

**MINUTES
SARATOGA CITY COUNCIL
SEPTEMBER 15, 2004**

The City Council met in Open Session at 6:00 p.m. in the Administrative Conference Room, 13777 Fruitvale Avenue, to conduct interviews for the Library Commission.

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

Mayor Waltonsmith reported there were no Closed Session items on tonight's agenda.

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 Norman Kline, Nick Streit,
Vice Mayor Kathleen King, Mayor Ann Waltonsmith

ABSENT: Councilmember Stan Bogosian

ALSO PRESENT: Dave Anderson, City Manager
Lorie Tinfow, Assistant City Manager
Richard Taylor, City Attorney
Cathleen Boyer, City Clerk
Tom Sullivan, Community Development Director
John Cherbone, Public Works Director
Cary Bloomquist, Administrative Analyst

REPORT OF CITY CLERK ON POSTING OF AGENDA FOR SEPTEMBER 15, 2004

Cathleen Boyer, City Clerk, reported that pursuant to Government Code Section 54954.2, the agenda for the meeting of September 15, 2004 was properly posted on September 9, 2004.

COMMUNICATIONS FORM COMMISSIONS & PUBLIC

ORAL COMMUNICATIONS

Fred Armstrong announced that the 2nd annual "Building Bridges" week was October 3-10, 2004. The main event would be held at West Valley College on Sunday, October 10, 2004.

Mayor Waltonsmith presented Dr. Armstrong with a proclamation declaring the week of October 3-10, 2004 "Building Bridges Week".

Mark Weisler read a letter he sent to the Community Development Department on July 27, 2004. Mr. Weisler noted that the General Plan and the Zoning Code are mismatched. Mr. Weisler noted that his property which is located at 20161 Hill Avenue is zoned in the General Plan R1-20,000 and in the Zoning Code it is R1-40,000. Mr. Weisler stated that the Zoning Code should be brought in line with the General Plan. Mr. Weisler requested that evidence of the zoning change to his property be shown to him. Mr. Weisler requested that his property be rezoned.

COUNCIL DIRECTION TO STAFF

Referring to Mr. Weisler's comments, Councilmember Kline requested that an update on the General Plan update.

Consensus of the City Council to support Councilmember Kline's request.

ANNOUNCEMENTS

None

CEREMONIAL ITEMS

1A. COMMENDATION HONORING KERRI WALSH AND PATRICIA MIRANDA – 2004 OLYMPIC MEDAL WINNERS

STAFF RECOMMENDATION:

Present commendations.

Mayor Waltonsmith read the proclamations and presented it to Patricia's father and family members.

Mayor Waltonsmith noted that no one was able to attend tonight's meeting on behalf of Ms. Walsh.

1B. PROCLAMATION – DECLARING THE MONTH OF OCTOBER 2004 AS “DOMESTIC VIOLENCE AWARENESS MONTH”

STAFF RECOMMENDATION:

Acknowledge proclamation.

Mayor Waltonsmith acknowledged the proclamation.

1C. PROCLAMATION – DECLARING OCTOBER 4-9, 2004 AS “LAWSUIT ABUSE AWARENESS WEEK”

STAFF RECOMMENDATION:

Present proclamation.

Mayor Waltonsmith read the proclamation and presented it to Mr. Don Wolf.

SPECIAL PRESENTATIONS

None

CONSENT CALENDAR

2A APPROVAL OF CHECK REGISTER

STAFF RECOMMENDATION:

Approve check register.

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

2B. RESOLUTION DESIGNATING THE CITY MANAGER AS AUTHORIZED TO SIGN ON BEHALF OF THE CITY OF SARATOGA IN ORDER TO TRANSACT ROUTINE BANK BUSINESS WITH THE COMERICA BANK AND TO PERMIT THE CITY MANAGER TO DELEGATE THE SAME AUTHORITY TO OTHERS

STAFF RECOMMENDATION:

Adopt resolution.

