

**MINUTES
SARATOGA CITY COUNCIL
JULY 21, 2004**

The City Council of the City of Saratoga held a Joint Session with the Saratoga Chamber of Commerce in the Administrative Conference Room, 13777 Fruitvale Avenue, at 5:30 p.m.

The following members of the Chamber Board were present: President Glynis Wineinger, Vice President Gordon Duncan, Treasurer Monica Bailey, Secretary Jim Huber, and Executive Director Kristen Davis.

President Wineinger noted that the Chamber was present this evening to continue to enhance their relationship between the Chamber and the City. President Wineinger noted that a Council/Chamber AdHoc Committee has been working together for the past year to enhance communications and develop better teamwork. President Wineinger requested that continued efforts be focused on the following:

- Revitalization of the Business District in the City of Saratoga
 - Amend the sign ordinance
 - Amend the hours of operations
- Business Directory – need funds to distribute the directory to every resident

A discussion took place in regards to the \$5,000 the City did not provide the Chamber this year for distribution of the Chamber Directory.

Vice Mayor King pointed out that the City had to make many cuts during the past two years and would not have been appropriate to fully fund the Chamber. Vice Mayor King noted that it would have been hard to fund the directory when only Chamber members were listed in it.

Executive Director Davis noted that the business community requested that the Directory be mailed to every resident. Executive Director Davis stated that the directory is of great value to the City because several pages are dedicated for community information with no charge to the City. Executive Director Davis stated that the directory is not just an advertising tool.

A Discussion took place in regards to the recent Montalvo Shuttle Program.

Councilmember Kline introduced the Village AdHoc's Draft Village Development Plan. Councilmember Kline explained the goals and objectives, the overview of the Development Plan, Village promotion, Village design & enhancements, and Village economic restructuring. Councilmember Kline pointed out that the Development Plan would only work if the City forms a RDA.

Councilmember Kline noted that the Development Plan would start out in the Village and over time spread to all if the other business districts in the City.

President Wineinger pointed out that some businesses were leaving the Gateway due to design issues with the Master Plan. President Wineinger suggested that the City seek out businesses that would increase sales tax revenue.

Councilmember Kline noted responded that staff was working on all areas of Saratoga to bring in new businesses.

Mayor Waltonsmith thanked the Chamber for attending tonight's Joint Session.

The City Council met in Closed Session in the Administrative Conference Room, 13777 Fruitvale Avenue, at 6:30 p.m.

Conference With Legal Counsel – Existing Litigation (Gov't Code Section 54956.9(c): (1 case) – Thompson Pacific Construction v. City of Saratoga (Santa Clara County Superior Court Action No. 104 CV021639)

Conference With Labor Negotiators (Gov't Code 54957.6):

Agency designated representatives: Lorie Tinfow, Assistant City Manager & Tom Sullivan, Community Development Director
Employee organization: Non SEA Members

Public Employee Performance Evaluation (Gov't Code 54957)

Title: City Attorney

MAYOR'S REPORT ON CLOSED SESSION – 7:00 p.m.

Mayor Waltonsmith reported there was Council discussion but no action was taken.

Mayor Waltonsmith called the Regular City Council meeting to order at 7:00 p.m. and lead the Pledge of Allegiance.

ROLL CALL

PRESENT: Councilmembers Stan Bogosian, Norman Kline,
Vice Mayor Kathleen King, Mayor Ann Waltonsmith

ABSENT: Councilmember Nick Streit

ALSO PRESENT: Dave Anderson, City Manager
Lorie Tinfow, Assistant City Manager
Richard Taylor, City Attorney
Cathleen Boyer, City Clerk
Ann Sullivan, Secretary to the City Manager
Pete Kolf, Administrative Services Director
John Cherbone, Public Works Director

REPORT OF CITY CLERK ON POSTING OF AGENDA FOR JULY 21, 2004

Cathleen Boyer, City Clerk, reported that pursuant to Government Code Section 54954.2, the agenda for the meeting of July 21, 2004 was properly posted on July 15, 2004.

COMMUNICATIONS FORM COMMISSIONS & PUBLIC

ORAL COMMUNICATIONS

The following person requested to speak at tonight's meeting:

Ray Davies noted that he was a Los Gatos resident. Mr. Davies stated that he was present this evening to discuss to issues. Mr. Davies told the Council about an incident that happened at the Town's July 4th celebration involving Mayor Steve Glickman. Mr. Davies stated that Mayor Glickman, failed to read the names of the local men and women serving overseas. Mr. Davies presented the Council copies of the Los Gatos Weekly and pointed out that the editorial discussed the incident. Mr. Davies stated that the second issues he wanted to discuss were his concerns regarding the safety on Highway 9. Mr. Davies stated that he has attending several meetings in regards to this issue and recently reviewed the VTA's timeline for the project. Mr. Davies stated that the timeline only mentioned the stripping project but failed to mention the pedestrian crossing.

