACT 8280
LANDSCAPE & LIGHTING DISTRICT/VASONA HEIGHTS BENEFIT ZONE
OPEN SPACE MAINTENANCE DISTRICT/RESOLUTION 1995-164 (13.28)**

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council adopt Resolution 1995-164 entitled, RESOLUTION OF THE TOWN OF LOS GATOS INITIATING PROCEEDINGS TO ANNEX THE OPEN SPACE MAINTENANCE DISTRICT WITHIN TRACT 8280, VASONA HILLS SUBDIVISION, 300 BLOSSOM HILL ROAD, INTO LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT #1, DESIGNATING IT AS VASONA HEIGHTS BENEFIT ZONE, ESTABLISHING A POLICY ON CAPITAL REPLACEMENT AND CREDIT FOR PREEXISTING FUNDS IN OPEN SPACE MAINTENANCE DISTRICT #3, AND DIRECTING PREPARATION OF AN ENGINEERING REPORT. Carried unanimously.

UTILITY USERS TAX/SUSPENDED UNTIL APPROVED BY VOTERS/ORDINANCE 2007 (14.05)

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council adopt Ordinance 2007 entitled, ORDINANCE OF THE TOWN OF LOS GATOS SUSPENDING OPERATION OF ARTICLE V, CHAPTER 25 (UTILITY USERS TAX) OF THE TOWN CODE AND AMENDING CHAPTER 25 TO PROVIDE THE ADMINISTRATIVE FRAMEWORK FOR A UTILITY USERS TAX IF APPROVED BY THE VOTERS OF THE TOWN, which was introduced at the Town Council meeting on November 20, 1995. Carried unanimously.

HEARINGS

LOS GATOS BOULEVARD 16268/COMMERCIAL MODIFICATION/APPEAL (15.09)

Mayor Attaway stated that this was the time and place duly noted for public hearing to consider appeal of the Planning Commission's decision to approve the request to add a sunroom, gazebo and retail-restaurant use. Applicant requests to modify the approved hours of operation for the ice cream shop on property in the C-1 zone located at 16268 Los Gatos Boulevard. Conditional Use Permit Application U-94-7. Architecture and Site Application S-76-57A. Property Owners: Chan and Winnie Ng.

The following people from the audience spoke to this issue:

Chan Ng, owner of the property, spoke of his concerns and expectations for the property.

Marlon Smith, 125 Lansberry Court, spoke for his father and owner of the neighboring 7-11 property, and the problems involving parking.

Winnie Ng, 16268 Los Gatos Boulevard, asked Council's consideration of the proposal.

No one else from the audience addressed this issue.

Motion by Mr. Blanton, seconded by Mrs. Benjamin, to close the public hearing. Carried unanimously.

Motion by Mr. O'Laughlin, seconded by Mr. Blanton, to refer this item back to the Planning Commission for consideration of the hours of use and the election of use; and a comprehensive landscaping plan which takes into consideration the concepts of the Los Gatos Boulevard design charette. Carried unanimously.

HEARINGS CONTINUED

WEED ABATEMENT/RESOLUTION 1995-165/HEARING (16.27)

Mayor Attaway stated that this was the time and place duly noted for public hearing to consider the adoption of a resolution overruling objections and ordering abatement of weeds.

There was no one from the audience to speak on this issue.

Motion by Mr. Blanton, seconded by Mrs. Benjamin, to close the public hearing. Carried by a vote of 4 ayes. Mrs. Lubeck was absent.

Motion by Mrs. Benjamin, seconded by Mr. Blanton, that Council adopt Resolution 1995-165 entitled, RESOLUTION OF THE TOWN OF LOS GATOS OVERRULING OBJECTIONS AND ORDERING ABATEMENT OF WEEDS AS A PUBLIC NUISANCE. Carried by a vote of 4 ayes. Mrs. Lubeck was absent.

BUILDING REGULATIONS/TOWN CODE AMENDMENT/ORDINANCE 2008/HEARING (17.28)

Mayor Attaway stated that this was the time and place duly noted for public hearing to consider adoption of Ordinance rescinding, amending and adding to the Code of the Town of Los Gatos, Chapter 6 - Building Regulations.

There was no one from the audience to address this issue.

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, to close the public hearing. Carried unanimously.

Motion by Mrs. Lubeck, seconded by Mr. Blanton, that Council adopt Ordinance 2008 entitled, ORDINANCE OF THE TOWN OF LOS GATOS AMENDING ARTICLES III THROUGH X OF CHAPTER 6 OF THE TOWN OF LOS GATOS TOWN CODE RELATED TO BUILDING REGULATIONS AND TO ADOPT THE 1994 CALIFORNIA STATE BUILDING STANDARDS REGULATIONS WITH THE 1995 CALIFORNIA STATE BUILDING STANDARDS REGULATIONS WITH THE 1995 STATE OF CALIFORNIA AMENDMENTS AND TOWN AMENDMENTS (UNIFORM BUILDING CODE, UNIFORM HOUSING CODE, UNIFORM PLUMBING CODE, NATIONAL ELECTRICAL CODE, UNIFORM CODE FOR ABATEMENT OF DANGEROUS BUILDINGS, UNIFORM MECHANICAL CODE, AND UNIFORM CODE FOR BUILDING CONSERVATION). Carried unanimously.

JUNIOR ENGINEER/FUNDING POSITION/RESOLUTION 1995-166 (09.06)

Motion by Mrs. Benjamin, seconded by Mr. O'Laughlin, that Council adopt Resolution 1995-166 entitled, RESOLUTION OF THE TOWN OF LOS GATOS AMENDING THE 1995-00 CAPITAL IMPROVEMENT BUDGET REDUCING THE FUNDING FOR STREET IMPROVEMENTS AND FUNDING THE JUNIOR ENGINEER POSITION. Carried unanimously.

December 4, 1995
Los Gatos, California

VEHICLE BOOT/POLICE DEPARTMENT/RESOLUTION 1995-167 (11.09)

Motion by Mr. Blanton, seconded by Mr. O'Laughlin, that Council adopt Resolution 1995-167 entitled, RESOLUTION OF THE TOWN OF LOS GATOS AUTHORIZING THE POLICE DEPARTMENT TO USE A VEHICLE BOOT. Carried unanimously.

ADJOURNMENT

Motion by Mr. Blanton, seconded by Mr. O'Laughlin, that this evening's meeting be adjourned at 8:40 p.m. Carried unanimously.

ATTEST:



Marian V. Cosgrove
Town Clerk

**TOWN OF LOS GATOS
CALIFORNIA
TOWN COUNCIL/PARKING AUTHORITY
December 18, 1995
Minutes**

TOWN COUNCIL

The Town Council/Parking Authority of the Town of Los Gatos met in the Council Chambers of the Town Hall, 110 East Main Street, at 7:35 p.m., Monday, December 18, 1995, in **regular session**.

ROLL CALL

Present: Joanne Benjamin, Steven Blanton, Linda Lubeck,
Patrick O'Laughlin and Mayor Randy Attaway.

Absent: None.

PLEDGE OF ALLEGIANCE

Given by all in attendance.

CLOSED SESSION

Larry Anderson announced that Council had met in Closed Session prior to this evening's meeting pursuant to Government Code Section 54956.9(b)(1), to discuss a matter of Anticipated Litigation in which the Town, on the attorney's recommendation, chooses not to identify the potential plaintiffs.

SCHEDULE OF PUBLIC HEARINGS (01.01)

Informational report regarding currently scheduled public hearings was received and filed.

PAYROLL/RATIFICATION/NOVEMBER-DECEMBER 1995 (02.V)

Motion by Mr. Blanton, seconded by Mrs. Benjamin, that Council ratify the check register for the payroll of November 19 through December 2, 1995, in the amount of \$377,330.92 paid on December 8, 1995. Carried unanimously.

ACCOUNTS PAYABLE/RATIFICATION/DECEMBER 1995 (03.V)

Motion by Mr. Blanton, seconded by Mrs. Benjamin, that Council ratify the accompanying check registers for accounts payable invoices paid on December 1, 8, and 15, 1995 in the amount of \$595,164.57. Carried unanimously.

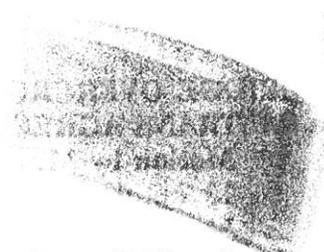
TREASURER'S REPORT/OCTOBER 1995 (04.V)

Informational report submitted by the Treasurer as of October 31, 1995 was received and filed.

ROLLER/EQUIPMENT PURCHASE/RESOLUTION 1995-168 (05.28)

Motion by Mr. Blanton, seconded by Mrs. Benjamin, that Council adopt Resolution 1995-168 entitled, RESOLUTION OF THE TOWN OF LOS GATOS TO AUTHORIZE TOWN MANAGER TO EXECUTE AGREEMENT WITH TRACTOR EQUIPMENT SALES TO PURCHASE (1) ONE NEW 1995 VIBRATORY TANDEM ROLLER, and adjust budget for capital purchase in gas tax fund. Carried unanimously.

**TOWN OF LOS GATOS
CALIFORNIA
TOWN COUNCIL/PARKING AUTHORITY
February 20, 1996
Minutes**



TOWN COUNCIL

The Town Council/Parking Authority of the Town of Los Gatos met in the Council Chambers of the Town Hall, 110 East Main Street, at 7:35 p.m., Tuesday, February 20, 1996, in regular session.

ROLL CALL

Present: Joanne Benjamin, Steven Blanton (arrived at 8:00 PM), Linda Lubeck, Patrick O'Laughlin and Mayor Randy Attaway.

Absent: None.

PLEDGE OF ALLEGIANCE

Given by all in attendance.

CLOSED SESSION

Larry Anderson, Town Attorney, reported that Council had met in Closed Session prior to this evening's meeting pursuant to Government Code Section 54956.9(b)(1) to Conference with Town Attorney regarding Anticipated Litigation Against the Town in One (1) Matter. The plaintiff remains non-disclosed.

Pursuant to Government Code Section 54957.6 to Conference with Labor Negotiator for the Town, Jim Piper, Assistant Town Manager and Personnel Officer regarding Town Employees' Association (TEA), Confidential Employees, Police Officers' Association (POA), American Federation of State, County and Municipal Employees (AFSCME). This discussion concerned all Town employment associations.

EMPLOYEE OF THE YEAR/PRESENTATION/FROM THE TOWN (00.44)

Mayor Attaway presented a commendation to Chris Gjerde of Building and Engineering Services Department for his dedicated work and his concern and care in dealing with Town clients. Mr. Gjerde was present to receive this recognition and thanked the Town for the opportunity to serve.

EMPLOYEE OF THE QUARTER/PRESENTATION/FROM THE TOWN (000.44)

Mayor Attaway presented commendations to Susan Kautzer, Cherie Strand and Bruce Smith for jobs well done in their respective departments. Ms Kautzer and Ms Strand were present to receive their presentations and thanked the Town for the honor.