RESOLUTION: 04-071

STREIT/KLINE MOVED TO **ADOPT RESOLUTION DESIGNATING THE CITY MANAGER AS AUTHORIZED TO SIGN ON BEHALF OF THE CITY OF SARATOGA IN ORDER TO TRANSACT ROUTINE BANK BUSINESS WITH THE COMERICA BANK AND TO PERMIT THE CITY MANAGER TO DELEGATE THE SAME AUTHORITY TO OTHERS**. MOTION PASSED 4-0-1 WITH BOGOSIAN ABSENT.

2C. AMENDED AND RESTATED AGREEMENT FOR EMPLOYMENT OF CITY MANAGER

STAFF RECOMMENDATION:

Authorize Mayor to execute the agreement.

Vice Mayor King requested that item 2C be removed from the Consent Calendar.

Vice Mayor King expressed her gratitude to the City Manager for waiving his bonus and taking the same pay increase as the other City employees.

KLINE/KING MOVED TO **AUTHORIZE MAYOR TO EXECUTE THE AMENDED AND RESTATED AGREEMENT FOR EMPLOYMENT OF CITY MANAGER**. MOTION PASSED 4-0-1 WITH BOGOSIAN ABSENT

2D. **CITY ARBORIST CONTRACT AMENDMENT**

STAFF RECOMMENDATION:

Approve contract and authorize City Manager to execute the same.

STREIT/KLINE MOVED TO **APPROVE CITY ARBORIST CONTRACT AMENDMENT AND AUTHORIZE CITY MANAGER TO EXECUTE THE SAME.** MOTION PASSED 4-0-1 WITH BOGOSIAN ABSENT

2E. **REQUEST TO CHANGE THE HERITAGE PRESERVATION COMMISSION'S MEETING TIME**

STAFF RECOMMENDATION:

Adopt resolution.

RESOLUTION: 04-074

STREIT/KLINE MOVED TO **ADOPT RESOLUTION GRANTING THE REQUEST TO CHANGE THE HERITAGE PRESERVATION COMMISSION'S MEETING TIME.** MOTION PASSED 4-0-1 WITH BOGOSIAN ABSENT.

2F. **REVISION OF RESOLUTION 03-007 THAT IMPLEMENTED AN ANNUAL HIRING FREEZE ON VACATED CITY POSITIONS**

STAFF RECOMMENDATION:

Adopt resolution.

RESOLUTION: 04-075

STREIT/KLINE MOVED TO **ADOPT RESOLUTION REVISING RESOLUTION 03-007 THAT IMPLEMENTED AN ANNUAL HIRING FREEZE ON VACATED CITY POSITIONS.** MOTION PASSED 4-0-1 WITH BOGOSIAN ABSENT.

2G. **CONTRACT RENEWAL FOR TRAFFIC SIGNAL MAINTENANCE SERVICES**

STAFF RECOMMENDATION:

Approve contract and authorize City Manager to execute the same.

STREIT/KLINE MOVED TO **APPROVE CONTRACT RENEWAL FOR TRAFFIC SIGNAL MAINTENANCE SERVICES.** MOTION PASSED 4-0-1 WITH BOGOSIAN ABSENT

2H. **2004 STORM DRAIN REPAIR AND UPGRADE PROJECT - AWARD OF CONSTRUCTION CONTRACT**

STAFF RECOMMENDATION:

Move to declare George Bianchi Construction to be the lowest responsible bidder on the project; Move to award a construction contract to George Bianchi Construction in the amount of \$238,661; Move to authorize staff to execute change orders to the contract up to \$24,000. Adopt resolution.

RESOLUTION: 04-072

Councilmember Kline requested that 2H be removed from the Consent Calendar.

Councilmember Kline noted that he would recuse himself from this item because it affects his property.

