



TOWN OF LOOMIS
ACTION MINUTES
REGULAR MEETING OF
LOOMIS TOWN COUNCIL
LOOMIS DEPOT
5775 HORSESHOE BAR ROAD
LOOMIS, CA 95650

TUESDAY

DECEMBER 9, 2008

7:00 P.M.

CLOSED SESSION – Pursuant to cited authority, the Town Council will hold a closed session to discuss the following listed items. A report of any action taken will be presented prior to adjournment of the regular meeting.

- a. **CONFERENCE WITH REAL PROPERTY NEGOTIATOR.** Pursuant to Section 54956.9 of the Government Code:
Property:
- APN 044-007-064, 044-008-030 and 044-012-055 (Union Pacific Railroad property beginning at Loomis Station and running southwest toward Sierra College Blvd. and from Webb Street to King Road)
Negotiator: Perry Beck, Town Manager
Under Negotiation: price and term
- b. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION.** Initiation of litigation pursuant to subdivision Section 54956.9: One potential case.
- c. **CONFERENCE WITH LABOR NEGOTIATOR.** Pursuant to Section 54957.6 of the Government Code:
Agency Negotiator: Perry Beck, Town Manager
Employee Organizations: Maintenance Workers (Operating Engineers Local 39) and Loomis Diversified Employees Group

WEDNESDAY

DECEMBER 9 , 2008

7:30 P.M.

CALL TO ORDER Call to order by Mayor Kelley at 7:34 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present:

Mayor Kelley
Councilmember Morillas
Councilmember Scherer
Councilmember Ucovich

Absent:

Councilmember Millward

STATEMENT OF ACTION TAKEN DURING CLOSED SESSION

Continued to the end of the meeting.

BUSINESS

1. Resolution of the Council of the Town of Loomis Accepting the Canvass of Election Returns of the November 4, 2008 General Election
Recommended action: Adopt Resolution
Public comment:

No public comment.

A motion was made to adopt Resolution 08-35, accepting the Canvass of Election returns of November 4, 2008 General Election. On motion by Councilmember Ucovich, seconded by Councilmember Scherer and passed by voice vote.

AT THIS TIME THE COUNCIL WILL CONDUCT CEREMONIAL MATTERS:

Administration of Oath of Office:

Council: Gary Liss and Rhonda Morillas

Town Treasurer: Roger Carroll
Town Clerk: Crickett Strock

AT THIS TIME SELECTION OF MAYOR AND MAYOR PRO TEMPORE FOR THE TERM DECEMBER, 2008 THROUGH THE SEATING OF THE NEW MAYOR AT THE BEGINNING OF THE FIRST REGULAR MEETING OF DECEMBER, 2009 WILL OCCUR. (Need motion for both appointments)

No public comment.

A motion was made to appoint Councilmember Scherer as Mayor and Councilmember Liss as Mayor pro tempore. On motion by Councilmember Ucovich, seconded by Councilmember Scherer and passed by voice vote.

RECOGNITION TO: Councilmember Tom Millward

Recess at 7:40 p.m. to 7:55 p.m.

AT THIS TIME THE MAYOR WILL TAKE A 10 MINUTE RECESS FOR REFRESHMENTS.

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MATTERS OF INTEREST TO COUNCILMEMBERS/FUTURE AGENDA ITEMS

Councilmember Kelley stated the following:

- thanked everyone who participated in the Depot dedication and Christmas lighting ceremony
- he would like Council to look into buying the property on the south side of Interstate 80
- suggested directing staff to research information on this matter and find out what our options would be
- he requested this be an item on the next agenda

Council consensus was to put this item on the next agenda.

Councilmember Liss thanked everyone who worked on the Depot dedication and the Christmas party.