PARKING COMMISSION/COMMENDATION (XX.20)

Mayor Attaway presented a commendation to William Meyer for his years of service on the Parking Commission and thanked him for his dedication and concern for the Town. Mr. Meyer noted his appreciation and mentioned the many others who have helped over the years on this Commission.

SCHEDULE OF PUBLIC HEARINGS (01.01)

Informational report regarding currently scheduled public hearings was received and filed.

COUNTY REFERRALS (02.47)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council accept staff recommendations concerning County Referral as follows:

REFERRAL #	LOCATION	APPLICANT	REQUEST	RECOMMENDATION
3766	16904 Sheldon Road	Johnson	Time Extensions	Approval

Carried by a vote of 4 ayes. Mr. Blanton was absent.

PAYROLL RATIFICATION/JANUARY-FEBRUARY 1996 (03.V)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council ratify the check registers for the payroll of January 14 through January 27, 1996 paid on February 2, 1996, and payroll of January 28 through February 10, 1996 paid on February 16, 1996, in the amount of \$605,112.97. Carried by a vote of 4 ayes. Mr. Blanton was absent.

ACCOUNTS PAYABLE/RATIFICATION/FEBRUARY 1996 (04.V)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council ratify the accompanying check registers for accounts payable invoices paid on February 2, 5, 6, and 9, 1996 in the amount of \$401,711.85. Carried by a vote of 4 ayes. Mr. Blanton was absent.

TREASURER'S REPORT (05.V)

Informational report submitted by the Treasurer to the Council as of December 31, 1995, was received and filed.

MINUTES OF FEBRUARY 5, 1996 (06.V)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council approve the Minutes of February 5, 1995 as submitted. Carried by a vote of 4 ayes. Mr. Blanton was absent.

CLAIM APPLICATION/LATE FILING (07.01)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council accept application to file late claim of Marcelo Mayol for property damage occurring on April 1, 1995. Carried by a vote of 4 ayes. Mr. Blanton was absent.

CLAIM REJECTION/ELIZABETH BARCAS (8A.01)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council deny claim of Elizabeth Barcas for alleged damage to personal property occurring on December 12, 1995. Carried by a vote of 4 ayes. Mr. Blanton was absent.

CLAIM REJECTION/LARRY FAVA (8B.01)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council deny claim of Larry Fava for alleged damage to personal property occurring on July 12, 1995. Carried by a vote of 4 ayes. Mr. Blanton was absent.

CLAIM REJECTION/ALEXANDER LUNGINOVIC (8C.01)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council deny claim of Alexander Lunginovic for alleged damage to personal property occurring on December 12, 1995. Carried by a vote of 4 ayes. Mr. Blanton was absent.

PEDESTRIAN SAFETY/BLOSSOM HILL SCHOOL (09.40)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council accept report on school pedestrian safety. Carried by a vote of 4 ayes. Mr. Blanton was absent.

PACIFIC GAS AND ELECTRIC COMPANY/ISSUES (10.24)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council accept and file informational report on Pacific Gas and Electric issues. Carried by a vote of 4 ayes. Mr. Blanton was absent.

CUPOLA RESTORATION PROJECT (11.44)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council accept and file informational report regarding the progress on the Cupola Restoration Project. Carried by a vote of 4 ayes. Mr. Blanton was absent.

TRAFFIC SAFETY REPORT/ENGINEERING DEPT. (12.40)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council accept and file informational report concerning the annual traffic safety report from the engineering department. Carried by a vote of 4 ayes. Mr. Blanton was absent.

CAMINO DEL CERRO 16035/ACCESS TO LOT (13.09)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council accept Planning Commission recommendation to approve request for modification to a condition of approval of a certificate of compliance granted for property in the HR-1 zone. The request is to remove the requirement that access to the lot be directly from the street frontage and not cross other land. Carried by a vote of 4 ayes. Mr. Blanton was absent.

BENCHES/DOWNTOWN CENTRAL BUSINESS DISTRICT (14.47)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council extend the deadline to remove private benches from public right-of-way in the Central Business District until July 1, 1996. Carried by a vote of 4 ayes. Mr. Blanton was absent.

LIBRARIAN/CLASSIFICATION PLAN/LEAD DIFFERENTIAL/RESOLUTION 1996-16 (16.10)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1996-16 entitled, RESOLUTION OF THE TOWN OF LOS GATOS AMENDING THE POSITION AND CLASSIFICATION PLAN TO ESTABLISH A LEAD DIFFERENTIAL OF 5% FOR ONE LIBRARIAN POSITION TO ACT AS REFERENCE COORDINATOR AND ONE LIBRARY ASSISTANT TO ACT AS CLERICAL SUPERVISOR. Carried by a vote of 4 ayes. Mr. Blanton was absent.

NONPOINT SOURCE/POLLUTION PREVENTION/INSPECTING INDUSTRIAL-COMMERCIAL FACILITIES/CENTRAL FIRE PROTECTION AGREEMENT/RESOLUTION 1996-17 (17.37)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1996-17 entitled, RESOLUTION OF THE TOWN OF LOS GATOS AUTHORIZING TOWN MANAGER TO ENTER INTO AN AGREEMENT WITH SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT TO PROVIDE NONPOINT SOURCE POLLUTION PREVENTION INSPECTION OF INDUSTRIAL/COMMERCIAL FACILITIES. Carried by a vote of 4 ayes. Mr. Blanton was absent.

LOS GATOS BOULEVARD 15780/COMMERCIAL APPEAL/RESOLUTION 1996-19 (19.09)
Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1996-19 entitled, RESOLUTION OF THE TOWN OF LOS GATOS GRANTING APPEAL OF A DECISION OF THE PLANNING COMMISSION DENYING A REQUEST FOR APPROVAL OF PLANS TO CONVERT AN EXISTING SINGLE FAMILY RESIDENCE TO COMMERCIAL/OFFICE USE ON PROPERTY IN THE CH ZONE IN SO FAR AS IT IS RETURNED TO THE PLANNING COMMISSION FOR FURTHER REVIEW. PROPERTY LOCATED AT 15780 LOS GATOS BOULEVARD. ARCHITECTURAL AND SITE APPLICATION S-95-46. PROPERTY OWNER, JOHN TRIPP. Carried by a vote of 4 ayes. Mr. Blanton was absent.

RENT CONTROL/MOBILHOME PARK/PROPOSITION 199/RESOLUTION 1996-20 (20.16)
Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1996-20 entitled, RESOLUTION OF THE TOWN OF LOS GATOS OPPOSING STATE INITIATIVE BALLOT MEASURE - MOBILEHOME FAIRNESS AND RENTAL ASSISTANCE ACT. Carried by a vote of 4 ayes. Mr. Blanton was absent.

MEASURE C/UTILITY TAX/TOWN CODE AMENDMENT/ORDINANCE 2010 (21.05)
Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Ordinance 2010 entitled, ORDINANCE OF THE TOWN OF LOS GATOS AMENDING CHAPTER 25 TO AVOID ANY IMPLICIT CONFLICTS IN THE TOWN CODE IF THE VOTERS APPROVE MEASURE C ON MARCH 26, 1996. Carried by a vote of 4 ayes. Mr. Blanton was absent.

HEARINGS

UNIVERSITY AVE 565/BOCCE BALL COURT/RESTAURANT/BEER AND WINE/APPEAL (22.09)
Mayor Attaway stated that this was the time and place duly noted for public hearing to consider appeal of a Planning Commission decision denying a request to amend the Town Code to permit the addition of the following as allowed activities in the LM Zone where a Conditional Use Permit is issued: (A) Commercial Recreation; (B) An establishment selling alcoholic beverages for consumption on premises in conjunction with a restaurant. Zoning Ordinance Amendment A-95-2. Appellants: Thomas and Maureen Albanese.

Mayor Attaway stated that this was also the time and place duly noted for public hearing to consider appeal of a Planning Commission decision denying a request to operate a Bocce Ball Facility to serve beer and wine as part of a small restaurant, and to rehabilitate and reconstruct where necessary an existing industrial building in the LM Zone. Property located at 565 University Avenue. Conditional Use Permit Application U-95-26. Architecture and Site Application S-95-73. Property Owners/Applicants: Thomas and Maureen Albanese.

The following people from the audience spoke to this issue:

Ken Rodrigues, Architect, 18495 Beck Ave., Monte Sereno. Spoke of the historic building, the unique opportunity to save it and the expansion of the LM Zone.

Tom Albanese, Applicant, 15435 Pepper Lane, Saratoga. Spoke of the community benefit derived from this project.

HEARINGS CONTINUED

UNIVERSITY AVENUE 565/BOCCE BALL COURT/CONT.

Speakers continued:

John Travis, 15245 Hume Drive, Saratoga. Real Estate agent who has been marketing the property for three years has not seen another prospective purchaser interested in keeping the existing building.

Robin Tole, 15900 Los Gatos Boulevard, representing the Los Gatos Chamber of Commerce, supported the concept of the bocce ball court.

Pete Havitich, 520 University #12, spoke in favor of the improvements which will be seen on the property when the project is complete.

Dorothy Shattuck, 116 Towne Terrace, #3, spoke of the industrial nature of the area and the need to keep affordable rental locations for small businesses and light manufacturing.

Chris Wiley, 544 University Ave., is in favor of the upgrading of the neighborhood with a well cared for business and foresees the residential neighborhood in the area benefiting from the upgrade.

Rolando Negrini, 5087 Lone Hill Road, is a member of a bocce ball club and is pleased to see this project being developed.

No one else from the audience addressed this issue.

Motion by Mr. O'Laughlin, seconded by Mrs. Benjamin, to close the public hearing. Carried unanimously.

ZONING ORDINANCE AMENDMENT A-95-2

Motion by Mrs. Lubeck, seconded by Mr. O'Laughlin, that Council grant the appeal and approve Zoning Ordinance Amendment A-95-2; and make the findings that it is consistent with both the General Plan and the Downtown Specific Plan; the land use elements of both of those plans speak to the uses allowed in the LM Zone and to the other conditional uses seen in this area; this use can be compatible with the LM Zone and therefore the findings can be made that it is consistent with the General Plan and the Downtown Specific Plan. Finding also that the Planning Commission did not make this decision because the discretion to modify policy vests with Council. Carried unanimously.

The Deputy Town Clerk read the Title of the Draft Ordinance.

Motion by Mrs. Lubeck, seconded by Mr. O'Laughlin, that Council waive the reading of the Draft Ordinance. Carried unanimously.

Motion by Mrs. Lubeck, seconded by Mr. O'Laughlin, that Council introduce Draft Ordinance entitled, **ORDINANCE OF THE TOWN OF LOS GATOS AMENDING THE ZONING ORDINANCE CONCERNING THE CATEGORIES OF OUTDOOR ENTERTAINMENT USES PERMITTED IN VARIOUS ZONES WITH A CONDITIONAL USE PERMIT.** Carried unanimously.

HEARINGS CONTINUED

UNIVERSITY AVENUE 565/BOCCE BALL COURT/CONT.

