

Town of Los Altos Hills

City Council Regular Meeting Minutes

Thursday, June 14, 2007
Council Chambers, 26379 Fremont Road

CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Warshawsky called the City Council Regular Meeting to order at 6:35 p.m. in the Council Chambers at Town Hall.

Present: Mayor Dean Warshawsky, Mayor Pro Tem Craig A.T. Jones (departed meeting at 10:30 p.m. and did not participate in discussion of agenda items 21B-21F, 22, 23 and 24) Councilmember Breene Kerr, Councilmember Jean Mordo and Councilmember Mike O'Malley

Absent: None

Staff: City Manager Carl Cahill; Interim City Engineer Cyrus Kianpour, Interim Administrative Services Director Judy Kozuki, Planning Director Debbie Pedro, Associate Planner Brian Froelich, City Attorney Steve Mattas, and City Clerk Karen Jost

Council adjourned to Closed Session at 6:36 p.m.

CLOSED SESSION

CLOSED SESSION: EMPLOYEE PERFORMANCE EVALUATION: CITY MANAGER
(Pursuant to Government Code Section 54957)

CLOSED SESSION: CONFERENCE WITH LABOR NEGOTIATOR(S)
(Pursuant to Government Code Section 54957.6)

Agency Designated Representative: Mayor/City Attorney

Unrepresented Employee: City Manager

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL: EXISTING LITIGATION

(Pursuant to Government Code Section 54956.9(a))

Carranza et al v. Friends of Westwind, et al.

PUBLIC SESSION

Council reconvened to Open Session at 7:05 p.m.

City Attorney Steve Mattas reported out of Closed Session the following actions by Council:

Closed Session Items 1 and 2: The City Council provided direction; no final action was taken.

Closed Session Item 3: The City Council by a 5-0 vote, unanimously approved a settlement agreement with Mr. Carranza and Mr. Rodriguez.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Mordo and passed unanimously to limit comments from the floor to two minutes.

APPOINTMENTS AND PRESENTATIONS

1. Recognition of Pinewood School Students for their volunteer service to the Los Altos Hills community - 2007 Earth Day

Mayor Warshawsky thanked Pinewood School President Scott Riches for the volunteer efforts of the Pinewood Students for Earth Day 2007. The Eight Grade student body had cleared trash and debris from the Town's pathways as their Earth Day project. Mayor Warshawsky presented a plaque to Riches that acknowledged the students community service.

Mr. Riches thanked the Mayor and Council and commented that his students had truly enjoyed and benefited from the experience.

2. Martha J. Kanter, Ed.D., Chancellor, Foothill-De Anza Community College District

Foothill-DeAnza Community College District Trustee Betsey Bechtel introduced Chancellor Dr. Martha Kanter; Foothill College Interim President Penny Patz and newly appointed Foothill College Incoming President Judy C. Miner. Bechtel thanked the City Council for the opportunity to update them on the accomplishments and plans of the Foothill-DeAnza Community College District. She acknowledged the Council's support of joint efforts and Councilmember attendance at their Board meetings.

Trustee Bechtel and Chancellor Kanter proceeded with a PowerPoint presentation that highlighted the College District's mission; the diversity and demographic composition of the student body population; student enrollment from Mountain-View/Los Altos High School and specifically, Los Altos Hills; the successful degree and matriculation rates of the District's students to four year colleges; achievement of high scores on many statewide accountability measures; and, the College District's educational goals. Kanter explained that the District continuously redesigned its courses to meet the Valley's social and economic needs and currently had one of the largest health care training programs in the State. In 2005, the Board of Trustees adopted a 10-year Educational Master Plan, which established goals to measure their progress. The District's goals included

opportunity, quality, accountability and sustainability. The Educational Master Plan guides the Facilities Master Plan, which served as the blueprint for the District's local and State bond projects.

Trustee Bechtel reviewed the Measure E and Measure C renovation and construction efforts on the District's DeAnza and Foothill campuses. She noted the funding challenges faced by the District and the approaches the District was taking to meet the challenge. The UC system receives \$18,203 per student with the California Community Colleges receiving \$5,461 (2005-06) for equivalent full-time students.

Bechtel extended an invitation to Council to join them in their various fundraising venues and to celebrate the District's 50th anniversary this fall.

Council thanked Dr. Kanter and Trustee Bechtel for the presentation and congratulated Dr. Miner on her recent appointment as President of Foothill College.

Councilmember Kerr requested an update on the status of the soccer field at Foothill and possible community use of the site. Dr. Patz explained that currently they were reviewing the option of removing a portion of the existing parking lot to expand the practice field to a full playing field. Discussions were on hold until the transition of the new President was completed. Kerr extended an invitation to Dr. Miner to attend the next meeting of the Ad Hoc Committee on Recreation Field and Facilities Investment to discuss possible partnership and cooperation opportunities for the field and additional recreational options for the Town.

3. Introduction of Interim City Engineer Cyrus Kianpour, CSG Consultants, Inc.

Mayor Warshawsky introduced Interim City Engineer Cyrus Kianpour. Mr. Kianpour explained that as the Interim City Engineer, he would be tasked with keeping the Town's current infrastructure projects on schedule. He has served as City Engineer for numerous neighboring communities including Hillsborough and South San Francisco.