COMMUNICATIONS FROM COMMISSIONS

Glynis Wineinger, President of the Saratoga Chamber of Commerce, thanked the City Council for the opportunity to meet with them prior to the City Council meeting. President Wineinger noted that their intent is to continue to communicate with the City and to work towards some common goals that would affect all businesses in the City. President Wineinger noted that the Chamber feels that the City understands the concerns of the business and they look forward to working together to enhance all the business districts in the City.

In regards to "Celebrate Saratoga", President Wineinger announced that it would be held on September 18th from 5:30 p.m.–10:30p.m. President Wineinger stated that they are still looking for volunteers to help with this event.

President Wineinger announced that the Chamber started two new projects for 2004 – networking group and Witchy Walk-A- Bout (October 31, 2004).

President Wineinger state that for more information regarding Chamber events please visit their website at www.saratogachamber.org.

WRITTEN COMMUNICATIONS

None

COUNCIL DIRECTION TO STAFF

None

ANNOUNCEMENTS

Mayor Waltonsmith announced the following information:

- Tonight's meeting was being dedicated in memory of Andrew Bedard, a third grader who attended Saratoga Elementary School. Andrew unexpectedly passed away approximately 2 weeks ago.
- Four vacancies were available on the Library Commission to fill expired terms. Applications and information regarding these vacancies are available on the City 's website at www.saratoga.ca.us or by contacting the City Clerk's Office. Deadline to file is September 9, 2004.
- Town Hall meeting hosted by Senator McPherson at the Senior Center on July 23, 2004 from 6:00 p.m.– 8:00 p.m.

CEREMONIAL ITEMS

None

SPECIAL PRESENTATIONS

None

CONSENT CALENDAR

1A. REVIEW OF CHECK REGISTER

STAFF RECOMMENDATION:

Approve check register.

KIN/KLINE MOVED TO **APPROVE CHECK REGISTER.** MOTION PASSED 4-0-1 WITH STREIT ABSENT.

1B. ACCEPTANCE QUITCLAIM OF REAL PROPERTY FROM SANTA CLARA VALLEY WATER DISTRICT TO THE CITY OF SARATOGA

STAFF RECOMMENDATION:

Adopt Resolution accepting Quitclaim of Real Property from Santa Clara Valley Water District to the City of Saratoga.

TITLE OF RESOLUTION: 04-056

KING/KLINE MOVED TO **ADOPT RESOLUTION ACCEPTING QUITCLAIM OF REAL PROPERTY FROM SANTA CLARA VALLEY WATER DISTRICT TO THE CITY OF SARATOGA.** MOTION PASSED 4-0-1 WITH STREIT ABSENT.

1C. **BUILDING SITE APPROVAL FOR ONE LOT LOCATED AT 22122 MT. EDEN ROAD - OWNER: HORVATH**

STAFF RECOMMENDATION:

Move to adopt resolution No. BSA-02-062 granting the building site approval of application No. BSA-02-062 for one lot located at 22122 Mt. Eden Road.

TITLE OF RESOLUTION: BSA-02-062

KING/KLINE MOVED TO **ADOPT RESOLUTION NO. BSA-02-062 GRANTING THE BUILDING SITE APPROVAL OF APPLICATION NO. BSA-02-062 FOR ONE LOT LOCATED AT 22122 MT. EDEN ROAD.**
MOTION PASSED 4-0-1 WITH STREIT ABSENT.

1D. **KEVIN MORAN PARK IMPROVEMENT PROJECT – CONSULTANT SELECTION**

STAFF RECOMMENDATION:

Select MPA Design as the consultant; Authorize City Manager to enter into a Professional Service Agreement in the amount of \$40,750.00; Adopt resolution amending FY 04-04 Budget.

TITLE OF RESOLUTION: 04-057

KING/KLINE MOVED TO **SELECT MPA DESIGN AS THE CONSULTANT; AUTHORIZE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICE AGREEMENT IN THE AMOUNT OF \$40,750.00; ADOPT RESOLUTION AMENDING FY 04-04 BUDGET.**
MOTION PASSED 4-0-1 WITH STREIT ABSENT.