Motion by Mrs. Lubeck, seconded by Mrs. Benjamin, that Council approve the Conditional Use Permit Application subject to the conditions listed in Attachment #3 with the following amendments: Maximum hours of operation shall be 10 am to 10 pm Sunday through Thursday and from 10 am to 11 pm Friday and Saturday, with the stipulation that after a twelve month review, if there are no problems, the hours could be extended from 10 am to 11 pm Sunday through Thursday and 10 am to 12 am Friday and Saturday; That the service of alcoholic beverages shall not be permitted after 10 pm Sunday through Thursday, except for holidays and evenings before holidays, and shall not be permitted after 11 pm Friday and Saturday, holidays or evenings before holidays, with the stipulation that after a twelve month review, if there are no problems, the hours could be extended to 11 pm Sunday through Thursday and 12 am Friday and Saturday; That the exterior shall be wood siding. Council finds that this proposal: is consistent with the General Plan; an enhancement to the Town; does not detract from the zone itself, nor destroy the area in any way; is preserving and renovating an historic structure within the Town. Council finds the use is consistent with other conditional use permits which have been allowed in this zone, and it preserves the LM Zone. As required by Resolution 1994-29 Council finds that the service of alcohol past 10 pm: does not destroy the neighborhood; is compatible to the zoning; is part of operational conditions which are attached as conditions to this approval; shall be subject to the satisfaction of the Chief of Police. As required by Section IV.B of the Redevelopment Plan Council finds that this proposal is consistent with the Redevelopment Plan based upon the findings of consistency with the General Plan and the Downtown Specific Plan. The condition of new wood siding constitutes a demolition of an historic structure, and Council finds that there is no supportive evidence proving the corrugated metal exterior was the original siding, therefore by removing it the original fabric of the building is not destroyed. Carried by a vote of 4 ayes. Mr. Blanton abstained.

Motion by Mr. O'Laughlin, seconded by Mrs. Lubeck, that Council approve the Architecture and Site Application S-95-73 noting the same conditions and findings that were specified in the motion approving the Conditional Use Permit. Carried by a vote of 4 ayes. Mr. Blanton abstained.

LOS GATOS BOULEVARD 15643/SPEEDEE OIL CHANGE/ZONE CHANGE/HEARING (23.09)

Mayor Attaway stated that this was the time and place duly noted for public hearing to consider Planning Commission recommendation to approve a request for a change in Zone from c-1 to CH for property currently occupied by an abandoned automobile service station. If no significant environmental impacts are identified as a result of this project, a Negative Declaration will be recommended and an Environmental Impact Report will not be required. Property Located at 15643 Los Gatos Boulevard. Zone Change Application Z-95-2. Negative Declaration Application ND-95-5. Property Owner: Benedict and Dominic Chirco. Applicant: Speedee Oil Change.

HEARINGS CONTINUED

LOS GATOS BOULEVARD 15643/SPEEDEE OIL CHANGE/CONT.

The following person from the audience spoke to this issue:

Virginia Fennelli, 10052 Pasadena Ave., Cupertino, representing the applicant, asked Council to consider the zone change and negative declaration, and spoke of the project's consistency with the General Plan in regards to mixed use on the Boulevard and consistency with the Commercial Specific Plan and the Los Gatos Boulevard Plan. The rezoning would remain consistent with the majority of areas along the Boulevard.

No one else from the audience addressed this issue.

Motion by Mrs. Benjamin, seconded by Mr. O'Laughlin, to close the public hearing. Carried unanimously.

Motion by Mrs. Benjamin, seconded by Mr. Blanton, that Council make the Negative Declaration. Carried unanimously.

Motion by Mrs. benjamin, seconded by Mrs. Lubeck, that Council find that the Zone Change is consistent with the General Plan; that it fits within the other uses along the Boulevard; that the gas station use and oil changing use are similar uses; that in regard to expansion of uses, this is a conditional use permit and any other use would come before Council at a public hearing; that the General Plan designates the subject site for mixed use commercial which is consistent with the General Plan. Carried unanimously.

The Deputy Town Clerk read the Title of the Draft Ordinance.

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council waive the reading of the Draft Ordinance. Carried unanimously.

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council introduce Draft Ordinance entitled, ORDINANCE OF THE TOWN OF LOS GATOS AMENDING THE ZONING MAP NO. 127 FROM C-1 TO CH FOR THE PROPERTY LOCATED AT 15643 LOS GATOS BOULEVARD. Carried unanimously.

CABLE TELEVISION/FRANCHISE TRANSFER/BRENMORE CABLE TO TCI/HEARING (24.25)

Mayor Attaway stated that this was the time and place duly noted for public hearing to consider proposed transfer of a cable television franchise from Brenmore Cable Partners, L.P. dba South Bay Cablevision to TCI of Cleveland, Inc.

There was no one from the audience to speak to this issue.

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, to continue this hearing to March 4, 1996. Carried unanimously.

LOS GATOS BLVD 16330/CALVARY BAPTIST CHURCH/RESOLUTION 1996-18 (18.09)

Mayor Attaway stated that this was the time and place duly noted to consider adopting resolution granting appeal of a Planning Commission decision denying a request for approval of a master plan for the future expansion of a church facility in the R-1:8000 (Prezone). The master plan will include demolition of an existing education and a residential building, construction of a new education, ministry and multi-purpose/gymnasium building, remodeling of existing facilities, and expansion of a parking lot. Conditional Use Permit Application U-94-67. Negative Declaration Application ND-94-4. Property located at 16330 Los Gatos Boulevard. Appellant/Property Owner: Calvary Baptist Church.

The following people from the audience spoke to this issue:

Rod Hampton, 16736 Shannon Road, disagreed with the setbacks, the use of the parking lot for commercial purposes, and the hours of operation.

Myrna Skala, 16334 Robie Lane, disagreed with the master plan.

Jim Lowe, 16346 Robie Lane, submitted an estimate of excavation for recessing the building into the ground so as to lower the elevation.

Salvatore Caruso, 255 N. Market Street #200, project architect for Calvary Church, asked that the stipulation for non-purchase of property on Robie Lane be deleted due to constitutional reasons.

No one else from the audience addressed this issue.

Motion by Mrs. Benjamin, seconded by Mr. O'Laughlin, that Council adopt Resolution 1996-18 entitled, RESOLUTION OF THE TOWN OF LOS GATOS GRANTING AN APPEAL OF A PLANNING COMMISSION DECISION TO DENY A REQUEST FOR APPROVAL OF A MASTER PLAN FOR THE FUTURE EXPANSION OF A CHURCH FACILITY IN THE R-1:8000 (PREZONE) WITH CONDITIONS; CONDITIONAL USE PERMIT APPLICATION U-94-67; NEGATIVE DECLARATION ND-94-4; which includes the following amendments made this evening: Paragraph D shall drop the reference to the purchase of property on Robie Lane and add Senior Pastor, Dr. Fred Wilson's letter as attachment "C", which states the Church's intention of limiting its expansion to the current Master Plan; Condition 4 in Exhibit A amends "other activities" to similar activities of a community and neighborhood benefit; Condition 10 in Exhibit A amends the bus activity. It stipulates a 15 minute idling maximum at the bus barn to pressurize brakes and de-ice windows; idling by the bus barn no longer than necessary in conjunction with service to the buses; interim bus loading zone by multi-purpose and Koininia buildings until the driveway improvements have been completed. Carried unanimously.

**SANTA ROSA HEIGHTS BENEFIT ZONE/RESOLUTION 1996-21 (25A.14)
LANDSCAPING AND LIGHTING DISTRICT #1/ANNEXATION**

Motion by Mrs. Lubeck, seconded by Mr. O'Laughlin, that Council adopt Resolution 1996-21 entitled, RESOLUTION OF INTENTION OF THE TOWN OF LOS GATOS TO CREATE AND ANNEX THE SANTA ROSA HEIGHTS AREA INTO LANDSCAPING AND LIGHTING DISTRICT #1, DESIGNATE IT AS SANTA ROSA HEIGHTS BENEFIT ZONE, AND ESTABLISH A POLICY ON CAPITAL REPLACEMENT AND CREATE A RESERVE ACCOUNT FOR PREEXISTING FUNDS IN OPEN SPACE MAINTENANCE DISTRICT #2, with the amendment to the fourth paragraph that "surplus funds may be returned to the owners." Carried unanimously.

**SANTA ROSA HEIGHTS/OPEN SPACE MAINTENANCE DISTRICT #2
DISSOLUTION OF DISTRICT/RESOLUTION 1996-22 (25B.14)**

Motion by Mrs. Lubeck, seconded by Mr. O'Laughlin, that Council adopt Resolution 1996-22 entitled, RESOLUTION OF INTENTION OF THE TOWN OF LOS GATOS TO ADOPT AN ORDINANCE DISSOLVING OPEN SPACE MAINTENANCE DISTRICT #2. Carried unanimously.

**SANTA ROSA HEIGHTS/ORDINANCE OF DISSOLUTION
OPEN SPACE MAINTENANCE DISTRICT #2 (25C.14)**

Council consensus to hold this item until the property owners and their representatives can submit financial data substantiating the assessments on these properties, and Town can determine how much money is being held in reserve. Item not to be continued for more than 45 days.

The following people from the audience spoke to this issue:

Scott Glover, 14370 Saratoga Ave., Saratoga, partner in Wilson Development, asked that excess funds be returned to the property owners.

Gregory Howell, 125 Glen Ridge, representing Mr. Azar, spoke of the disproportionate property taxes to the previous and current property owners associated with the Open Space District.

No one else from the audience addressed this issue.

SANTA ROSA HEIGHTS/ENGINEER'S REPORT/MAINTENANCE COST/FY 1996-97 (25D.14)

Motion by Mrs. Lubeck, seconded by Mr. O'Laughlin, that Council accept Engineer's Report on Fiscal Year 1996-1997 Maintenance Cost for Santa Rosa Heights' Open Space. Carried unanimously.

PARKING IMPROVEMENT PLAN/CENTRAL DOWNTOWN (26.42)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, to continue this item to a study session to be held April 29, 1996 at 7:00 pm. Carried unanimously.

ART SELECTION PANEL/ARTS COMMISSION RECOMMENDATION (15.20)

Motion by Mrs. Lubeck, seconded by Mr. O'Laughlin, that Council request that the Arts Commission expand its outreach into the community in an attempt to identify an arts professional who lives in Los Gatos, and to send a memo to each of the boards and commissions notifying them of the search for nominees and giving them a time to reply with suggestions of those who might serve on this panel. Carried unanimously.

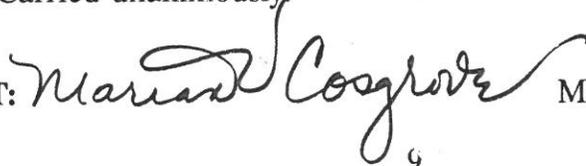
COUNCIL COMMITTEE REPORTS (27.10)

Mr. O'Laughlin reported on our Sister City Listoel, in Ireland. This also concerns the San Jose-Dublin Sister City Committee. There will be a Silicon Valley St. Patrick's Day Event, from March 7th to the 17th. Jimmy Deenahan, Junior Minister of State for the Food and Agricultural Department, and Frank Feeley, the Dublin City Manager, will both be here, including the Lord Mayor of Dublin, Dublin Councilmembers and the Lord Mayor of Derry. Mr. Deenahan will be in three locations in the United State; New York, Boston and Los Gatos.