Councilmember Ucovich stated the following:

- thanked Councilmember Kelley, Fuzzy, Public Works and staff for the Depot dedication
- he would like to see a letter of appreciation sent to the Capital Corridor Executive Director for the train stopping at the depot

Mayor Scherer stated the following:

- thanked everyone who worked on the Depot dedication and the Christmas party
- he intends on focusing on the downtown Loomis this year, from fruit shed to fruit shed
- finding something that all of the Council can unite on will be his focus and moving forward
- he wants to have a pro-active agenda
- he will do everything he can to have the meetings end at 10:00 p.m.
- the Council will decide which items must be done and decide in the beginning of the meeting
- he will lead a more structure and formal meeting
- we will hear a staff report, then Council will ask staff questions on the issue, they will then here from the applicant, then they will here from the public, then back to the Council for discussion, we will here from each Council and then entertain a motion that incorporates

everyone's needs

All items on the agenda will be open for public comment before final action is taken. Speakers are requested to restrict comments to the item as it appears on the agenda and stay within a five-minute time limit. The Mayor has the discretion of limiting the total discussion time for an item.

Written Material Introduced Into the Record: Citizens wishing to introduce written material into the record at the public hearing on any item are requested to provide a copy of the written material to the Town Clerk prior to the public hearing date so that the material may be distributed to the Town Council prior to the public hearing.

PUBLIC COMMENT: This time is reserved for those in the audience who wish to address the Town Council on subjects that are not on the Agenda. The audience should be aware that the Council may not discuss details or vote on non-agenda items. Your concerns may be referred to staff or placed on the next available agenda. Please **note that comments from the public will also be taken on any item on the agenda. The time allotted to each speaker is five minutes.** No public comment.

ADOPTION OF AGENDA

A motion was made to adopt the Agenda. On motion by Councilmember Morillas, seconded by Councilmember Ucovich and passed by voice vote.

OPPORTUNITY TO COMMENT ON CONSENT CALENDAR: All items listed under the Consent Agenda are considered by the Council to be routine in nature and will be enacted by one motion unless an audience member or Councilmember requests otherwise, in which case, the item will be removed for separate consideration.

No public comment.

A motion was made to adopt the Consent Agenda pulling item 10 forward for discussion. On motion by Councilmember Morillas, seconded by Councilmember Ucovich and passed by voice vote.

CONSENT AGENDA

RECOMMENDED ACTION

- | | | |
|-----|---|---|
| 2. | Council Minutes – 11/12/08 With Councilmember Liss abstaining. | <i>APPROVE</i> |
| 3. | Monthly Check Register – November | <i>RECEIVE AND FILE</i> |
| 4. | Statement of Activity | <i>RECEIVE AND FILE</i> |
| 5. | Treasurer's Report | <i>RECEIVE AND FILE</i> |
| 6. | Planning Status Report | <i>RECEIVE AND FILE</i> |
| 7. | 2008/09 Projects Update | <i>RECEIVE AND FILE</i> |
| 8. | Update On The Loomis Annual Fall Clean-Up Day | <i>RECEIVE AND FILE</i> |
| 9. | Request For Proposals To Update The Town Of Loomis Bikeway Master Plan | <i>APPROVE</i> |
| 11. | A Resolution of The Council of The Town of Loomis Authorizing Submittal of Claims For Local Transportation Funds And State Transit Assistance Funds And Authorizing The Town Manager To Execute | <i>ADOPT RESOLUTION</i>
Resolution 08-36 |

CONSENT ITEMS FORWARDED

- | | | |
|-----|----------------------------|----------------|
| 10. | 2008 Committee Assignments | <i>APPROVE</i> |
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Mayor Scherer made the following appointments:

Placer County Economic Commission: Ucovich

Placer County Flood Control/Water Conservation District: Morillas, alternate – Liss

Placer County Transportation Planning Agency : Ucovich, alternate – Kelley

Placer County Mosquito Abatement: Kelley, alternate – Ucovich

Placer County Air Pollution Control District: Ucovich, alternate – Morillas

Sacramento Area Council of Governments (SACOG): Scherer, alternate – Liss

National Guard Commission Appointment: Kelley

Placer Land Trust ex officio representative: Scherer

No public comment.