1E. **REQUEST TO CHANGE ARTS COMMISSION MEETING TIME**

STAFF RECOMMENDATION:

Adopt resolution approving the change in meeting time.

TITLE OF RESOLUTION: 04-058

KING/KLINE MOVED TO **ADOPT RESOLUTION APPROVING THE CHANGE IN MEETING TIME.** MOTION PASSED 4-0-1 WITH STREIT ABSENT.

1F. **PROPERTY TAX LEVY TO SERVICE THE DEBT ON THE LIBRARY BOND**

STAFF RECOMMENDATION:

Adopt resolution approving the increase in property taxes.

TITLE OF RESOLUTION: 04-059

Mayor Waltonsmith noted that Interim Finance Director Kolf requested that item 1F be removed from the Consent Calendar.

Interim Finance Director Kolf explained that at the time the staff report was prepared he had not yet received the assessed valuation of City from the County Assessors Office and consequently could not recommend the specific tax levy on the library general obligation bonds. Interim Finance Director Kolf noted that the County recently contacted him and he was able to calculate the tax levy, which is reflected in the amended resolution. The recommend rate of the property tax level is 1.484 cents per \$100 per assessed valuation.

KLING/KING MOVED TO ADOPT RESOLUTION APPROVING THE INCREASE IN PROPERTY TAXES AS AMENDED. MOTION PASSED 4-0-1 WITH STREIT ABSENT.

PUBLIC HEARINGS

2. 2004 HAZARDOUS VEGETATION MANAGEMENT PROGRAM – ASSESSMENT REPORT

STAFF RECOMMENDATION:

Open public hearing; close public hearing; adopt resolution

TITLE OF RESOLUTION: 04-060

Cathleen Boyer, City Clerk, presented staff report.

City Clerk Boyer explained that under State and local laws, local governments routinely abate the seasonal fire hazards of hazardous vegetation and/or combustible debris on undeveloped property. For the County and several cities, including Saratoga, this abatement program is administered by the County Fire

Marshal's office. In many cases, property owners find it convenient to have the district take care of vegetation or debris removal and to pay through a property tax lien.

City Clerk Boyer explained that the City Council approved 135 parcels for inclusion in the program at the start of the season, and all were inspected at least once, and most several times during the season. A total of 32 parcels were abated by the County's contractor, which amounts to 74% voluntary compliance. This past year, the County performed abatement on parcels on the attached list in Saratoga. Tax liens and assessments on the owners of these parcels totaled \$63,051.16. In order to recover this cost, it is necessary for the Council to adopt a resolution confirming the assessments and directing the County Auditor to enter and collect the assessments on the property tax bill.

City Clerk Boyer noted that Debbie Craver from the County Fire Marshall's Office was present this evening to answer any questions that the Council may have.

Vice Mayor King stated that that the last two years the Council asked the County to send two notices to property owners. Vice Mayor King asked if the County was complying with Council's request.

Debbie Craver, Program Coordinator/County Fire Marshall's Office, responded that in addition to the packet that is sent out in December and the two additional cards, the County also sent a 15-day reminder notice that was sent out two weeks before the abatement was is scheduled.

Mayor Waltonsmith opened the public hearing and invited public comments.

Kim Foster noted that she was the owner of parcel #513-13-140 and was present this evening to request that the City Council waive the administrative fee of \$1,345.00. Ms. Foster noted that she has lived at this property since 1997 and has always complied in a timely manner. Ms. Foster stated she did not receive the packet in December and furthermore when she received the postcard from the County it was postmarked May 28th, which only gave her less than two weeks to comply. Ms. Foster noted that she contacted a local contractor, Matt Novacovich, to cut the weeds before the deadline. Ms. Foster noted that Mr. Novacovich never completed the job. Ms. Foster stated that this was the first time she was not in compliance.

Mayor Waltonsmith closed the public hearing.

Vice Mayor King asked if the City grants the fee waiver, who would pay the administrative fee.

Coordinator Craver responded that the fee would not be recovered. Coordinator noted that this particular property was abated two months after the compliance deadline.

Councilmember Kline noted that his concern regarding granting the property owner's request is that there is a procedure place, which has worked well in the past. Councilmember Kline noted that if the fee were waived for one person then more people would expect the same. Councilmember Kline stated that he does not support waiving the administrative fee.

City Manager Anderson stated that when this problem happened two years ago, Council instituted the extra noticing to help property owners mitigate abatement before the County did it for them.