ADJOURNMENT

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that this evening's meeting be adjourned at 10:20 p.m. Carried unanimously.

ATTEST:



Marian V. Cosgrove, Town Clerk



MEETING DATE: 01/22/16
ITEM NO: 2

DATE: JANUARY 15, 2016
TO: FINANCE COMMITTEE
FROM: LAUREL PREVETTI, TOWN MANAGER
SUBJECT: STAFF RESPONSE TO QUESTIONS ARISING FROM FINANCE
COMMITTEE MEETING DEC 22, 2015.

REMARKS:

At the December 22, 2015 Finance Committee meeting the following questions were raised by the Finance Committee members regarding the Town of Los Gatos Unfunded Accrued Pension Liability (UAL).

Question 1: Please provide other information so the Committee has the whole picture.

Answer:

To provide some background/perspective for the Finance Committee the following is a summary of important events to date regarding the Town's California Public Employees' Retirement System (CalPERS) pension plans and retiree health care plan, i.e. Other Post Employment Benefits (OPEB).

California Public Employees Retirement System (CalPERS)

CalPERS is the nation's largest public pension fund with total net position in the Public Employees' Retirement Fund (PERF) of \$303 billion as of June 30, 2015. Headquartered in Sacramento, CalPERS provides both retirement benefit services to more than 1.8 million members and 3,007 school and public employers, and health benefit services to 1.4 million members and 1,153 school and public employers. CalPERS also operates eight Regional Offices located in Fresno, Glendale, Orange, Sacramento, San Diego, San Bernardino, San Jose, and

REMARKS (cont'd):

PREPARED BY: STEPHEN CONWAY
Director of Finance & Administrative Services

Reviewed by: _____ Assistant Town Manager _____ Town Attorney _____ Finance

REMARKS (cont'd):

Walnut Creek. Led by a 13-member Board of Administration consisting of member-elected, appointed, and ex officio members, CalPERS membership consists of 1,206,354 active and inactive members and 613,410 retirees, beneficiaries, and survivors. Active death benefits are paid as a result of a member death prior to retirement from state, school, and public agencies. Established by legislation in 1931, CalPERS became operational in 1932 to provide a secure retirement to state employees. In 1939, new legislation allowed public agency and classified school employees to join CalPERS for retirement benefits. CalPERS began administering health benefits for state employees in 1962, and five years later, public agencies were able to join the health program on a contract basis.

The Town's pension plan is a "defined benefit" plan. This means that the plan provides for benefits based upon pay and years of service, versus a "defined contribution" plan wherein the plan provides for promised amounts of annual employer contributions. The Town's defined benefit plan is funded by a combination of annual employee and employer contributions based on annual rates set forth by CalPERS as well as earnings on the accumulated funds in the plan. Currently approximately 66% of the market value of the CalPERS fund has accumulated from earnings generated by the contributions to the fund.

Originally, most cities offered two basic defined benefit plans, a 2% at age 50 plan for safety and a 2% at age 60 plan for miscellaneous employees. Over time, new state legislation allowed governments to offer enhancements in its pension plans and many cities in California made changes in their pension plans as a result of the collective bargaining process. In 2008 the Town adopted a 3% at age 50 plan for safety employees and a 2.5% at age 55 plan for miscellaneous employees. Employers within these retirement tiers are referred to as "classic" members. The State of California Supreme Court has held that the pension promises made are "vested rights" and cannot be altered or modified unless they improve or maintain the same level of benefits as promised originally through the bargaining process.

Employer and employee contribution rates to fund promised benefits under these plans are set by CalPERS actuaries. The rates are based upon the following assumptions:

- Investment returns on the amounts contributed to the plan
- Assumed average age of retirement for the plans covered members
- Average future salary increases for employees covered by the plan
- How long the covered members and retirees are expected to live and receive benefits

REMARKS (cont'd):

Changes to any of the assumptions listed above, either positive (better than expected returns) or negative (lower than expected returns) will have an annual effect to the contribution rates.

Through the early 2000's, the amounts paid into the plans were sufficient to fund the promised pension benefits, and in many cities, (including the Town of Los Gatos) the amounts in the plan exceeded the liabilities of the plan. This caused a "super-funded" status wherein many employers, including the Town, were given a "0 percent" contribution rate for a number of years

(during this rate holiday the Town's employee rate continued to be paid by the employees through payroll deductions forwarded to CalPERS). Recognizing the volatility of employer contribution rates, the Town conservatively charged itself the "suspended" contribution rate and set this money aside to be able to offset future increases in the employer contribution rates once they reinstated by CalPERS.

The Town's plans remained largely funded wherein plan assets were approximately 85 to 100% funded until the economic recession of 2008 and 2009. During the recession period, CalPERS investments sustained an approximate 25% loss in value due to the declines in the stock market. This decline led to two major impacts, (1) an increase to required contributions to make up for the loss in value, and (2) a loss in funding percentage position because the value of the assets were reduced significantly by the downturn, despite these losses, the amounts of future pension promises remained unchanged, resulting in increased unfunded liabilities.

The Town responded to these events and took action to ameliorate these negative events. In Fiscal Year (FY) 2012/13 the Town adopted a change to its miscellaneous employee plan, with employees hired after September 15, 2013 entering into a new 2% at age 60 plan. In addition, in 2014 the Town paid off a \$4.5 million "side fund" obligation set up by CalPERS actuaries when 2005 state legislation moved the Town's safety plan into a pool of safety plans. As a result of this payoff, the FY 2014/15 Town's miscellaneous employee rate was 22.3%; and the safety rate was 29.56% versus a projected safety rate prior to the payoff of 43.87%.

Effective January 1, 2013 statewide legislation established the Public Employees' Pension Reform Act (PEPRA), changing the pension formula for "new" safety employees to 2.7% at age 57, and miscellaneous employees to 2% at age 62, both plans effective January 1, 2013. While this does not provide immediate cost savings, it is anticipated to reduce future salary and benefit expenditures over the next 10-15 years. Pension reform continues to be an important topic in regard to cost-containment and staff is monitoring a number of state-wide initiatives that may impact future pension costs.

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FINANCE COMMITTEE

SUBJECT: STAFF RESPONSE TO QUESTIONS ARISING FROM FINANCE COMMITTEE
MEETING DEC 22, 2015.

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In April 2013 the CalPERS Pension and Health Benefits Committee adopted recommendations to

REMARKS (cont'd):

modify both the smoothing and amortization policies and implement these changes going forward with an impact to employer rates beginning in FY 2015/16. As a result of this change, the smoothing period will change from a 15-year rolling period to a five-year direct smoothing rate. The amortization period will go from a 30-year rolling period to a 30-year fixed rate. These changes will require the Town to pay significantly more into the system. Estimates indicated that these changes would result in the Town paying 32% above the current rate over the next 10 years. The Town is expected to see the highest increase in the first year of implementation (FY 2015/16), with smaller increases expected for the following nine years.

In FY 2015/16, the Town's miscellaneous employee rate is 25.43%; the safety rate is 32.36%; and the PEPR (new hire) safety rate is 12.2%.

These rate increases were reduced as a result of the Town's 2014 side fund payoff of \$4.5 million. This payoff helped to reduce the volatility of the effects on the changes to assumptions made by CalPERS actuaries. It is expected that over the near term rates will continue to rise, however at a much lower level than previously anticipated, eventually peaking and then starting to decline as more and more of the employee population will be composed of people hired under the new PEPR benefit formulas.

The CalPERS October 2014 Actuarial Valuation report included changes to the past practice of folding cost adjustments from revised amortization methods, actuarial assumptions, and investment gains and losses into the Employer Contribution Rates. With October 2015 actuarial report, CalPERS identified and separated the annual contribution for the unfunded cost of prior year service known as the 'Unfunded Accrued Liability' (UAL) from the annual service cost, known as the 'Normal Cost' contribution. This approach is intended to stabilize employer contribution rates, and will allow employers the opportunity to address payment toward the UAL as applicable to their circumstances.

By breaking out the unfunded portion from the annual Normal Cost payment, agencies can now decide to pay down some or all of their UAL, at any point in the future, using methods of their choice. Payment could be made through the use of available funds, from reserves, or by borrowing/obtaining debt (i.e. bonds) at lower interest rates.

Other Post-Employment Benefit Plans (OPEB)

In 1991 through Town Council resolution the Town entered into an agreement with CalPERS to offer health coverage to its retirees. In order to participate public agencies were required to

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FINANCE COMMITTEE

SUBJECT: STAFF RESPONSE TO QUESTIONS ARISING FROM FINANCE COMMITTEE
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submit a resolution by their governing body and agree to the regulations covering provisions of

REMARKS (cont'd):

the benefits under the Public Employees Medical and Hospital Care Act (PEMHCA).

The Town makes contributions to California Employer's Retiree Benefit Trust (CERBT), an agent multiple-employer defined benefit healthcare plan administered by CalPERS. The purpose of the CERBT Fund is to provide California government employers with a trust through which they may prefund retiree medical costs and other Post-Enemployment Benefits (OPEB). The Town uses CERBT as its investment vehicle and requests disbursements on an as needed basis to reimburse the Town for the cost of retiree health care insurance benefits. The required contribution is based on projected pay-as-you-go financing requirements, with an additional amount to prefund benefits as determined by the Town. To date the retiree health benefits have been paid entirely out of current operating budgets and no withdrawals have been made from the Town's CERBT "pre-funding" account. The current balance in this account is approximately \$7.6 million as of the close of business January 14, 2015.

When a city joins PEMCHA it agrees to provide access to the health benefits to both active employees and annuitants on an equal basis. This means that the employer, subject to collectively bargained exceptions, is required to make specified and equal contributions towards premium costs for active employees and annuitants. The contribution levels are set in statute. There was a provision to offer "unequal" levels of benefits as a result of the bargaining process. Based on staff's research, it appears the Town was approved at an original "unequal" funding level for its annuitants. Upon entering PEMHCA the Town paid a share of the monthly premium for its retirees, while the retirees were responsible for paying the remaining premium.

PEMHCA further provides for annual increases for employers using the "unequal" method. The intent of this language was to insure that within 20 years of contracting with CalPERS, a contracting agency would be required to provide equal contributions for both active employees and annuitants. The annual adjustment is limited to not exceed \$100 for agencies that joined PEMHCA on or after January 1, 1986. State law provided a minimum statutory increase to the Town's participation at a minimum \$100 for agencies that joined PEMHCA on or after January 1, 1986.

Because annual health care premium increases have exceeded the statutory minimum, the Town's contribution rate remains "unequal" with annuitants receiving approximately 70 to 80% of the contributions for active employees.