A motion was made to approve Mayor Scherer's appointments. On motion by Councilmember Liss, seconded by Councilmember Ucovich and passed by voice vote.

Mayor Scherer stated he would like the Mayor and Mayor pro tempore on the Borders committee to meet with the jurisdictions and directed staff to set up a meeting with Rocklin.

Councilmember Kelley suggested looking at the City of Pleasanton's guidelines for working with other jurisdictions.

The Council consensus was to have the Borders committee meet with the jurisdictions.

Mayor Scherer stated he would like to have a business committee with the downtown business people involved.

Council consensus was to have the mayor and mayor pro tempore on the business committee.

PUBLIC HEARING

12. #06-10 Homewood Lumber Relocation Project

The Homewood Lumber project requires a development agreement in order to establish the methods that will be used to deal with tree mitigation, development fees and certain road improvements

Recommended action: Approve development agreement as written or as modified by the Council and hold first reading of the ordinance.

Public comment:

Perry Beck, Town Manager, noted that a letter was received from the attorney for Rocklin Crossings at 4:46 p.m. today, distributed copies to the Council, and reviewed the letter.

Dave Larsen, Town Attorney, stated the following:

- suggested taking public testimony on the resolution portion first and making a finding that the original conditions and mitigation measures are feasible
- he pointed out that the resolution would only go into effect if the development agreement is approved

Resolution

Sabrina Teller, with Remy, Thomas, Moose and Manley Attorneys at Law (Rocklin Crossings), stated the following:

- None of the findings address her main point
- she questioned if the proposal to plant the trees over 10 years would meet the goal to maintain the tree canopy
- there is no finding in the staff materials noting that you have a shortage of open space
- the Sinclair study relied on a 2005 study and not a more recent one
- all of the data is extremely unreliable
- she strongly urged the Council to obtain a property specific appraisal for the open space

Dave Larsen, Town Attorney, pointed out that if the Town agrees to pay for the improvements and they want the property then the valuation becomes unimportant.

Adrienne Graham, Environmental Consultant on the Homewood Project, stated the following:

- the changes in the tree mitigation maintains compliance with the tree ordinance but looks to the Town to maintain the trees rather than the applicant
- planting trees over 10 years will not alter the effect of the mitigation
- what matters is the planting of the trees and the staff and the Town arborist can oversee the monitoring of the trees
- the tree canopy over the 20 year period can still be maintained
- regardless of the value of the open space it would not be sold for fees
- the changes proposed do not alter the conclusions of the Negative Declaration but there are some policy issues

Kathy Kerdus, Town Planner, noted the following:

- the Town proposed the tree mitigation
- regarding the tree canopy issue, if you look at the Town's ariel of Loomis, you can see that the Homewood site would be less than 1% of the tree canopy and that would not be a significant effect

Councilmember Liss asked to have Homewood responsible for planting and maintaining the trees or to hire someone to maintain the trees.

Dave Larsen suggested the following changes in the resolution under Section 1:

- in the first paragraph three lines down, delete the word "except"
- in same paragraph five lines down delete "the timing of replacing"
- delete the first sentence in the second paragraph and the first word in the second sentence

Following further discussion on the matter, a motion was made to approve the Resolution, substituting or modifying mitigation measures concerning Homewood Lumber, with the attorney's suggested changes. On motion by Councilmember Morillas and seconded by Councilmember Kelley.

Discussion on the motion.

Councilmember Liss suggested adding that the applicant be responsible for arranging for the planting and maintaining of the trees.