KLING/KING MOVED TO ADOPT RESOLUTION CONFIRMING REPORT AND ASSESSMENT OF BRUSH ABATEMENT CHARGES.
MOTION PASSED 4-0-1 WITH STREIT ABSENT.

OLD BUSINESS

3. COMER DEBRIS SEDIMENTATION REMOVAL PROJECT UPDATE

STAFF RECOMMENDATION:

Accept report and provide direction to the Santa Clara Valley Water District regarding the Comer Bridge Sedimentation Removal Project.

John Cherbone, Public Works Director, presented staff report.

Director Cherbone noted that yesterday the Council toured the site along with the Santa Clara Valley Water District and several neighbors. The District explained that the project would begin in August to remove the sediment from the Comer Debris Basin. Director Cherbone noted that Beau Goldie from the District was present this evening to further explain the project.

Beau Goldie, Santa Clara Valley Water District/Assistant Operating Officer, presented that background of the project and explained the sediment removal plan. Mr. Goldie noted that the project was scheduled to start on August 2, 2004 and should take approximately 10 days. Mr. Goldie pointed out that sediment removal projects were planned for the Wildcat Creek @ Fruitvale and Wildcat Creek @ Portos. Mr. Goldie stated that three bank repair projects were planned for Saratoga Creek upstream @ 4th Street, Saratoga Creek @ Walnut, and Saratoga Creek downstream @ Walnut.

Mayor Waltonsmith thanked Mr. Goldie for his presentation.

Bob Wallace noted that he lived downstream of the Comer Debris Basin. Mr. Wallace stated that he had no particular objection to the project but feels it is only a temporary solution. Mr. Wallace stated that a permanent solution would be to remove the bridge.

Mr. Goldie stated that the removal of the bridge is scheduled in District's CIP for 2014. Mr. Goldie stated that the project could become a part of the Miller/Wardell Project if the study shows that the removal of the bridge would help mitigate problems at Miller/Wardell.

Mayor Waltonsmith thanked everyone for attending tonight's meeting.

4. **VTA OPERATOR'S FACILITY - AWARD OF CONSTRUCTION CONTRACT**

STAFF RECOMMENDATION:

Adopt resolution amending the annual budget of the City of Saratoga for FY2004-05 to provide financing for the VTA Operator's Facility; Adopt resolution to declare George Bianchi Construction, Inc. to be the lowest responsible bidder on the project; to award a construction contract for VTA Operator's Facility to George Bianchi Construction, Inc. in the amount of \$221,148 and authorize the City Manager to execute the same; and to authorize staff to execute change orders to the construction contract, and for other miscellaneous work associated with the project up to \$15,026.

TITLE OF RESOLUTION: 04-061 & 062

John Cherbone, Public Works Director, presented staff report.

Director Cherbone presented the background of the project. Director Cherbone explained that in a mutual effort to relocate the facility, the City of Saratoga and the Valley Transportation Authority entered into a Cooperative Agreement in December 2002. Per the agreement, the City was to provide project management and VTA was to pay all associated costs for the project up to \$225,000. Of the

overall VTA project of \$225,000 the Council approved \$18,826 for architectural and engineering design services performed by Bill Gould Design. Director Cherbone stated that \$206,174 remained in the budget for construction.

Director Cherbone pointed out that the project went to bid in December 2003 and all bids were considerably over the budget limit with the lowest bid of \$325,000. Director Cherbone noted that staff reviewed the design and modification were made to lower the construction costs. Staff met with the lowest bidder and renegotiated a revised proposal. Based on the changes the proposal was lowered to \$227,377, which included a change order in the amount of \$6,229. In order to close the final budget gap, it was necessary to approach VTA for additional funding. The Mayor and City Manager met with representatives of VTA at a recent Mayors and Managers meeting to discuss the need for additional funding. Based on the discussion VTA agreed to provide additional funds in the amount of \$30,000 to complete the project.

Director Cherbone noted that staff was recommending that George Bianchi Construction Inc. be the lowest bidder on the project and award the construction contract to this firm in the amount of \$221,148.

Robert Lee thanked the City Council and VTA for supporting the project. Mr. Lee commended Director Cherbone for his diligence and dedication to the project.

Bret England stated that this project has been going in on for the past 2-½ years. Mr. England thanked Director Cherbone for his diligence and hard work.