CONSENT CALENDAR

Item Removed: Item 18 (Cahill)

MOTIONED SECONDED AND CARRIED: Moved by Mordo, seconded by Kerr and passed unanimously to approve the remainder of the consent calendar, specifically:

4. Approval of Minutes: Regular City Council Meeting May 10, 2007
Regular City Council Meeting May 24, 2007
5. Review of Disbursements: 5/16/2007 – 6/5/2007 \$579,472.89
6. Notification of Fast Track Approval: Lands of Murphy: 13870 Ciceroni Lane; (File #7-07-ZP-SD); A Request for a Site Development Permit for a 4,972 square foot New Residence with a 597 square foot Basement and Pool (maximum height 27') CEQA review-Categorical Exemption per 15303(a)
7. Award of Contract: 2006-2007 Pavement Rehabilitation Project – Resolution 32-07

8. Acceptance of Grant of Open Space Easement; Lands of Arakawa, 26889 Nina Place, (File # 238-06-ZP-SD-GD) – Resolution 33-07
9. Acceptance of Dedication of Right-of-Way: Lands of Yu, 14329 Miranda Way- Resolution 34-07
10. Acceptance of Dedication of Right-of-Way: Lands of Kelly, 24221 Hillview Drive- Resolution 35-07
11. Acceptance of Dedication of Right-of-Way: Lands of Murphy, 13870 Cicerone Lane- Resolution 36-07
12. Grant of Easement to Pacific Gas & Electric Company – Resolution 37-07
13. Approval of Contract Amendment: Additional Engineering Design Services for Rule 20A Undergrounding Project – Resolution 38-07
14. Approval of Amendments to the Agency Agreements for Countywide AB939 Implementation Fee and Household Hazardous Waste (HHW) Collection Program- Resolution 39-07
15. Approval of Contract Amendment: Additional Engineering Design Services for Pine Lane Sanitary Sewer Diversion Project at Foothill Expressway – Resolution 40-07
16. Approval of Agreement for Professional Services Agreement with Avery & Associates to Recruit for the Position of City Engineer/Public Works Director – Resolution 41-07
17. Approval of Resolution in Support of Proposition 1B – Resolution 42-07

Item Removed:

18. Approval of Maintenance Service Agreement for Sanitary Sewer Systems and Overflow Emergency Response Services

City Manager Carl Cahill requested continuation of the agenda item to a future meeting in July to enable staff to further review additional options for maintenance service of the sewer systems.

PRESENTATIONS FROM THE FLOOR

The City Clerk announced that the Standing Parks and Recreation Committee had sponsored a team for this year's Los Altos Relay for Life. Online registration was available for those interested in participating.

PUBLIC HEARINGS

19. Appeal of the Planning Commission's Decision to Approve a Landscape Screening Plan for a 7,482 square foot New Residence Approved by the City Council on March 17, 2005 and Construction of a New Swimming Pool: Lands of Alon, 27673 Lupine Road (File#9-07-ZP-SD-GD) CEQA review: Categorical Exemption 15303(e) and 15304(b) (Staff-Brian Froelich)

City Attorney Steve Mattas advised Council that due to the adjudicatory nature of the agenda item, it would be appropriate for Council Members to state for the record any contact/conversations they have had with the applicant (Alon) and appellant (Lee) prior to the public hearing.

Mattas noted that the counsels for both parties had requested to make brief presentations at the beginning of the hearing. They had engaged in discussions prior to the hearing at and wished to comment on their discussions. He recommended that the Council approve their request and following the presentations, determine how they would proceed with the agenda item.

City Council Ex Parte Contacts Policy Disclosure

Councilmember Mordo: Visited the site at the request of the Lees, toured the project where they identified their issues.

Councilmember Kerr: Visited the site at the request of the Lees. Kerr added that he had wanted to refresh his memory on the project. He complimented the Alons on their home.

Councilmember O'Malley: Visited the site at the request of the Lees. Mayor Warshawsky had accompanied him. They toured the property and project for approximately an hour. He concurred with Kerr's assessment of the Alon home and complimented them on their beautiful home.

Mayor Pro Tem Jones: Reported that he had been contacted by telephone by the Lees. He had not visited the site.

Mayor Warshawsky: Visited the site at the request of the Lees and had joined Councilmember O'Malley for a tour of the site.

Council consensus was to hear from the respective attorneys prior to the staff report presentation.

Barton Hechtman, Matteoni, O'Laughlin & Hechtman, Land Use Counsel for Jonathan and Su Lee and Jennifer Renk, Luce, Forward, Hamilton & Scripps, Land Use Counsel for Zvi and Ricki Alon, introduced themselves to the City Council.

Hechtman explained that he and Ms. Renk had met earlier in the evening, prior to the public hearing, at the suggestion of the City Attorney to discuss which issues they could resolve amicably. The three issues of contention included; 1) the existing curbing at the mouth of the driveway; 2) landscaping within the driveway easement area; and, 3) the row of nine trees currently planted along the rear property fence.