The motion was passed by the following roll call vote:

Ayes: Kelley, Morillas, Ucovich

Noes: Liss, Scherer

Development Agreement

Ms. Teller stated the following:

- on page 10 of the development agreement there is no time frame for the Town's obligation
- they have not been provided with the most recent Sinclair information
- there is a lack of public disclosure in all of the materials

Hamid Noorani, owner of Homewood Lumber, stated the following:

- we have agreed on the main points and have ended our discussion
- questioned when the effective date is for the development agreement and that it should be specified
- with the indemnification they would have to bear huge costs to defend the Town
- the wetlands mitigation will have to take place in advance
- once it is effective, it will be recorded and the 3.8 acres goes to the Town
- their intention is to grow the trees onsite

Councilmember Liss pointed out that the planting and the maintaining needs to be included and the indemnification should only be for things that Homewood would be responsible for.

Councilmember Ucovich asked to take out "or greater in size" in the "15 gallons or greater size".

Councilmember Kelley stated the Town needs to have the responsibility to maintain the trees.

Mayor Scherer suggested continuing this item for another 30 days.

Following further discussion on the matter, a motion was made to refer this back to staff to work with Homewood on some of the issues and to continue this to the next Council meeting. On motion by Councilmember Ucovich, seconded by Mayor Scherer and passed by the following roll call vote:

Ayes: Liss, Scherer, Ucovich

Noes: Kelley, Morillas

Recess at 10:00 p.m. to 10:12 p.m.

A motion was made to re-consider the last motion. On motion by Councilmember Liss, seconded by Mayor Scherer and passed by the following roll call vote:

Ayes: Kelley, Liss, Morillas, Scherer, Ucovich

Noes: None

No public comment.

Following further discussion on the matter, a motion was made to continue Homewood Lumber development agreement to an adjourned regular meeting on December 15, 2008 at 7:00 p.m. at the Loomis Depot, 5775 Horseshoe Bar Road, Loomis, CA. On motion by Councilmember Liss, seconded by Councilmember Scherer and passed by the following roll call vote:

Ayes: Kelley, Liss, Morillas, Scherer, Ucovich

Noes: None

13. Appeal of Nejadian Subdivision at 3739 Berg Lane

Councilmember Ucovich appeals the November 18, 2008 decision by the Planning Commission to approve a subdivision by Eric Nejadian at 3739 Berg Lane

Recommended action: Decide whether Council wishes to affirm the Planning Commission's decision or schedule an appeal hearing for January 13, 2009 that may include a workshop if Council so decides

Public comment:

Mayor Scherer left the room due to conflict of interest.

Councilmember Morillas stated she lives within 2500 feet of the project but noted this project does not have any financial effect on her property.

Dave Larsen pointed out that Council is only going to decide whether or not to hear the appeal.

Jerry Aplass, Burrell Consulting representing the applicant, asked Council to uphold the Planning Commission's decision.

Jeremy Sutter stated the following:

- he is concerned that the applicants right of due process is being violated
- the Council is suppose to be impartial when they come to a meeting
- Councilmember Ucovich's comments at the Planning Commission meeting were clearly not impartial regarding this project
- Council needs to be careful how they proceed and suggested Councilmember Ucovich recuse himself

Francis Scherer, 3679 Frost Lane, stated the following:

- there are several issues that need to be changed in the project such as the road, the design placement and funding
- the design is not in compliance with the current General Plan
- she urged Council to allow this appeal to be heard and hold the public hearing

Following further discussion on the matter, a motion was made to uphold the Planning Commission's decision. On motion by Councilmember Morillas, seconded by Councilmember Kelley and passed by the following roll call vote:

Ayes: Kelley, Morillas, Ucovich

Noes: Liss

Absent: Scherer

Mayor Scherer returned to the table.

Council adjourned at 10:32 p.m. to a close session.

Council came out of close session at 10:45 p.m. and stated the following:

- Directed staff to move forward in purchasing the Union Pacific property from King Road to Circle Drive, open escrow and close on Thursday.
- No action taken.
- No action taken.