KING/KLINE MOVED TO ADOPT RESOLUTIONS TO AMEND THE ANNUAL BUDGET OF THE CITY OF SARATOGA FOR FY2004-05 TO PROVIDE FINANCING FOR THE VTA OPERATOR'S FACILITY; DECLARE GEORGE BIANCHI CONSTRUCTION, INC. TO BE THE LOWEST RESPONSIBLE BIDDER ON THE PROJECT; AWARD A CONSTRUCTION CONTRACT FOR VTA OPERATOR'S FACILITY TO GEORGE BIANCHI CONSTRUCTION, INC. IN THE AMOUNT OF \$221,148 AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE SAME; AND TO AUTHORIZE STAFF TO EXECUTE CHANGE ORDERS TO THE CONSTRUCTION CONTRACT, AND FOR OTHER MISCELLANEOUS WORK ASSOCIATED WITH THE PROJECT UP TO \$15,026. MOTION PASSED 4-0-1 WITH STREIT ABSENT.

5. **DESIGN SERVICES FOR BLANEY PLAZA IMPROVEMENTS – PHASE I**

STAFF RECOMMENDATION:

Approve professional services proposal from Greg Ing and Associates in the amount of \$9,500 for development of design plans for Blaney Plaza; Authorize staff to execute Professional Services Agreement with Greg Ing and Associates; Authorize staff to expend up to \$7,500 for surveying and miscellaneous costs associated with the project.

John Cherbone, Public Works Director, presented staff report.

Director Cherbone explained the background of the project. Director Cherbone stated that at the July 7th City Council meeting, Council directed staff to schedule a

site visit at Blaney Plaza to discuss the level of work desired to be performed. The level of design work and associated cost would be dependent on the level of improvements made to the plaza. Director Cherbone explained the options as follows:

- 1) Improve Blaney Plaza per the approved Master Plan and approve design contract. This option would implement the Blaney Plaza Master Plan both in design and construction.
- 2) Improve Blaney plaza at a level per City Council direction and approve design contract. This option would complete the design plans per the Master Plan, but would only implement the plans at a level per Council direction.
- 3) Improve Blaney Plaza at a level per City Council direction and approve design contract per option 1. This would implement design plans and improvements to Blaney Plaza at a level per Council direction.

Director Cherbone noted that dependent on Council direction, design plans and construction documents would be developed for the second phase of improvements to Blaney Plaza. Work would commence sometime in the late summer with the goal of completing the work prior to the annual Holiday Tree Lighting event in November.

Councilmember Kline explained that he would support spending \$12,000 to finish the design but does not want the construction phase to begin until after the State's budget is passed and the City is more financially stable.

Vice Mayor King stated that she would really like to see the Plaza completed before the holiday season. Vice Mayor King stated she supports \$12,000 to complete the design work.

Councilmember Bogosian noted that he would like to get the safety issues addressed. Councilmember Bogosian noted that he doesn't feel comfortable spending \$12,000 on a consultant, he would rather see \$12,000 spend on fixing safety issues.

Director Cherbone responded that in order to mitigate the safety improvements the correct way it would take more than \$12,000, but staff could make temporary repairs until the City can start the construction phase of the project.

Councilmember Kline noted that he supports short-term safety solutions.

Mayor Walton Smith noted that she supports finishing the design work and fix the safety hazards.

Director Cherbone noted that he would schedule a walk through with his staff to determine what they can do in house.

Councilmember Bogosian asked what would be the downside in not awarding the design contract

Director Cherbone responded that if the design contract is not awarded there would be a possibility that in a year from now the cost may be higher.

Councilmember Bogosian noted for the record that he would not be supporting the design contract but fully supports any action to fix safety issues in Blaney Plaza.

KING/KLINE MOVED TO APPROVE PROFESSIONAL SERVICES PROPOSAL FROM GREG ING AND ASSOCIATES NOT TO EXCEED \$12,000; DIRECT STAFF TO FIX ALL SAFETY ISSUES IN THE PLAZA INCLUDING THE SIDEWALK AVOIDING ANY DAMAGE TO THE TREES. MOTION PASSED 3-1-1 WITH STREIT ABSENT AND BOGOSIAN OPPOSING.

6. RE-EVALUATION OF COMMISSION RECOGNITION EVENT

STAFF RECOMMENDATION:

Accept report and direct staff accordingly.

Ann Sullivan, Secretary to the City Manager, presented staff report.

Secretary Sullivan explained that at the April 21, 2004 meeting Council directed staff to continue with the traditional dinner at the Saratoga Country Club.

Secretary Sullivan explained that due to recent budget constraints for FY 04-05 Council may want to reconsider its original direction. Secretary Sullivan stated that an alternative to the formal sit-down dinner at the county club might be an event held at the Civic Center, either in the City Hall Court Yard or the Community Center. Secretary Sullivan stated that this alternative could be catered for approximately \$5,000.