Hechtman commented that they had been able to reach a consensus on the first two issues and requested assistance from staff and the City Attorney in drafting the appropriate language for the Conditions of Approval. The identified problematic curbing had yet to be “signed-off” (approved) and he suggested that both parties would be willing to work with staff to resolve the issue. Regarding the landscaping within the driveway easement, Renk noted that the Alons had recognized that the easement width was 35’ and the Lees have acknowledged that the Alons have the right to make certain improvements within that area but wanted to maintain a 25’ vehicle access corridor. Following a brief discussion with the City Council and their respective clients, there was a consensus that landscaping within the 35’ easement would be limited such that landscaping in excess of five feet (5’) from the edges of the easement would not impede vehicular access (landscaping in this area could be driven on).

Discussion ensued regarding the existing row of trees located along the northern property boundary. City Attorney Mattas explained that the Condition of Approval (COA 8) required the removal of seven (7) Stone Pine trees and their replacement with a species of trees that would not exceed a specified height. The Condition did not spell out who would be responsible for the cost of the removal of the seven (trees) and substitution, however, at the Planning Commission public hearing there was an understanding that Mr. Lee would pay and that understanding was no longer in place. Mattas asked the Counsels to clarify what their objective was for their clients to ensure that the City Council had a clear understanding of what they were being asked to consider. Renk stated that the Alons were willing to include the additional two (2) trees that the Lees were requesting be removed and were willing to compromise on the costs associated with the extra trees, however, hoped that Council would support the agreement for payment that had been reached at the Planning Commission.

Associate Planner Brian Froelich made a brief PowerPoint presentation that included a slide of the existing seven (7) trees identified for removal by the Planning Commission to be replaced with a species that would not grow beyond thirty feet (30’) in height. The Lees, as part of their appeal, were requesting an additional two (2) trees be removed and replaced with trees that also would not exceed thirty feet (30’) at maturity. Froelich identified the two trees. The trees were all located along the northern boundary of the property.

Councilmember Mordo noted that the trees in question had all been planted prior to the Planning Commission’s review of the project and additional research since the Planning Commission hearing has confirmed that the species that had been planted could grow beyond the maximum height of thirty feet, potentially to eighty feet. Froelich explained that the height potential had been debated by respective arborists at the hearing.

Mayor Warshwsky requested direction from the City Attorney on a format for the remainder of the hearing. Mattas suggested that the City Council consider allowing staff to draft the language regarding the curb approval and the terms related to the vehicle access to the easement. With regards to the necessity to remove the trees and the responsibility for the associated costs, the City Attorney suggested that the Council take comments from the appellant and the applicant. Mattas clarified that the Condition of Approval called for the removal of the trees but did not identify the cost allocation between the two parties. Because the agreement no longer exists, it would be appropriate

for the Council to hear the presentations. He noted that the question of payment needed to be addressed and additionally whether or not the Condition needed to be modified because Mr. Alon might have made a different argument at the Planning Commission if the cost had not been born by the Lees.

Consensus of the Council was to limit the presentations by the appellant and applicant to ten minutes.

Barton Hechtman, attorney for the Lees, addressed Council. He offered that the issue before the City Council was one of fairness. Hechtman explained that at the Planning Commission, the Lees had believed that the trees in question had been planted with a pre-approval prior to the public hearing and thought they were asking for a favor in requesting removal of the identified trees that could potentially block their view. It has since been determined that there was no pre-approval. He offered that the Lees were willing to pay \$10,000 towards the cost of the tree replacement but had concerns regarding the selection of the species and size of the trees that were being chosen by the Alons for installation. Hechtman was seeking a mechanism that would control the size of the new trees and limit the cost. He hoped the Council would consider the Lees offer as a reasonable resolution to the issue.

Ricki Alon, applicant, addressed the City Council. Alon explained that the process for his project had taken a considerable amount of time. At the time of grading, he had been required to plant screening to replace the Eucalyptus trees that were removed and to maintain landscaping. He had not deliberately planted trees illegally. At the Planning Commission hearing for his landscaping project, six trees were identified for replacement and then an additional tree was added at the request of Mr. Lee. In a consolatory spirit to work with his neighbor, Alon agreed to the Condition after being asked by the Planning Commission if he was willing to move the trees and Mr. Lee had verbally offered to pay up to \$30,000. Following the hearing, Alon had asked Mr. Lee what species he would like planted and for a clarification on the number of trees to be moved with the belief that the additional tree that had been slated for removal would not pose a problem for the Lees view.

He distributed a handout to Council that included a site plan with the trees in question highlighted; a section with the slope of the Lee's and Alon's properties with the trees and a projection of their typical height at maturity and their potential impact on the Lees view; and, a species fact sheet for the Stone Pine that quantified their usual mature height was 12-20 meters. Alon suggested that it would take approximately 35 years for the trees to grow to their maximum height.

Barton Hechtman commented that his clients believed there were discrepancies with the drawings that had been provided by the applicant and that the row of trees would block the Lees view.

OPENED PUBLIC HEARING

Farhad Haghigi, Via Felice, neighbor of the Alon property, distributed photographs to the City Council of the Alons' property prior to the project and in its present condition. He

requested additional screening be required adding that the Euclayptus trees that had been removed had mitigated the view of the project from his property.