BUSINESS

- Development Fee Update**
Development fees have been evaluated for adjustment per the Construction Cost Index and a land sales analysis has been done to adjust park and open space fees
Recommended action: Approve resolution increasing development fees and utilize higher land costs to set the passive park/open space land fees
Public comment:

Continued to December 15, 2008.

- Select Rocklin Development Projects Update** (Continued from October 14, 2008) TC 7/8/08
The City of Rocklin has a number of development projects moving along in the area along Sierra College Boulevard and on Del Mar Avenue that could impact Loomis Residents, Roads, and the general quality of the Loomis community.
Recommended action: Review development information and direct the Council sub-committee (Mayor Kelley and Vice Mayor Scherer) that has met once with Rocklin, as to any actions the Council would like the Committee and/or Special Legal Counsel and staff to take.
Public comment:

Continued to December 15, 2008.

- Proposed Capital Improvement Program**
Consider the updated 2008-2013 Capital Improvement Program and incorporate any revisions made during discussions
Recommended action: Approve the updated 2008-2013 Capital Improvement Program and incorporate any revisions made during discussions
Public comment:

Continued to December 15, 2008.

17. **Master Plan Design Guidelines**

Councilmember Ucovich requested that adoption of the 1992 Calthorpe Land Use and Master Plan Design Guidelines be placed on this agenda

Recommended action: Review and discuss staff report and direct staff with Council objectives for adoption of design guidelines, downtown planning or uses

Public comment:

Continued to December 15, 2008.

18. **Open Space Committee 2 Recommendations Review**

At the February 2008 joint meeting of Planning Commission and Park & Open Space Commission the Council developed work plan goals for the Park & Open Space Commission that included a Council review of recommendations from Open Space Committee 2 to determine which to submit to the Park & Open Space Commission as matters to include in the update of the 1998 Parks and Recreation Master Plan

Recommended action: Consider the next section of Open Space Committee 2 recommendations, including the Summary of Key Recommendations, and decide what to refer to the Park and Open Space Commission for inclusion in the update of the 1998 Parks and Recreation Master Plan

Public comment:

Continued to December 15, 2008.

19. **Earth Day Celebration 2009**

Earth Day 2009 will be held in April and this will be an opportunity to educate citizens on things they could consider doing to help achieve park and open space goals in Loomis

Recommended action: Determine Town's involvement in a 2009 Earth Day Celebration

Public comment:

Continued to December 15, 2008.

20. **Goal Setting and Accomplishment**

Consider strategies and/or techniques to help identify and accomplish Town goals

Recommended action: Determine if there are strategies and/or techniques that the Council may wish to implement in the new calendar year to help identify and accomplish Town goals

Public comment;

Continued to December 15, 2008.

21. **Brown Act**

Consider having a review of the Brown Act

Recommended action: Discuss and direct staff

Public comment:

Continued to December 15, 2008.

22. **Meeting Records Retention**

Planning Commissioner, Janet Thew, asked that the Council consider changing the way meetings are archived

Recommended action: Discuss and direct staff

Public comment:

Continued to December 15, 2008.

COMMITTEE REPORTS

19. Placer County Economic Development Commission – Ucovich
20. Placer County Flood Control/Water Conservation District – Morillas
21. Placer County Transportation Planning Agency – Kelley/Millward
22. Placer County Mosquito Abatement – Ucovich
23. Placer County Air Pollution Control District – Millward/Ucovich
24. Placer County Community Services Commission - Millward
25. Sacramento Area Council of Governments – Scherer/Kelley
26. Placer Land Trust ex-officio representative - Scherer

ADJOURNMENT

A motion was made to adjourn at 10:46 p.m. to an Adjourned Regular Meeting on December 15, 2008 at 7:00 p.m. at 5775 Horseshoe Bar Road, Loomis, CA. On motion by Councilmember Scherer, seconded by Councilmember Ucovich and passed by voice vote.

/Russ Kelley/

Mayor

/Crickett Strock/

Town Clerk