Consensus of the City Council to cut costs of the Annual Commission Recognition Event to \$5,000 and direct staff to contact Hakone Gardens for an alternative location.

Jeff Swartz, West Valley Board of Trustee, suggested that staff contact the food service program at the College. Mr. Swartz stated that the program provides catering services and might help cut the costs of the event.

NEW BUSINESS

7. REPORT ON UTILITY USER TAX ORDINANCE AND ADVISORY BALLOT MEASURE REGARDING USE OF UTILITY USER TAX REVENUES

STAFF RECOMMENDATION:

Accept report and provide direction to staff regarding text of ordinance and advisory measure for formal consideration by Council on August 4, 2004.

Richard Taylor, City Attorney, presented staff report.

City Attorney Taylor explained that at its meeting of July 7, 2004 the City Council received the report of the Revenue Review Committee and directed staff to prepare the necessary documentation to submit a utility user tax and companion advisory measure for voter consideration at the November election. City Attorney Taylor noted that a draft tax ordinance and a draft advisory measure were included in the

staff report. City Attorney Taylor stated that a public hearing has been noticed for the meeting of August 4, 2004 to formally consider placing the tax and advisory measure on the ballot.

City Attorney Taylor reviewed the recommendations made by the Revenue Review Committee:

- The tax would be a 5% tax on utility usage in the City
- The tax would not take effect unless approved by a majority of voters voting at the next City election
- The tax would sunset after 10 years
- The tax would be a “general tax,” meaning that it would not be earmarked for any specific purpose

City Attorney Taylor pointed out that because the tax would not be restricted by the terms of the measure, Council also requested that staff prepare an advisory measure to allow voters to clarify their preferences as to how tax revenues would be used. The advisory measure states that revenues should be used for a series of capital improvement projects.

City Attorney Taylor explained the exemptions stating the ordinance exempts electricity and gas users from the tax on those utilities if the user is eligible for the California Alternate Rates for Energy (CARE) program established by state law. The ordinance also allows the City Council to establish other exemptions by resolution. The CARE exemption is included in the ordinance because it is a defined exemption standard that can be administered using information already in the possession of the service supplier (PG&E).

City Attorney Taylor noted that staff is not aware of comparable programs for other utilities and none of the ordinances reviewed from other cities included exemptions for other utilities based on programs comparable to CARE. Some cities include in the tax ordinance exemptions based on the user’s income. These exemptions are then administered by the City, which determines a user’s eligibility and then provides the exemption determination to the utility.

City Attorney Taylor explained “Partial Payments” stating that the draft ordinance provides that if a user makes a partial payment to the utility provider, the provider must remit to the City the City’s pro-rata share of that payment. The PG&E draft provides that partial payments shall be applied first to the bill issued by the provider and that only after that bill is paid in full shall payments be applied to the user tax.

In regards to wireless services, City Attorney Taylor explained that the tax would apply to wireless telephone service as well as traditional phone service. City Attorney Taylor explained that Federal law directs the manner in which wireless service may be taxed. The rules are designed such that the tax must be applied to telecommunication services in a uniform, non-discriminatory manner, so as to avoid discriminatory taxation of its residents and to avoid creating an unfair competitive advantage to certain companies or industry sectors.

City Attorney Taylor noted that a voluntary statewide organization of UUT public agencies has been formed to help promote uniformity in the application and collection of UUT in California. City Attorney Taylor explained that three recommendations from the "UUT Task Force" in regards to how wireless service be taxed:

- A. Tax applies, regardless of where the call originates or terminates, and regardless of whether or not the call is included in a package or is billed as a separately listed call.
- B. Tax does not apply to separately listed calls (calls not within a package) that do not originate or terminate within the city. If the origination or termination cannot be determined, the tax does not apply.
- C. Tax does not apply to any call-related charges, including charges for packages that include airtime. The tax does apply to the non-call portion of the package.

City Attorney Taylor noted that the draft ordinance has been structured to use option A. City Attorney Taylor noted that this option was the option used by the majority of the cities whose ordinances were reviewed.

City Attorney Taylor noted that because the tax would be a general tax, the decision to submit the tax to the voters must be approved "by a two-thirds vote of all members" of the City Council. City Attorney Taylor explained that at least four "yes" votes are required to place the measure on the ballot. City Attorney Taylor continued to explain that although a general tax requires supermajority Council approval to be placed on the ballot, it requires approval by only a simple majority of the voters to be adopted. City Attorney Taylor stated that all general taxes must be considered by the voters at a regular election for members of the City Council.