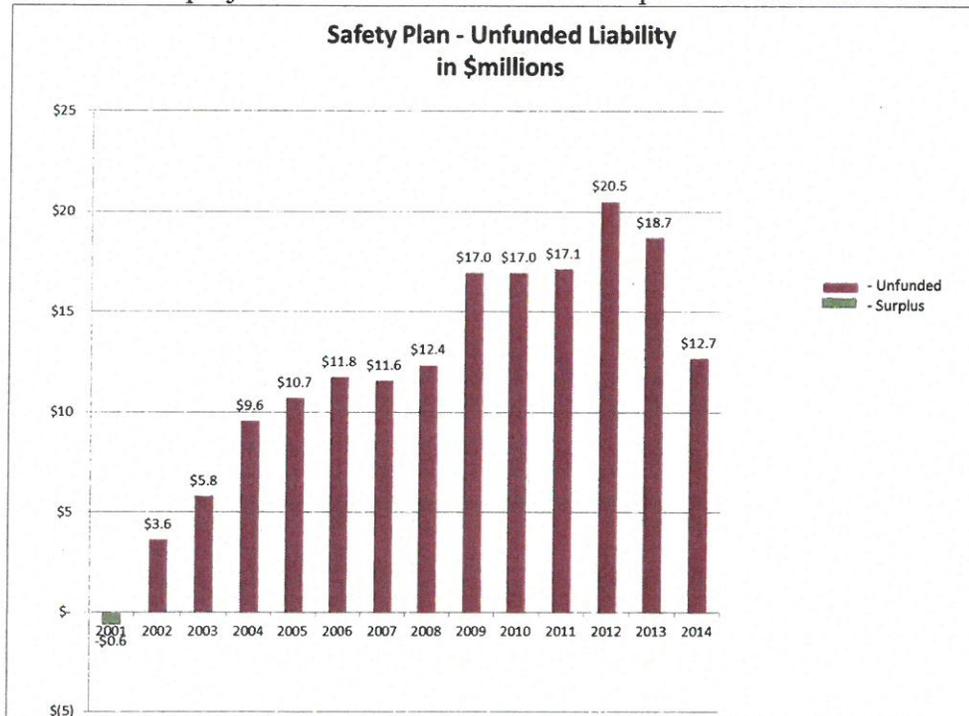
The Town responded to the increases in its annual contributions to its annuitants through the bargaining process wherein effective for employees retiring after February 1, 2016 the annuitant of medicare eligible age is reimbursed to a maximum amount of benefit matching "Kasier North" Employee or Employee plus One.

REMARKS (cont'd):

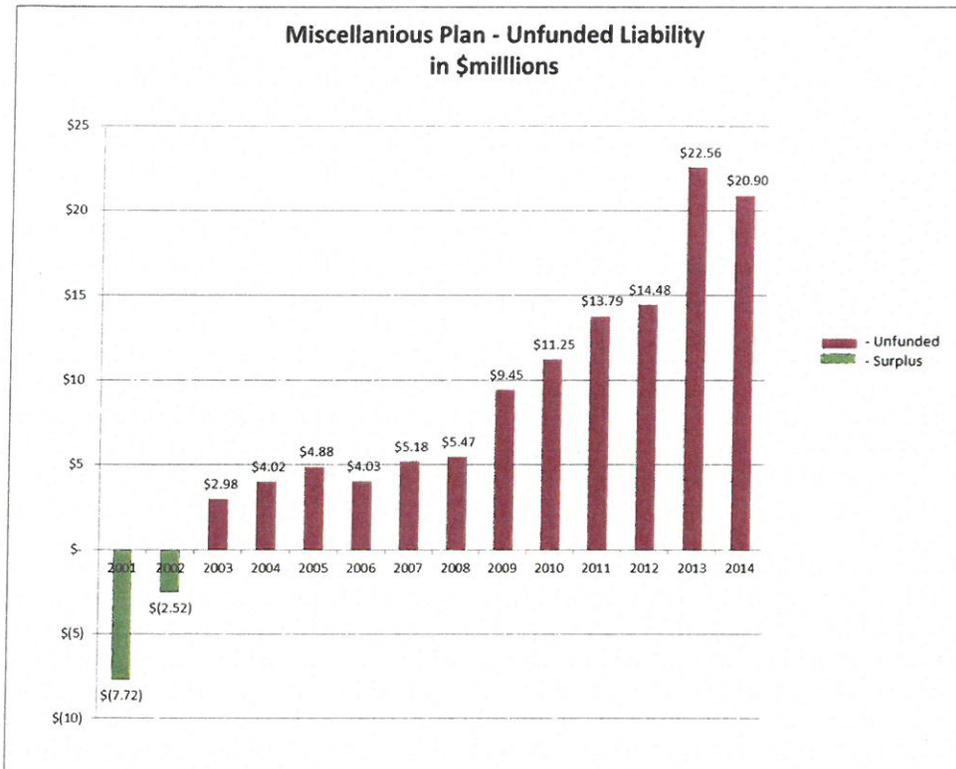
Question 2, 3 & 4: What is the total amount of Los Gatos' unfunded pension liabilities? Please provide an historical perspective of where Los Gatos has been in the past, our present, and our projected future with our pension liabilities.

	Unfunded Liability as of June 30, 2014
Pension Unfunded Liability (Safety & Misc)	\$ 33,601,030
OPEB Unfunded Liability	\$ 15,530,792
Total Unfunded Liability	\$ 49,131,822

The following graphs illustrate the change of the unfunded liability for the miscellaneous and safety plan over the last 14 years. Unfunded liability is determined by CalPERS actuaries and provided to the Town of Los Gatos biannually. Because actuarial assumptions change unfunded liabilities are determined at a “point in time” using actual results, no future amounts of unfunded liabilities are projected because there are no data points to determine the actual liability.



REMARKS (cont'd):



Question 5, 6 & 7: What is the annual cost or payment the Town is required to pay at this time? Please provide an historical perspective of where Los Gatos has been in the past, our present, and our projected future with our pension liabilities and payments. What is the Town's annual payment to CalPERS and what percentage of the budget does this number represent?

Answer:

CalPERS

Actual retirement cost for the last five years and the current year budgeted cost is illustrated in the table below. The average annual cost is 10.5% of the General Fund operating budget.

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 FINANCE COMMITTEE
 SUBJECT: STAFF RESPONSE TO QUESTIONS ARISING FROM FINANCE COMMITTEE
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	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14 *	FY 2014/15	FY 2015/16
	Actual	Actual	Actual	Actual	Actual	Budgeted
Pension Cost- Annual Required Contribution	\$2,949,705	\$3,611,993	\$3,604,751	\$3,784,756	\$3,380,253	\$4,095,874
Side-Fund Pay Off				\$4,534,538		
Total Pension Cost	\$2,949,705	\$3,611,993	\$3,604,751	\$8,319,294	\$3,380,253	\$4,095,874
% of Operating Budget (without Side-Fund Pay Off)	9.8%	11.3%	10.8%	9.8%	10.4%	11.0%
% of Operating Budget (with Side-Fund Pay Off)				21.6%		
PERS Employer Rate Safety 3% @ 50	33.58%	38.65%	39.31%	40.85%	29.56%	32.36%
PERS Employer Rate Misc 2.5% @ 55	14.43%	18.49%	19.62%	21.90%	22.38%	25.43%

* FY 2013/14 includes on-time PERS Safety Side-Fund Payoff \$4,534,538.

REMARKS (cont'd):

Future pension costs vary for variety of reasons, including PERS required rate. The most current forecast that is available on those rates and required contributions are illustrated in the table below.

	FY 2016/17	FY 2017/18	FY 2018/19	FY 2019/20	FY 2020/21
	Actual	Forecasted	Forecasted	Forecasted	Forecasted
PERS Employer Rate Safety 3% @ 50	21.23%	21.20%	21.20%	21.20%	21.20%
+Employment Payment of Unfunded Accrued Liability-3% @ 50 *	\$755,232	\$932,668	\$1,120,069	\$1,402,627	\$1,498,967
PERS Employer Rate Misc 2.5% @ 55	26.95%	28.90%	30.80%	32.70%	33.70%

* CalPERS identified and separated the annual contribution for the unfunded cost of prior year service known as the 'Unfunded Accrued Liability' (UAL) from the annual service cost for the Safety plan, but not for the Miscellaneous Plan from 2015.

OPEB

The below table illustrates the last five fiscal years actual and the current fiscal year budgeted cost of OPEB.

	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16
	Actual	Actual	Actual	Actual	Actual	Budgeted
Town Share of Retiree Medical	\$580,749	\$635,956	\$687,047	\$753,856	\$859,470	\$882,648
OPEB - Prefund Benefits	\$820,000	\$1,060,000	\$1,200,000	\$1,300,000	\$1,300,000	\$1,500,000
Total OPEB Cost	\$1,400,749	\$1,695,956	\$1,887,047	\$2,053,856	\$2,159,470	\$2,382,648

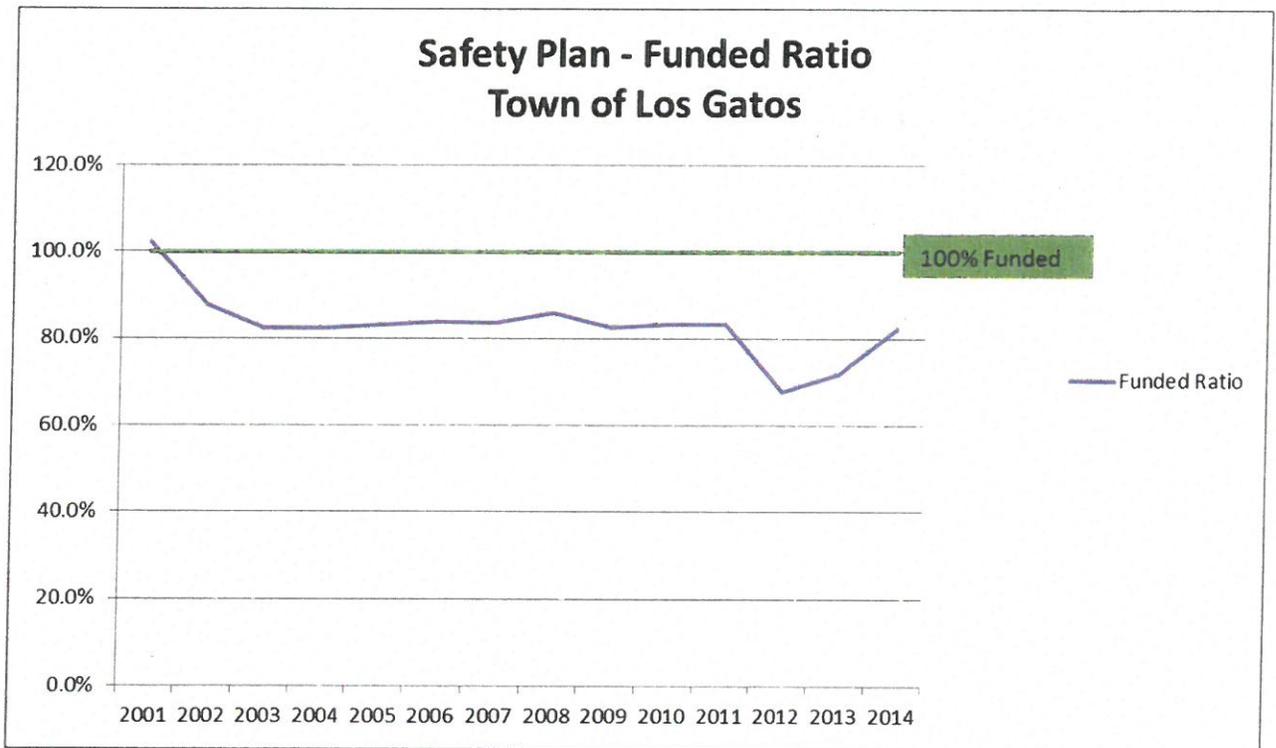
Based on the latest actuarial forecast completed in June 30, 2014, the Town's required contribution will be between \$2.5 and \$2.6 million annually in the next five years (illustrated in

the table below). The Town is required to have an Actuarial Study in every two year. The next study will be completed by 6/30/2016.