CLOSED PUBIC HEARING

Mattas reviewed the options before Council that included: the referral of the project back to the Planning Commission or with the consensus of the applicant and appellant on two issues, Council could take under consideration the remaining issue. Regarding the outstanding issue, Council could affirm the Condition of Approval as determined by the Planning Commission or modify the Condition to include the additional two trees and allocation of the associated costs. Mattas noted that he had drafted proposed language for the first issues.

Council consensus was to recess to allow the City Attorney and respective Counsels to review the proposed language for the revised Conditions of Approval and discuss the options available to their clients.

COUNCIL RECESS: 8:20 p.m.

COUNCIL RECONVENED TO OPEN SESSION: 8:30 p.m.

City Attorney Mattas advised that the two parties were amenable to the language that had been drafted regarding the two issues where there had been general agreement. Mattas suggested that if Council decided to entertain a motion to take action on the appeal, the proposed language be included in the motion. For the record, Mattas offered the following language to Council: 1) Additional language to be added to Condition of Approval 1A: “The installation of any curbs, installed by the applicant, within the 35 foot easement shall be subject to the approval of the City Engineer. The City Engineer shall consult with the appellant prior to making a decision”; and, 2) Conditional of Approval 18 (new condition) “Landscaping within the 35 foot easement shall be limited such that landscaping in excess of five feet from the edges of the easement shall be limited to landscaping that does not modify the existing driveway or impede vehicular travel (i.e. can be driven on).”

In addition to the proposed language, Mattas suggested that Council include in the motion direction to staff that minor “word-smithing” to the new Conditions was appropriate so long as it did not alter the intent or purpose of the Condition with the City Attorney having final approval of the language.

Mattas noted that the applicant and appellant had not reached a concurrence regarding Condition of Approval 8 as approved by the Planning Commission regarding the removal and replacement of the seven (7) trees.

Mattas advised the Council, that if an agreement were reached between the parties, it was appropriate for the City Council to acknowledge and identify the agreement regarding the cost allocation for the trees and memorialize it within the language of the condition; however, the Town did not have any enforcement capability regarding the financial agreement. The enforcement to the Condition related only to the applicant.

Following a brief discussion and interchange of possible solutions between the parties and the City Council that included consideration of a 50/50 allocation of costs or the setting of a maximum cost for the trees, an amenable agreement was reached. The nine (9) identified trees would be removed and replaced and Mr. Lee would share in the cost up to a maximum of \$15,000.00. Both parties agreed on the record to the terms of the agreement.

MOTION SECONDED AND CARRIED: Moved by Jones, seconded by Mordo and passed by the following roll call vote to affirm the Planning Commission's decision with the additional language to Condition 1A and the new Condition of Approval 18 as read into the record by the City Attorney and modification to Condition of Approval 8 to indicate it applied to the seven (7) Stone Pines and two (2) Cedar trees to be removed with the addition of a sentence that would read: "The Lees shall pay up to \$15,000.00 towards the cost of replacing the trees." Council provided direction to staff to modify the language of the drafted Conditions of Approval as needed as long any changes did not change the intent of the Condition with the final approval of the language as to the content to be with the City Attorney.

AYES: Mayor Warshawsky, Mayor Pro Tem Jones, Councilmember Kerr, Councilmember Mordo and Councilmember O'Malley
NOES: none
ABSENT: None
ABSTAIN: None

20. Consideration of Request for Extension of the Expiration Date for a Site Development Permit for a Swimming Pool, Spa and Hardscape; Lands of Awdisho (File # 33-07-MISC) (Staff-Brian Froelich)

Associate Planner Brian Froelich introduced the item to Council. The request before the City Council was for an extension of a Site Development Permit that had been approved by the Planning Commission at a hearing on August 11, 2005 and had expired on August 11, 2006. The applicant had submitted the request for an extension citing seasonal considerations and financial issues for the delay. Froelich noted that no code or policy changes had been made since the approval that would render the previous approval inappropriate or nonconforming.

OPENED PUBLIC HEARING

Bob Stutz, Pathway Committee member, reported the existence of English Holly growing on an adjoining pathway and he was concerned that it could potentially create an access problem.

Staff was directed to investigate the issue.

CLOSED PUBLIC HEARING

MOTION SECONDED AND CARRIED: Moved by Jones, seconded by Mordo and passed unanimously to approve the request for extension of the Site Development permit with a new expiration date of August 11, 2007.

PLANNING COMMISSION REPORT

Planning Director Debbie Pedro reported that the Commission had met on June 7, 2007 and considered four projects. They included a request for a landscape screening plan for a new residence (approved); permit for a relocated driveway and grading exception (continued to address neighbors concerns); request for a Conditional Development Permit and variance for two parking spaces in the setback (approved); and a request for a 6 lot subdivision (recommended approval/ forwarded to the City Council for a public hearing at a future meeting).

UNFINISHED BUSINESS

21A. Public Education: Bring Public Education Back to Los Altos Hills Accessible to Children of All Residents

Council had before them a letter dated June 1, 2007 that had been sent to Superintendent Tim Justus and the Los Altos School District Board of Trustees. The letter had been drafted by the Education Committee under the signature of Mayor Warshawsky.