In conclusion, City Attorney Taylor noted that in order to place the measure on the November 2, 2004 ballot, the Council must act no later than August 6, 2004.

City Attorney Taylor explained the Advisory Measure and noted that the measure would be placed on the ballot with the UUT to provide guidance to the City Council as to the manner in which revenues generated should be spent. City Attorney Taylor noted that the measure lists and describes the following priorities:

- Maintaining Streets and Filling Potholes
- Repair Aging Curbs and Gutters
- Replace Aging Storm Drains
- Sidewalk Improvements and Repairs
- Building Bridges
- Landscaped Medians
- Civic Center Improvements
- City Hall Improvements
- Civic Theater Improvements
- Community Center Improvements
- North Campus Improvements

City Attorney Taylor stated that this list was based on the list of projects reviewed by the Revenue Review Committee. The City Council may wish to change the items on this list or change the level of detail provided regarding the various priorities.

In addition, City Attorney Taylor noted that the measure suggests fiscal responsibility policies that should be used by the City in managing the funds. City Attorney Taylor explained the policies:

- The City should aggressively pursue other regional, state and federal funds to leverage local funds so that the infrastructure and facilities projects described above can be delivered more quickly and to allow the City to build additional infrastructure and facilities improvements that are needed to serve the residents of Saratoga.
- No funds derived from utility user tax revenues should be used for staff salaries and administration. 100% of the funds should be reserved for project delivery.
- An oversight committee made up of City of Saratoga Residents should monitor the uses to which Utility User Tax proceeds are spent and report annually to the City Council and to the community.

City Attorney Taylor explained that the first two policies are based on principles embodied in the Countywide advisory measure approved by Santa Clara County voters in connection with a proposed sales tax increase in 1996. The third is modeled on the oversight committee established in connection with the library bond measure.

If the UUT passes along with the Advisory Measure, Vice Mayor King asked if the citizens could request another advisory measure to change the way the revenue is directed.

City Attorney Taylor responded that only the City Council could place another advisory measure on the ballot.

Councilmember Kline noted that he doesn't support the draft advisory measure because it is too detailed. Councilmember Kline asked if the proposed advisory measure could be challenged.

City Attorney Taylor noted that the more detail the greater the risks are.

Councilmember Kline requested that the City Attorney be directed to draft a general statement on the advisory measure leaving out specific projects.

Councilmember Bogosian noted that he disagreed with Councilmember Kline. Councilmember Bogosian stated that the more honest and specific the advisory measure is, the better.

Richard Allen, Chair/Finance Commission, explained that the Finance Commission spent several recent meetings reviewing the city budget and stated to Council that they believe the budget is under-funded. Chair Allen stated that the Finance Commission recommended structural changes at that time. Chair Allen stated that with that as a backdrop, on Monday July 19th the Finance Commission

reviewed the Revenue Review Committee's recommendation for a citywide Utility Users Tax. The Commission also discussed infrastructure maintenance data presented by staff. Chair Allen stated that the Commission's review was limited to the information presented and their knowledge of the city budget.

Chair Allen stated that after considerable debate the Finance Commission concluded that the RRC's focus on infrastructure, which was their charter, was too limiting when citywide funding alternatives were being considered. Chair Allen stated that the Finance Commission believes that a broader set of budget issues need to be solved.

Chair Allen stated that the Finance Commission recommends that the Council have more latitude on the use of the proposed funds. Chair Allen stated that the Finance Commission's recommendation is against a companion advisory measure that would restrict the Council's ability to meet the needs of the community for the short and intermediate term.

Chair Allen read the Finance Commission's motion which was passed unanimously:

"In order to provide an intermediate term solution to the city's budget shortfall and infrastructure deterioration, we recommend:

- A Utility Users Tax
- A 10-year duration
- A 5% tax on Phone, Cable, Water, and PG&E
- A general use tax giving the Council latitude to:
 - Fund Infrastructure Maintenance
 - Support operations-specifically to selectively restore cuts in service levels
 - Rebuild reserves
 - Accommodate future cost increases
 - Solve other needs deemed critical by the Council

Further, the Finance Commission will continue to advise the Council on appropriate use of funds."

Councilmember Kline thanked the Finance Commission for their review of the RRC's report. Councilmember Kline stated that he supports the Finance Commission's recommendations.