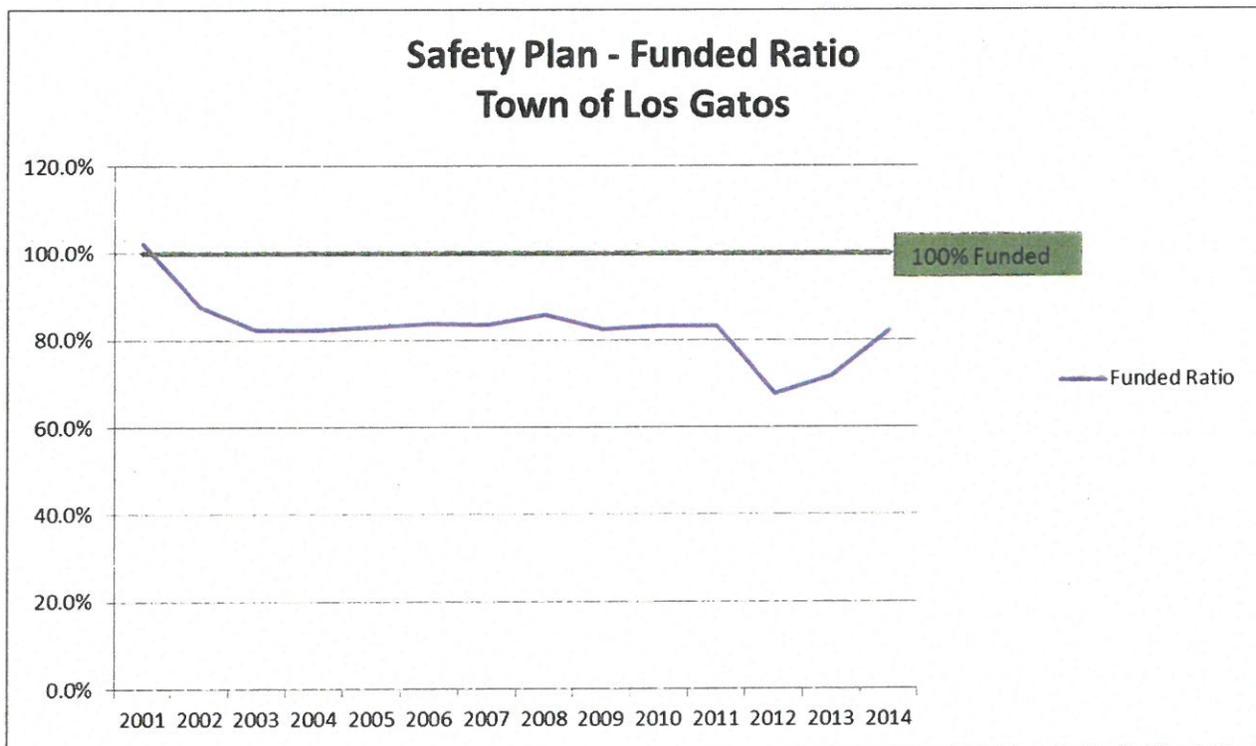
	FY 2016/17	FY 2017/18	FY 2018/19	FY 2019/20	FY 2020/21
	Forecasted	Forecasted	Forecasted	Forecasted	Forecasted
Town Share of Retiree Medical	\$909,127	\$936,401	\$964,493	\$993,428	\$1,023,231
OPEB - Annual Required Contribution	\$1,600,000	\$1,600,000	\$1,600,000	\$1,600,000	\$1,600,000
Total OPEB Cost	\$2,509,127	\$2,536,401	\$2,564,493	\$2,593,428	\$2,623,231

REMARKS (cont'd):

The following two charts illustrate the changes of the funded ratio during the last 14 years for the Safety and the Miscellaneous plans.



REMARKS (cont'd):



Question 8 & 9: What are the assumptions behind the CalPERS estimate for the Town? If the minimum payment or required payment is made, does the balance grow, stay constant or amortize?

Answer: Employer and employee contribution rates to fund promised benefits under these plans are set by CalPERS actuaries. The rates are based upon the following assumptions:

- Investment returns on the amounts contributed to the plan
- Assumed average age of retirement for the plans covered members
- Average future salary increases for employees covered by the plan
- How long the covered members and retirees are expected to live and receive benefits

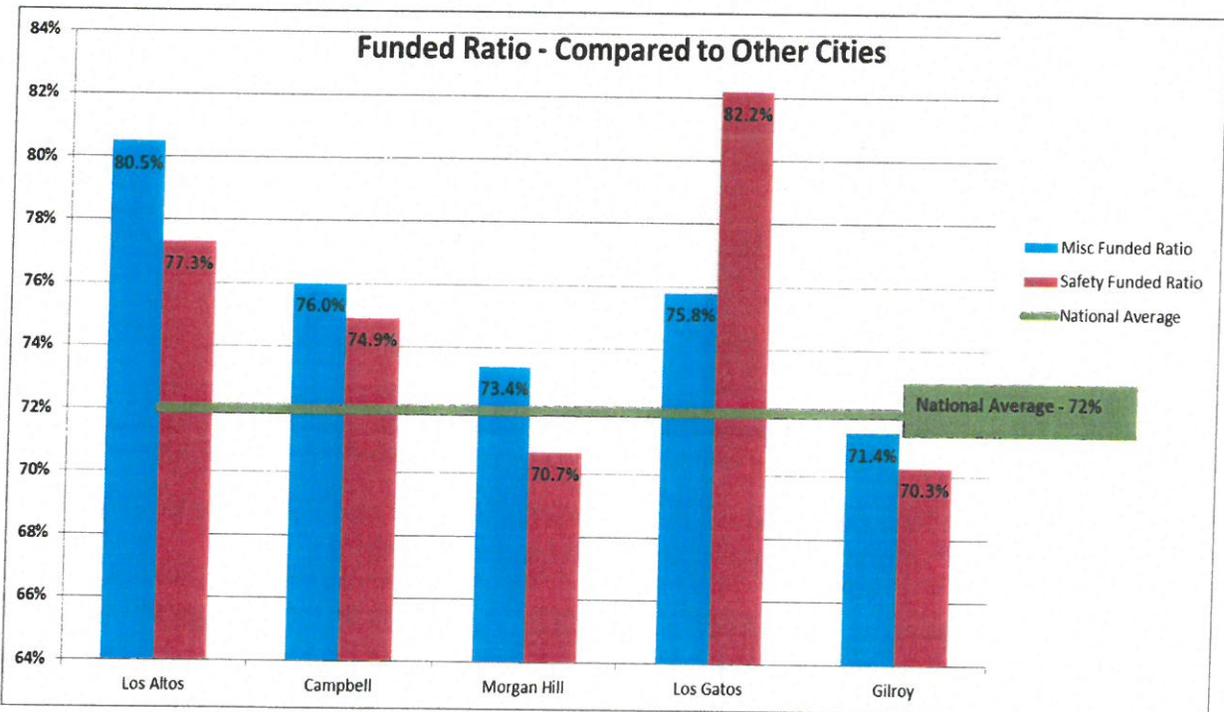
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Changes to any of the assumptions listed above, either positive (better than expected returns) or negative (lower than expected returns) will have an annual effect to the contribution rates and balance.

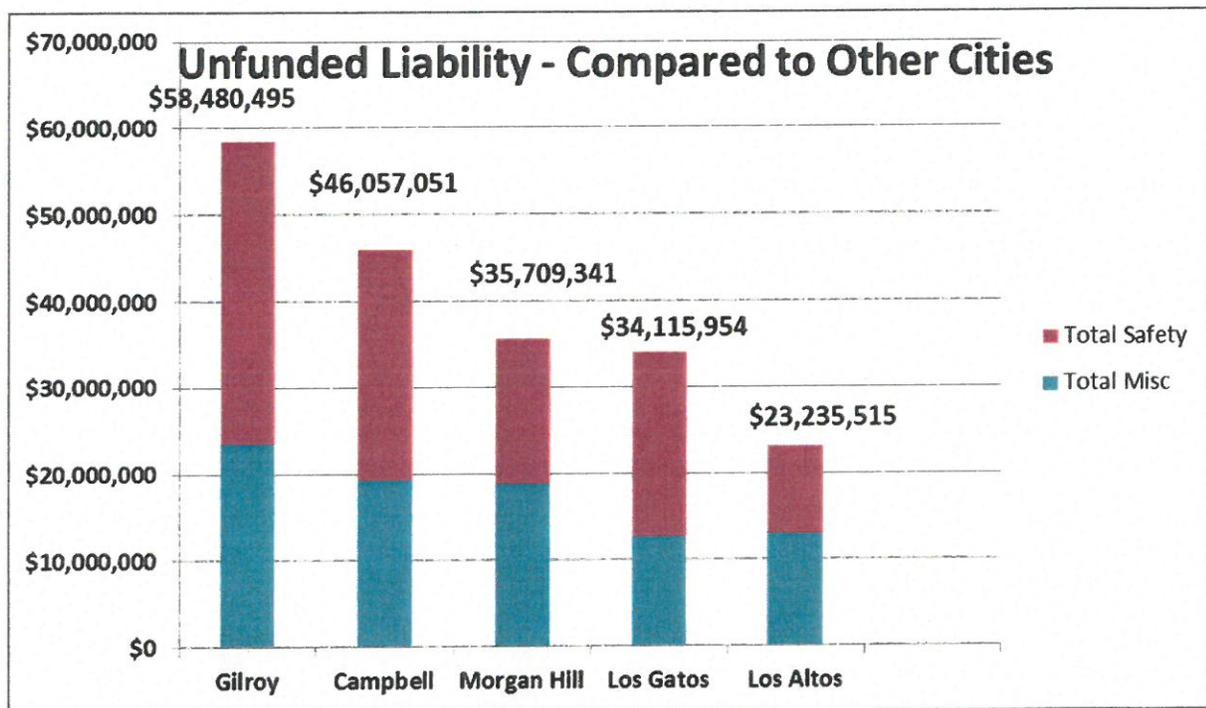
REMARKS (cont'd):

Question 10: How does Los Gatos' liabilities compare to neighboring municipalities our size such as Campbell, Saratoga, and others?