Mayor Warshwsky reviewed the letter with Council and noted that it clarified the Council's position on attendance boundaries. Warshawsky had presented the letter to the District Board at their meeting and spoke to the issue. He explained that the boundaries have yet to be finalized and currently several options were being considered by the Board including one that called for the Bullis site to be shared by a District school and the Bullis Charter.

Mayor Pro Tem Jones reported that Bart Carey had been elected Chair of the new Standing Education Committee. Jones outlined the additional highlights of the letter that reiterated Council position of education issues and included: 1) support for the improvements at the Bullis site and the commencement of the construction to bring the facility up to the level of the other campuses; 2) approval of the District's plan to return public neighborhood elementary school education to Los Altos Hills by the fall of 2008; 3) support of the MOU between LASD and PAUSD that would allow children in the PAUSD portion of Los Altos Hills to attend Bullis Purissima School; 4) support for a contiguous attendance boundary for the Bullis Purissima student body; 5) desire for a K-6 school at the Bullis site as soon as possible; 6) endorsement of locating the Bullis Charter School at the Bullis Purissima site with a preference for LAH residents as an alternative to reopening a LASD school; and, 7) acknowledgement that the Council would like the Bullis Purissima site to be used for Town residents and close-in Los Altos residents noting that the size of the site was not ideal for hosting other District activities such as the all day district-wide Kindergarten.

Bart Carey added that he believed that the Town's education efforts were moving in the right direction. He noted the importance of insuring that the District meets their commitment to rebuild the Bullis Purissima campus and the continuation to monitor their discussions on what "type" of school will be located at the site.

Mayor Warshawsky thanked Carey for his volunteer participation and involvement with the education movement in the Hills.

Mayor Pro Tem Jones applauded the actions of the Superintendent and Board to spend the monies on the long delayed improvements to the site and suggested that an important next step was direct discussions between the District and Bullis Charter School. He explained that the Town was willing to sponsor the discussions. He believed that locating BCS at the Bullis campus would be the least disruptive solution to the boundary issue.

OPENED PUBLIC COMMENT

Jill Jensen, Purissima Road, expressed her hesitance in the Town's support of the construction by LASD at Bullis if BCS was going to be located at the site. She suggested that the Town and BCS could share in the cost of the improvements and that some of the district money could be directed to improve Egan for students that reside north of the El Camino.

Mansour Moussavian, resident, commented on the recent letters published in the Town Crier regarding Bullis Charter School. He offered that there was a misunderstanding on the make-up of the student body and suggested that it would be appropriate for someone to explain that the majority of the students were Los Altos Hills residents.

Bart Carey reiterated the importance of completing the construction improvements at the Bullis site. He added that the need for construction of a site for the El Camino students was projected over an eight year time period and the need for the renovation at Bullis was immediate. The suggestion to move BCS to Bullis would "free-up" their current site at Egan.

CLOSED PUBLIC COMMENTS

21B. Underground Utilities: Complete Pilot Projects and Assist Underground Assessment Districts

Interim City Engineer Cyrus Kianpour reported that the Undergrounding Project had gone out to bid. Bid opening was scheduled for June 26, 2007. The Town had received a memo from PG&E that there was a possibility that the Rule 20A funds were insufficient for the project. Once the bids are reviewed, staff will perform value engineering of the project to ensure that it is kept within the budget.

21C. Sanitary Sewers: Update and Implement the Master Plan – Update from the Ad Hoc Infrastructure Committee and Request for Consideration of Townwide Survey- Councilmember O'Malley

Councilmember O'Malley reviewed the proposed survey that had been developed by the Ad Hoc Infrastructure Committee with Council. The goal of the survey was to assess the interest level of residents on septic systems for sewer service.

Council thanked O'Malley and the Committee for their effort. Council consensus was to approve distribution of the survey.

21D. Wireless Communications: Continue to Improve Town Wide Cell Coverage

Planning Director Pedro reported that the mitigation landscaping at Westwind Barn had been installed.

21E. Complete General Plan Review

Councilmember O'Malley reported that the draft of the Safety Element was nearing completion. The Committee's next project was the Noise Element.

21F Develop Comprehensive Plan for Expanded Recreational Facility Access and Begin Implementation of Acquisitions

No Report.

NEW BUSINESS

22. Consideration of Council Meeting Schedule for Review of Grant Funding Requests from Community Services Agencies

Councilmember Mordo suggested that Council consider assigning the grant reviews to the Community Relations Committee.

Following a brief discussion, Council scheduled the grant request presentations for Council consideration at the August 9, 2007 Council meeting.

23. Consideration of Final Operating Agreement between Friends of Westwind and Town of Los Altos Hills

City Attorney Steve Mattas advised Council that the Final version of the Operating Agreement that was substantially the same as the Operating Agreement Term Sheet that had been approved by Council had been drafted and was currently being reviewed by the Friends of Westwind. The minor changes in the document included: clarification of the insurance provisions; incorporation of the loan agreement; and shorter advance period of the notice period for renewal discussions. Mattas discussed the options for Council action on the item. They could take action on the item with authorization to the City Attorney to make minor changes and approve the final language but to return to Council if there were any substantive changes to the agreement, or they could continue the item to the next agenda and review the final document.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Mordo and passed unanimously to adopt the Final Operating Agreement with the provision that the City Attorney had the authority to approve any minor language changes; however, if there were substantive changes to the agreement, it would be returned to Council for their consideration.