John Feinster, President/SASCC, stated that because they are a nonprofit group they cannot take a stand on political issues, but can offer the support of the members who have come forward. Mr. Feinster stated that many members have stated that they support the City's efforts to generate additional funds.

Vice Mayor King noted that she supports a detailed advisory measure.

Councilmember Bogosian stated that he does not support the propped UUT as it has been presented this evening.

Mayor Waltonsmith thanked the Finance Commission and the RRC for their hard work and recommendations to the City Council. Mayor Waltonsmith noted that she concurred with Councilmember Kline that the advisory measure should be a general statement.

Councilmember Kline added that he would not support the advisory measure as presented this evening.

City Attorney Taylor stated that he would draft a more general advisory measure for Council review for August 4, 2004.

Norman Siegler, Finance Commissioner, noted that City employees have not had a merit increase in two years. Commissioner Siegler stated that if the Council does not recognize this, the City wouldn't have quality employees to implement programs that may be funded if the UUT passes. Commissioner Siegler stated that the Council must consider future needs of the City. Commissioner Siegler noted that the FY 04-05 Budget was balanced only in name because many programs were cut short.

Councilmember Kline noted that the City has financial problems that affect the entire operation of the City not just the streets. Councilmember Kline noted that his concern with the advisory measure is that it will tie the hands of future City Council members who may not agree with the list of projects listed in the proposed advisory measure. Councilmember Kline noted that if we are going to have an advisory measure it should be general – to be used for streets and infrastructure. Councilmember Kline noted that his preference would not to have an advisory measure at all.

Councilmember Bogosian noted that at the last meeting he indicated that he would like to see a specific tax on the ballot that would be limited to infrastructure. Councilmember Bogosian stated that he would not support the UUT or the advisory measure.

Vice Mayor King noted that she supports a detailed advisory measure.

Mayor Waltonsmith noted that she supports 5% UUT and a general advisory measure.

Mayor Waltonsmith declared a 10-minute break at 9:00 p.m.

Mayor Waltonsmith reconvened the meeting at 9:10 p.m.

8. **REPORT ON EMERGENCY PREPAREDNESS COMMITTEE**

STAFF RECOMMENDATION:

Accept report.

Lorie Tinfow, Assistant City Manager, presented staff report.

Assistant City Manager Tinfow explained that as part of the discussion of the New Standardized Emergency Management System (SEMS) Multihazard Functional Plan adopted by Council on March 17, 2004, Council directed staff to convene a meeting of the emergency preparedness stakeholders as the "Disaster Council". Assistant City Manager Tinfow stated that on July 12, 2004 the Disaster Council met and held a very successful meeting. Assistant City Manager Tinfow noted that further research indicated the need to change the groups' name since the

“Disaster Council” refers to the City Council in times of emergency. The group agreed to call itself the “Emergency Preparedness Committee”.

Assistant City Manager Tinfow explained that the group is to meet annually to confirm that the City maintains its compliance with both State and Federal emergency management requirements.

Mayor Waltonsmith thanked Assistant City Manager Tinfow for her report.

9. **DESIGNATION OF VOTING DELEGATE FOR 2004 LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE**

STAFF RECOMMENDATION:

Select voting delegate for 2004 Annual Conference.

Mayor Waltonsmith stated that the League of California Cities was requesting the City designate a voting delegate for the Annual League Conference to be held in Long Beach on September 17-19, 2004.

Councilmember Kline noted that he was the City’s representative to the League and volunteered to attend the conference.

MOVED TO APPOINT COUNCILMEMBER KLINE AS THE VOTING DELEGATE AND CITY MANAGER ANDERSON AS THE ALTERNATE.
MOTION PASSED 4-0-1 WITH STREIT ABSENT.

AGENCY ASSIGNMENTS

Mayor Waltonsmith reported the following information:

Saratoga Historic Foundation – recently attend the annual membership party at Garrod Ranch.

Sister City Liaison – preparing for the Muko, Japan exchange students visit to Saratoga in September.

Vice Mayor King reported the following info information:

SASCC Liaison – working on their agreement with the City.

Councilmember Bogosian had no reportable information.

Councilmember Kline had no reportable information.

CITY COUNCIL ITEMS

Vice Mayor King announced that Senator McPherson would be hosting a Community Forum on July 23, 2004 in the Senior Center.

OTHER

None

CITY MANAGER’S REPORT

None

ADJOURNMENT

There being no further business, Mayor Walton Smith adjourned the meeting at 9:30 p.m.

Respectfully submitted,

Cathleen Boyer, CMC
City Clerk