Answer: As illustrated in the chart below, the Town of Los Gatos current funding ratio is an average of 78.7% and trending above the national average of 72%. The City of Saratoga's funding ratio was 81% at the time they started to pay off the city's portion of unfunded liabilities.



REMARKS (cont'd):



Question 11: Recently Saratoga paid off its unfunded liabilities and were able to save themselves \$5 million? What approach did Saratoga use and why?

Answer: The City of Saratoga’s total Accrued Liability (AL) at June 30, 2013 was \$37 million. \$30 million funded portion, and \$6.9 million unfunded portion. The City took an action to pay off \$3.3 million immediately as well as accelerated their repayment plan by paying an additional \$500,000 to CalPERS annually. With this action Saratoga is estimated to fully pay their UAL funds in 15 years. City of Saratoga utilized Capital Improvement, Fiscal Stabilization and Working Capital Reserve to fund the \$3.3 million payoff.

Question 8: What is the amount of pensions paid by CalPERS?

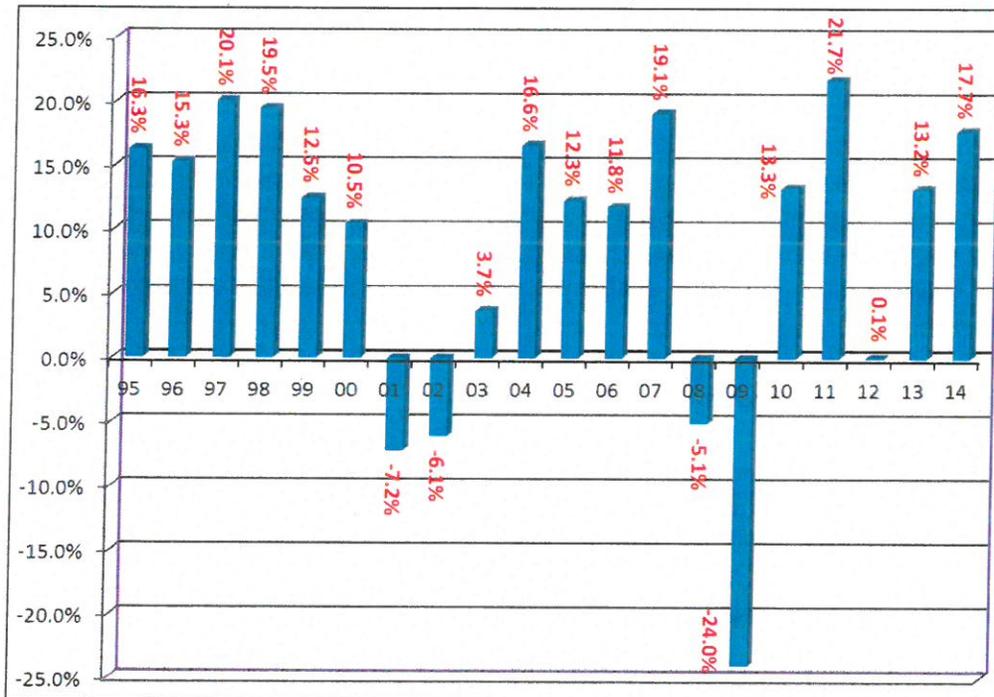
Answer: The pension amount paid by CalPERS varies by members based on the time of the service years, contract group and final salaries at the time of the retirement.

Question 9: What is the rate of return on their investments (actual versus projected)?

Answer: CalPERS estimates 2.4% investment return for FY 2014/15, and 7.5% rate of return on investment every fiscal year thereafter.

REMARKS (cont'd):

The following chart is from the CalPERS October 2015 Annual Valuation Report illustrating the 20-year historical annual returns of the Public Employees retirement Fund for each fiscal year ending on the June 30th. Beginning in 2002, the figures are reported as gross of fees. CalPERS average rate of return based on the 20-year history is 9%.



Question 11: Verify that if the projected rate of return is too high, then the pension costs of the Town rise.

Answer: Market returns are one of the assumptions that factor into the contribution rates developed by CalPERS actuaries. If there were no other changes to other actuarial assumptions other than the annual rate of return rate then excess earnings or earnings below assumptions will affect the contribution rates either positively (actual return rates exceed assumptions) or negatively (actual return rates earned were below assumptions).

JANUARY 15, 2016

Question 12: Near the bottom of page 3 of Director Conway's responses, he states "These potential future cost increases for both employer and employee costs are likely to have an impact on future labor negotiations." How should unfunded liabilities be a factor in labor negotiations?

Answer: PEPPRA allows employers to negotiate cost sharing with employee bargaining units. Beginning on January 1, 2018, public agency and school employers that have collectively bargained in good faith and have completed impasse procedures, including mediation and fact

REMARKS (cont'd):

finding, have the ability to unilaterally require classic members to pay up to 50% of the total normal cost of their pension benefit. However, the employee contribution may only be increased up to an 8% contribution rate for miscellaneous members, a 12% contribution rate for local police officers, local firefighters, and county peace officers, or an 11% contribution rate for all other local safety members.

PEPPRA also permits public agencies and their employees to agree to share the cost of the employer contribution with or without a change in benefit. These contributions are paid in addition to the member contribution rate. The law allows cost-sharing agreements to differ by bargaining unit or for classifications of employees subject to different benefit levels as agreed to in a Memorandum of Understanding (MOU). It also permits cost sharing of the employer costs for non-represented employees.

Question 13: What is the annual shortfall?

Answer: There is no annual shortfall for the pension expense, the Town consistently makes 100 percent of its actuarial required contributions as set forth by CalPERS. The unfunded liability occurs strictly from changes in actuarial assumptions made each year by CalPERS.

Question 14: What is the Town's total indebtedness?

Answer: The Town's indebtedness is essentially zero. The Town has two outstanding Certificate of Participation Issues, the 2002 COP (\$7.7 million remaining balance) and the 2010 COP (\$13.1 million remaining balance). Both of these issues were issued with lease financing secured by a pledge from the Town's former Redevelopment Agency. As part of the closure of the Agency in 2012, the Successor Agency has now assumed the debt service obligations on an annual basis and fully pays the amounts due each year. There are a number of smaller lease obligations for equipment (copiers) that are paid out of the operating budget, but the debt is minimal, less than \$75,000 annually.

Question 15: What can be done now as part of a long term strategy to maintain the Town in a strong position over time?

JANUARY 15, 2016

Answer: Staff believes that it should continue and further pursue the following:

- Continue to refine and develop tools to further enhance the reliability of the Town's Five Year Financial Forecast.
- Develop conservative budgets using reliable revenue and expenditure forecasts
- Maintain minimal debt levels

REMARKS (cont'd):

- Identify key threats such as pension and OPEB cost, and revenue diversity, and make steps over time to address them as practical.
- Continue financial monitoring of fiscal health through quarterly and mid-year reports to Town Council taking mid-year corrective measures as required.
- Maintain the Town's insurance protection to mitigate unexpected liability and property damage claims.
- Where possible, ensure full cost recovery for Town services.
- Maintain a fiscal perspective when considering the long term effect of Town decisions regarding the operating and capital budgets, consistent with the Town's Core Goals and Strategic Priorities
- Develop reliable ongoing revenue sources for funding a consistent infrastructure program.

Question 16: What are the Council's options to pay the liability down and reduce risk over the long term? Provide pros and cons of each option.

Answer:

Pros

The benefit of immediate payment is similar to paying off a 30 year mortgage loan – principal reductions reduce interest costs which in turn will likely reduce the Town's annual contribution rates as determined by the CalPERS actuaries.

Cons

The danger of appropriating funds to “pay down” the UAL is that if actuarial assumptions change negatively in the future the UAL can re-appear with a new balance. The UAL is a dynamic “point in time” measurement, the balance cannot be paid off never to return again unlike expected a 30-year mortgage..

Conversely, the UAL can reduce without cash “paydowns” if the actuarial assumptions such as market rate of return exceed the CalPERS expected rate. It is possible that a UAL can be eliminated over time with positive changes in the actuarial assumptions; this lends credence to not committing current funds to a long term liability that may correct itself over time.

Question 17: What "buckets" can the Council use to eliminate its liabilities?

Answer: With the recent approval of the \$12.2 million commitment to the Almond Grove Street project, the remains no readily available dollars within existing reserve funds to access for paydown purposes. One pending item is the potential during the FY 2015/16 mid-year report for the Town Council to re-allocate some of the approximate \$3 million in FY 2014/15 budget savings that per present policy will be placed in the General Fund Reserve for Capital Improvements to pay down the UAL (FY 2014/15 savings totals \$5 million, however \$2 million was allocated to the Almond grove Street Rehabilitation project by Council in October 2015).

REMARKS (cont'd):

Question 18: What if CalPERS goes bankrupt? What would the costs be to the Town under that scenario? What options would the Town have?

Answer: Bankruptcy declared by CalPERS is an unlikely event, however any local government pension plan participant would potentially have claim to any remaining CalPERS pension plan assets as prescribed by bankruptcy law. It is important to note that CalPERS holds the Town's pension assets as a legal custodian, but the financial responsibility to pay pension promises remains with the Town.

Question 19: What if the Town wanted to leave CalPERS and have its own retirement program?

Answer: Theoretically it would be possible for the Town to leave CalPERS. If the Town were to leave, CalPERS continues to administer pension payments for the current and retired workers already on the books at the time of termination. To do that, CalPERS generally asks for an up-front sum called a "termination fee" to pay for potential future pension costs for all current and retired workers. CalPERS also places the Town's funds in a more conservative risk pool, which lowers the potential return rate on its investments and in turn boosts the termination fee. The size of the termination fee would likely make it very difficult for the Town to take such an action from a cash flow perspective.

Question 20: How can the Town avoid bankruptcy?

Answer: To give a better frame of reference, in looking at cities in California whose financial fortunes fell into crisis and eventual bankruptcy, such as Stockton and Vallejo, their funded ratios for pensions/OPEB liabilities exceeded a negative 400%. This means the liabilities were over four times as high as their assets set aside for those liabilities. For cities in crisis, the funded ratios are usually substantially worse than the national average for funded ratios. The Town presently exceeds the national average funded ratio of approximately 72%.

The Town has a very strong fiscal position for the foreseeable future. For the population size of the city, it currently has the highest possible credit rating available from Moodys (Aaa) and Standard and Poors (AA-). General Fund reserves are at 25% of the annual operating budget.

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FINANCE COMMITTEE

SUBJECT: STAFF RESPONSE TO QUESTIONS ARISING FROM FINANCE COMMITTEE
MEETING DEC 22, 2015.