24. Consideration of First Amendment to Employment Agreement between Town of Los Altos Hills and Carl Cahill

City Attorney Steve Mattas introduced the item to Council. Council had before them the draft amendment to the City Manager's employment agreement. The agreement had been negotiated by the City Manager and a council sub-committee of the Mayor and Mayor Pro Tem. The amendment increased the compensation and added a year to the agreement.

MOTION SECONDED AND CARRIED: Moved by Mordo, seconded by Kerr and passed unanimously to adopt Resolution 44-07 "Approving and Authorizing Execution of Amendment No. 1 to the City Manager Agreement between the Town of Los Altos Hills and Carl Cahill.

Mayor Warshawsky thanked the City Manager for his work during his first year as City Manager and noted that the Council was looking forward to working with him in the future.

Cahill thanked the Council.

REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND COUNCILMEMBERS ON OUTSIDE AGENCIES

25. Consideration of Approval of Agreement with Architect Carter Warr for Professional Services for the Westwind Community Barn Restoration Project – Westwind Community Barn Committee

Councilmember Mordo introduced the item to Council. He reported that the Westwind Community Barn Committee (WCBC) had successfully reached a resolution to the governance issue at the Barn and were now focusing on restoration of the facility. The group had identified a local architect with experience in rural architecture that the Committee believed could best serve the project. The Architect had attended two meetings to familiarize himself with the assignment. Before Council was a proposal from Architect Carter Warr with an estimated cost range of \$35,000-\$65,000 for the scope of architectural services identified in the proposal. These included the development of architectural drawings that could be presented to the public for comment and used as a means to develop a budget for restoration of the Barn. The architect had estimated that the initial phase of restoration (Phase I) would cost between \$750,000 and \$1 million. Mordo offered that the expectation was for the cost of the project to be shared equally between private and public funds. He noted that any proposed budget would be reviewed by the Finance and Investment Committee.

Councilmember Kerr added that a remodel of the staff quarters and common bathrooms at the Barn was also under consideration. He believed it was appropriate and more cost effective to approach the renovation with a master plan rather than by "piece meal". The architectural plans would help in the development of a vision for the barn that could be reviewed by the public and assist in designing an efficient operational plan. Kerr reviewed the timeline that would conclude with a presentation of the plans at the

September Westwind Barn Hoe Down. The plans would also be beneficial to the Supporters of Westwind Barn in their fundraising efforts. Kerr added that it would be helpful for the Committee to understand the Council's direction on the proposed project.

Council discussed the proposal.

Councilmember O'Malley explained that he did not support spending a significant amount of Town money on the Barn for renovation other than funding maintenance costs to keep the facility in good repair. He added that the recent Recreation Survey did not show much community support for equestrian facilities.

Mayor Pro Tem Jones summarized the major multi-year projects that were currently being considered by the Council that included pathways, sewers, and recreation projects including Westwind Barn, improvements to the Little League fields and possibly a new park. He suggested that it would be appropriate for the Ad Hoc Committee on Recreation Fields and Facilities Investment to provide Council with a prioritization of the recreation projects.

Jones suggested that it was difficult to assess the budget for the restoration project without the plans and they would be an asset for the fundraising. Jones agreed that there was not much support from the survey for equestrian facilities and he would not be comfortable allocating a major portion of the recreation funds to the renovation but acknowledged that the plans were necessary for the next step. He questioned how the expenditure could be made more palatable and wondered if the Supporters of Westwind Barn would be willing to fund 50% of the study. Jones stated that if the Council were to approve funding of the agreement up to \$32,5000.00, it would in no way reflect an affirmation that the Town was committing to funding 50% of the renovation.

Mayor Warshawsky commented that the Council had already approved improvements to the lower ring at the Barn and he would prefer to consider allocating funding for projects with the benefit of an all inclusive master plan. He believed that if the Council moved forward with the architectural plans it would be committed to the project as a priority and he would prefer to revisit the issue after having a discussion and development of a master plan of projects at a Council strategic planning session.

Kerr suggested that if the Town was going to continue operating the barn there were basic improvements and maintenance that had been deferred that needed to be addressed and believed it was important to complete the preliminary engineering plans.

Mordo offered that it was the Town's Barn and a valuable asset and suggested that it was important for the Town to retain control of the Barn.

Jones suggested that this was an appropriate time to seek partnership with Supporters and ask them to share in the cost of the architect and garner their input especially if the renovation of the Barn is to be a public/private partnership project.

Mayor Warshawsky encouraged the Committee to seek additional bids from architects for the project.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Mordo and passed by the following roll call vote to approve the contract with Carter Warr, Architect and to request that the Supporters of Westwind share in the cost of the architectural fees equally (50%-50%) with the Town's allocation a not-to-exceed amount of \$32,500.

AYES: Mayor Pro Tem Jones, Councilmember Kerr and Councilmember Mordo
NOES: Mayor Warshawsky and Councilmember O'Malley
ABSENT: None
ABSTAIN: None

STAFF REPORTS

City Manager – none
City Attorney – none
City Clerk – none

COUNCIL INITIATED ITEMS

26. Consideration of Resolution to Support a Request to LAFCO for an Out-of-Agency Contract for Sewer Service to 10885 West Loyola Drive in an Unincorporated Area of Santa Clara County-Councilmember Mordo

Councilmember Mordo introduced the item to Council. He offered that he had been approached by a friend/realtor with a request to meet with Mr. O'Keeffe who had been having difficulties with the County regarding a proposed 2-lot subdivision of his property. Mordo had reviewed the request with staff and learned that the property was not subdividable per the Town's requirements. Upon being advised of the Town's opinion, O'Keeffe had stated that he wanted to subdivide under the County's rules. Mordo noted that as a County parcel, the process for subdividing would include his application being forwarded to the Town for comment and he would be required by the County to have two (2) sewer connections. Mordo explained that the Town was unable to grant a unilateral approval for sewer connections because the parcel was in the County in an area that has been designated for annexation to the Town in the near future. Mr. O'Keeffe would be required to process the request through LAFCO. Mordo had agreed to bring Mr. O'Keefe's request for a Council resolution forward for Council consideration. The resolution would support O'Keefe receiving two sewer connections. If adopted, the resolution would then be forwarded by O'Keeffe to LAFCO. O'Keeffe had informed Mordo that if the County denied his application to subdivide, he would build a second unit on his property with the additional connection.

Councilmember O'Malley advised that he had also met with the applicant and Toni Casey and discussed the issues with staff and the City Attorney. O'Malley explained that he had sent a letter last year to the County offering that O'Keefe would have access to sewers. At that time, he believed that would be sufficient for LAFCO. Subsequently, staff and the City Attorney had expressed concern that the sewer connections to be sold to Mr. O'Keeffe could not be authorized by the Town, because the proposed "lot split" did not conform to the Town's requirements. O'Malley requested clarification from the City Attorney regarding the Town's role in the subdivision if sewer connections were not involved.

Mattas explained that the County would seek comment from the Town regarding a proposed subdivision because the property was within the Town's Sphere of Influence. The Town would advise the County that the subdivision was not consistent with the Town's General Plan. This would be the extent of the County's request if the application did not include sewer connections. The County could approve the subdivision without the Town's approval. However, the sewer connections require an Out-of-Agency contract approved by LAFCO.

Mordo stated that he was sympathetic to Mr. O'Keeffe's situation because there had been a minor error made by Town staff that had ultimately been rectified. The project had been originally submitted to the Town by the County in 2004 and staff had stated that it did not conform to the General Plan and the subdivision did not meet the requirements of the Los Altos Hills Municipal Code. The application was resubmitted in 2006 to the County and again forwarded to the Town where staff approved the subdivision as being in General Plan Conformance. The erroneous approval was corrected in August, 2006 by Town staff and the County was notified.

The City Attorney advised that staff was recommending that the Council deny the requested resolution to support an Out-of-Agency Contract for sewer service because it was inconsistent with the Town's zoning designations. He noted that this fact would factor into LAFCO's determinations. LAFCO's primary intention was to have property within a Sphere-Of- Influence incorporated into that city. Mattas explained that the language in the staff report before Council referencing the requirement that the application within the city's urban service area meet the general plan conformance of the city was taken directly from the County's zoning ordinance.

Planning Director Debbie Pedro reported that annexation of the area where the O'Keefe property was located was moving forward and she expected it to be before the City Council in two-three months. City Manager Cahill offered that the final step in the annexation process could be completed by LAFCO administratively.

Council discussed the language of the resolution before them. Mattas explained that as the resolution was written, it reflected an endorsement for sewer service to the parcel but did not endorse the application for sewer services for the purpose of subdividing the property.

OPENED PUBLIC COMMENT

David O'Keefe, W. Loyola, applicant addressed Council. He distributed a packet to the Council and reviewed the materials that included: a background summary of his project and list of costs he had incurred from 2004-2007; sewer information including correspondence; and, letters of support from eight immediate neighbors.

O'Keefe stated that the project had been a financial "stretch" for his family. He explained that he was not aware of the requirement to go through LAFCO until recently and had received the necessary approval from the City Engineer to purchase sewer rights from the Hortons prior to receiving the letter that identified the LAFCO requirement. O'Keefe offered that there was a sewer line with a lateral to his property on his street

and a LAFCO approval had not been required for the installation of the existing sewer line.

O'Keefe stated that he was not before Council to discuss subdividing his property but would focus on the resolution that was required to complete his application with LAFCO. He encouraged the Council to adopt the resolution.

Council questioned the applicant. Mayor Pro Tem Jones asked if O'Keefe supported the resolution that was before Council. O'Keefe affirmed his support for Council approval of the resolution. Councilmember Kerr inquired if his septic field was failing. O'Keefe offered that the field was not failing but was in the location where he would like to build the second structure. Mayor Warshawsky asked if O'Keefe would accept one sewer right and O'Keefe responded no.