JANUARY 15, 2016

Long range financial plans are based on conservative estimates and are updated quarterly during the fiscal year. Rate increases from expected changes in actuarial assumptions are built into the forecasts and then incorporated into the operating budget. The Town has always met its annual pension and OPEB contribution obligations and barring an extreme loss of Town assets staff expects the Town to maintain its strong fiscal position and credit ratings into the foreseeable future despite any challenges the future may bring.

A RULE OF THUMB:

*A city official should
always first consult
with the city's attorney
concerning the propriety
of any given course
of conduct.*

Need more information? To learn more about the League's ballot measure, and rules for city officials, please visit the League's website at www.cacities.org.

The League thanks Steven Lucas of the law firm Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP, for his contributions to this publication.

WORKING ON A
BALLOT MEASURE CAMPAIGN:
SOME RULES FOR
CITY OFFICIALS



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www.cacities.org

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DO'S AND DON'TS

FOR CITY OFFICIALS AND CITY EMPLOYEES

THE DON'TS: City officials and city employees may NOT:

- DON'T** • Distribute campaign literature through the city's internal mail system.
- DON'T** • Place campaign literature on employee bulletin boards, on the city's web page, or elsewhere on city government premises.
- DON'T** • Make public appearances speaking in favor of the ballot measure during compensated work hours.
- DON'T** • Make telephone calls about the campaign during compensated work hours.
- DON'T** • Walk precincts, draft campaign ads, or perform other campaign tasks during compensated work hours, or assign subordinates to do same.
- DON'T** • Add a link from the city website to a campaign website.
- DON'T** • Send or receive campaign-related emails on city computers.
- DON'T** • Urge other city employees to vote for the measure during compensated work hours.
- DON'T** • Use city copy machines, telephones, fax machines, computers, stationery, etc. for campaign purposes.

THE DO'S: City officials and city employees MAY:

- Work on the campaign during their personal time, including lunch hours, coffee breaks, vacations, etc.
- Make a campaign contribution to a ballot measure campaign committee using personal funds, and/or attend a campaign fundraiser during personal time.
- Make public appearances during personal time advocating the ballot measure.
- Have the city council adopt a resolution that officially endorses the ballot measure and confirms the prohibition on using government funds for political purposes at a public meeting.

"City officials interested in working for the League ballot measure, including participating in CITIPAC fundraising, should start by contacting their League Regional Representative."

There are two simple, but very important rules city officials and employees should follow if they want to get involved in campaign activities in support of the League's ballot measure to strengthen constitutional protections for local revenues.

DON'T USE PUBLIC FUNDS

All contributions to the ballot measure of your time and resources must be made with non-public funds. This means no public facilities or equipment (phones, computers, email accounts, vehicles, copy machines or any other equipment) may be used to plan or promote ballot measure activities, including fundraising. No public funds may be used in support of your campaign activities.

CAMPAIGN ON YOUR OWN TIME

Keep good records. Track your time and your use of private equipment used in ballot measure activities, so you are able to document that no public funds were used. City officials interested in working for the League ballot measure, including participating in CITIPAC fundraising, should start by contacting their League Regional Representative.

Brown Act and Fair Political Reform Act Presentation

Presented by Rob Schultz, Town Attorney

Town of Los Gatos

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2/12/2016

Presentation Topics

- Brown Act – Government Code 54950-54962
- FPRA – Government Code 81000-81016; California Code of Regulations Sections 18110-18997
- Council's Policies and Procedures – adopted August 2002

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Understanding the Brown Act:

California's Local Government Open Meeting Law

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Doing the People's Business

- “. . . Councils . . . exist to aid in the conduct of the **people's business**. It is the intent of the law that their **actions** be taken **openly** and that their **deliberations** be conducted **openly**.”
- The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, **do not give** their public servants **the right to decide what is good for the people to know and what is not good for them to know**. The **people insist on remaining informed so that they may retain control over the instruments they have created.**”

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Brown Act in a Nutshell

- An agenda that describes each item of business must be posted **72 hours** before regular meetings.
- A meeting occurs when a council majority gathers to hear or discuss city business.
- It is unlawful for a council majority to develop “collective concurrence as to action to be taken” outside of a meeting.
- The public is entitled to speak at meetings to both agenda items and other city business.

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Overview

- Who's Covered
- Meetings
- Agendas
- Closed Sessions
- Enforcement

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Who's Covered

- "Legislative Body"
 - City Council
 - All advisory or decision making bodies created by "formal action"
 - Standing Committees
 - Regular schedule or continuing jurisdiction
 - Council Members-Elect

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Legislative Body Q & A

- What if...
 - Council Appoints a Parking Structure Technical Committee?
 - Mayor appoints?
 - City Manager appoints?

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Meetings

- Lawful Face-to-Face
- Unlawful Chain or Wagon Wheel (Serial)
- Non-Meetings

Face-to-Face Meetings

- Meetings must be within the City Limits
 - Key exceptions for meetings with legislators and inspection of city land or facilities
- Teleconferencing is OK
 - Agenda and public access required at remote site and majority must be in town
- Public Participation Rights

Unlawful Serial Meetings

- Cannot develop “collective concurrence” among a majority outside a meeting
 - AG says collective concurrence means mere exchange of facts and substantive discussion
- Serial meetings are unlawful
 - Chain or Wagon Wheel
 - Phones, E-mail

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Non-Meetings

- Meeting Exemptions Include:
 - Individual Contacts
 - “Purely” Social & Ceremonial Gatherings & Seminars
 - Open, Publicized Community meetings
 - Meetings of another agency
 - Another legislative body’s meeting within the same agency
 - Standing Committees as observers
- May Not Discuss City Business Among Themselves

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Meeting Q & A

- What if...

- Teleconference is from a Cabo beach cabana?
- City manager briefs council 1 by 1 ?
- Council member briefs council 1 by 1 ?
- Council member calls all her colleagues, figures out their position, but no one explicitly commits their vote?

Agenda

- 72 hours before Regular Meetings or notice 24 Hours before Special Meetings
 - Brief, general description (20 words)
 - Including closed sessions
- No discussion or action on other matters
 - added by majority for true emergencies or 2/3 vote decides need for immediate action that arose after agenda posting
- Scheduling and brief responses to public are OK

Agenda Q & A

- What if...
 - Council needs to add an item to a special meeting agenda
 - Council wants to correct false or abusive comments from the public

Closed Session Overview

- “Secret meetings” are closely scrutinized by the press and public
- Only allowed when expressly permitted by law
- Agenda description is required
- No minutes or tape recording, but . . .
- Public may comment before session
- Some actions must be reported out
- Confidentiality required!

Permitted Closed Sessions

- Legal Advice on Pending Litigation
 - Lawyer must be present
- Instruct Real Estate Negotiators
 - Price and terms, not peripheral deal issues
- Employee Performance Evaluation & Complaints
 - 24 hour notice of complaints to employee
- Labor Negotiations
 - Cannot set salaries in closed session

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Enforcement

- Action can be voided after demand for cure
- Criminal prosecution
 - Misdemeanor
 - State of Mind is "intent to deprive the public of information" to which it is entitled
- Tape recorded closed sessions

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Overview of the Political Reform Act

- The Political Reform Act (PRA) is the **single most important conflict-of-interest law** in California. The Act's major provisions regulate political activities in campaign finance, lobbying registration and conflicts of interest. Every **member, officer, employee, or consultant of a state or local government agency** is a public official for purposes of the Act.

Purpose of the Act

- The primary purpose for the conflict-of-interest provisions of the Act is to ensure that, “public officials, whether elected or appointed, perform their duties in an **impartial manner, free from bias** caused by their own financial interests or the financial interests of persons who have supported them.” (Section 81001, subdivision (b).)

In terms of conflict of interest, the Act:

- Requires all public officials to **refrain from participating** in decisions in which they have a **financial interest**
- Requires designated officials to **file financial disclosure statements (700 Form)**
- Imposes limits on designated officials on the acceptance of gifts and honoraria
- Imposes post-employment restrictions

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Fair Political Reform Act Conflict of Interest Summary

- Prohibitions
- Disclosure
- Disqualification

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Two Prohibitions

- Gifts over \$440
- Honoraria

Gifts over \$440

- From a Single Source
- In a Calendar Year

Gifts Include

- Meals
- Tickets
- Passes
- Discounts
- Travel

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Gifts Do Not Include

- Informational Materials
- Gifts From Family
- Inheritance
- Personalized Plaques
- Birthday & Holiday Gifts if Equal Value is Exchanged

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Gifts Do Not Include

- Home Hospitality if Host is Present
- Wedding Gifts
- Travel & Lodging in California in Connection with Speech
- Admission to & Refreshments at an Event at Which Council Member is Speaking

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Disclosure

- Gifts Totaling \$50 from Single Donor
- Identify Donor and any Intermediary
- Intermediaries Must Disclose Actual Source of Gifts

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Disqualification

- Councilmember Cannot Vote if Decision will Have Material Financial Effect on Source of Gifts Totaling \$440 in the 12 Months Before the Decision

What's the Value of a Gift?

- Fair Market Value
- Cost to Donor
- Reasonable Approximation Based on Value of Similar Things

Gifts Not Received If

- Donate to Charity Without Tax Benefit
- Donate to Governmental Entity Without Tax Benefit
- Reimburse Donor for Value – within 30 days

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Honoraria

- Payment for Speech, Article, Attendance
- Prohibited at Any Amount

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Honoraria Does Not Include

- Admission if Giving a Speech
- Food & Drink at a Conference, Convention, Social Event, etc.
- Transportation & Lodging for Speech
- Personalized Plaque or Trophy Under \$250
- Earned Income from Profession
- Payment from Family
- Campaign Contributions

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Economic Interest in a Council Decision

- Economic/Financial Interest in a Council Decision Triggers Disqualification

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Economic Interest in a Decision

- Reasonably Foreseeable That Decision will have a material Financial Effect on your economic interests
- Financial Interest of Council Member or Immediate Family

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Financial Interests

- Investment of \$2000 in Business Entity
- Investment of \$2000 in Real Property
- Source of Income of \$500 or More
- Involvement in Business Entity: Director, Officer, Partner, Trustee, Employee, Manager
- Donor of Gifts of \$440 or More

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500 Foot Rule

- There is a presumption that there is a conflict of interest if real property in which a public official has an economic interest, is located within 500 feet of the property which is the subject of the governmental decision.

A Financial Effect on the Lessee

- A material effect, when presumed, may be rebutted by proof that it is not reasonably foreseeable that the decision will have an effect on:
 - (1) the termination date of the lease;
 - (2) the amount of rent paid;
 - (3) the value of the lessee's right to sublease the property;
 - (4) the legally allowable use or the current use of the property; or
 - (5) the use or enjoyment of the leased property by lessee.

Disqualification Process

Unless Absent from Hearing

- Disclose on the Record at the Meeting
- In Detail
- Recuse from Discussion and Vote
- Leave the Room

Not Disqualified

Not Disqualified if Effect on Council
Member's Interest is the Same as the
Effect on the Public Generally