Keri O'Keefe, W. Loyola, applicant, encouraged the Council to approve the resolution. She offered that her husband was an honest and hard working person and commented that the proposed new home was a dream for her family and young children.

Bob Fenwick, Elena Road, thanked the Councilmembers for their service to the community. He offered that sewers should be considered under the umbrella of utilities. Fenwick supported Council adoption of the resolution and suggested that sewer service should be considered as a separate issue from any subdivision. Fenwick added that if Council wished to include language in the resolution that a subdivision of the property would not meet the General Plan Conformance, he did not see that as an impediment to adopting the resolution and forwarding it to LAFCO.

Steven Beebe, neighbor to applicant, addressed Council. A letter from Beebe had been included in the staff report before Council. Beebe explained that he was speaking on behalf of the four adjacent property owners who opposed Council adoption of the resolution. He believed that the applicant was requesting two sewer connections to support subdivision of his parcel. Beebe noted his three main points of contention to the request included: 1) the proposed subdivision did not conform to the Town's General Plan; 2) there was no proof that O'Keefe would be able to hook up to sewers even if he was granted the rights; and, 3) O'Keefe had acted in bad faith. Beebe explained that the proposed sewer line was originally drawn on his property without his permission and was now shown in the California Water Service easement on O'Keefe's property.

Jared O'Keefe, Los Altos, spoke to the integrity of his brother and offered that he and his family would be an asset to the community. J. O'Keefe commented on the many volunteer activities of his wife and family and encouraged the Council to adopt the resolution to allow his brother to remain in the area and be a part of the community.

Neighbor of Applicant, Entrada Place, supported Council adoption of the resolution. He offered that sewer service was a health and environmental issue and believed that the subdivision of his property should not be a determining factor in the consideration of O'Keefe being granted the sewer rights.

Jim Poll, W. Loyola Drive, spoke in support of Council adoption of the resolution.

Resident, neighbor, Unincorporated Area-Sphere of Influence, encouraged the Council not to approve the sewer rights for the applicant. She noted that there were no health and safety issues being offered as a reason for the request and believed the applicants only wanted the connections so they could move forward with the subdivision of the property.

Mary Ann Dickey (Kellar), spoke to the applicants honesty and work ethics. She encouraged the Council to approve the resolution and noted that Mr. O’Keeffe was only before Council for the sewer connections.

David O’Keefe, applicant, explained the discrepancy regarding the location of the proposed sewer line on his property had been created by a surveyors mistake on the map and offered that there was ample room for the sewer line. O’Keeffe reiterated that the process to get sewer connections had been frustrating, disheartening and financially difficult for his family. O’Keeffe stated that he had played by the rules and encouraged the Council to approve the resolution to LAFCO.

CLOSED PUBLIC HEARING

Councilmember Mordo commented that he believed Mr. O’Keeffe was a good person who had acted in good faith and he had compassion for his situation. He concurred that the parcel did not conform to the Town’s subdivision standards but noted that the County was not required to follow the Town’s zoning ordinances. Mordo suggested that he could support the Resolution in the Council packet drafted by the City Attorney and offered that it was a good compromise that clarified that the Council did not endorse a subdivision.

Councilmember Kerr questioned why Mr. O’Keeffe couldn’t wait until the area was annexed to receive his sewer rights. He believed that the resolution undermined the General Plan and sent mixed messages to the staff on their obligations to uphold the Town’s codes.

Councilmember O’Malley commented that if you removed the emotion and looked at the facts, Mr. O’Keeffe had played by the rules and purchased two sewer rights. He had bought a piece of property in the County that could be subdivided under their codes and he was trying to complete the process before his area was annexed. O’Malley stated that he supported the resolution as it was written.

Mayor Pro Tem Jones concurred with Councilmember O’Malley’s comments and support of the resolution and added that the wording of the resolution reflected the Council’s direction that it did not support a subdivision and was endorsing the application for sewer service to the parcel.

Mayor Warshawsky explained that the issue of a potential subdivision of the property needed to be evaluated when considering the resolution. He noted that the Board of Supervisors carefully monitored actions within a city’s designated Sphere-of-Influence area. Warshawsky added that a subdivision of the property would not comply with the Town’s General Plan and he could not support the resolution.

MOTION SECONDED AND CARRIED: Moved by Mordo, seconded by O'Malley and passed by the following roll call vote to approve Resolution No. 43-07 "Requesting LAFCO Action for an Our-Of-Agency Contract for Sewer Service to 10885 West Loyola Drive in an Unincorporated Area of the County of Santa Clara."

AYES: Mayor Pro Tem Jones, Councilmember Mordo and Councilmember O'Malley

NOES: Mayor Warshawsky, Councilmember Kerr

ABSENT: None

ABSTAIN: None

ADJOURNMENT

There being no further business, the meeting was adjourned by consensus of the City Council at 10:50 p.m.

Respectfully submitted,

Karen Jost
City Clerk

The minutes of the June 14, 2007 City Council meeting were approved as presented at the July 12, 2007 City Council meeting.