STREIT/KING MOVED TO DECLARE GEORGE BIANCHI CONSTRUCTION TO BE THE LOWEST RESPONSIBLE BIDDER ON THE PROJECT; MOVE TO AWARD A CONSTRUCTION CONTRACT TO GEORGE BIANCHI CONSTRUCTION IN THE AMOUNT OF \$238,661; MOVE TO AUTHORIZE STAFF TO EXECUTE CHANGE ORDERS TO THE CONTRACT UP TO \$24,000; ADOPT RESOLUTION. MOTION PASSED 4-0-1 WITH BOGOSIAN ABSENT AND KLINE ABSTAINING.

- 2I. **LETTER OF OPPOSITION TO THE CITY OF SAN JOSE APPLICATION #PDA 87-071-01 TO ALLOW SAN JOSE YMCA TO OPEN AT 5:30 A.M. INSTEAD OF 6:00 A.M.**

STAFF RECOMMENDATION:

Authorize the Mayor to sign letter of opposition.

Mayor Waltonsmith noted that there were several residents were requesting that Item 2I be pulled from the Consent Calendar. Mayor Waltonsmith stated that she attended the hearing and it was postponed until next week.

Tom Sullivan, Community Development Director, presented staff report.

Director Sullivan stated that several residents that live in the vicinity of the YMCA have expressed concern and opposition to the YMCA opening earlier and their request to have their Planned Development Permit amendment.

Jou Garliepp noted that he lived by the back parking lot. Mr. Garliepp complained that the YMCA has never finished the approved landscaping plan and have extended their use hours. Mr. Garliepp stated that the noise and traffic have increased significantly over the years. Mr. Garliepp noted that the YMCA is currently open from 6:00 – midnight. Mr. Garliepp stated the he and his neighbors have tried to work the YMCA and have gotten nowhere. Mr. Garliepp stated that they were now approaching the City of Saratoga to help them deal with the YMCA.

Don Shipman noted that in 1988 the YMCA showed them the original building plan that included a nice landscaping plan. Mr. Shipman noted that to date the landscaping plan is still not 100% complete. Mr. Shipman stated that he feels the property is an eyesore and the YMCA has not been a good neighbor.

Kevin Hayes noted that he concurred with the two prior speakers. Mr. Hayes noted that every Saturday between 8-9 a.m. YMCA members drive up and down his street looking for parking.

Vice Mayor King asked who the City Councilmember was in this district.

Councilmember Kline responded that Linda LeZotte represented the district.

Vice Mayor King suggested that the Mayor write Councilmember LeZotte a letter expressing the City's concerns. Vice Mayor King also suggested that the City Manager contact the Executive Director at the YMCA.

Councilmember Streit suggested that the City Attorney should write the City of San Jose's Attorney a letter and the City Manager Anderson contact the City Manager.

STREIT/KING MOVED TO AUTHORIZE THE MAYOR TO SIGN LETTER OF OPPOSITION AND ADDITIONAL DIRECTION TO CITY STAFF.
MOTION PASSED 4-0-1 WITH BOGOSIAN ABSENT.

2J. RESOLUTION SUPPORTING PROPOSITION 1A

STAFF RECOMMENDATION:

Adopt resolution.

RESOLUTION: 04-076

Mayor WaltonSmith requested that 2J be removed from the Consent Calendar.

City Manager Anderson stated that cities around California worked very hard to get this measure on the November ballot. City Manger Anderson stated that this measure would stop the State form taking money away form local governments.

STREIT/KING MOVED TO ADOPT RESOLUTION SUPPORTING PROPOSITION 1A. MOTION PASSED 4-0-1 WITH BOGOSIAN ABSENT.

2K. RESOLUTION SUPPORTING MEASURE H

STAFF RECOMMENDATION:

Adopt resolution.

RESOLUTION: 04-073

Phil Hartley, President /West Valley College, stated that this measure would allow the College to:

- Renovate and repair the campus
- Update the equipment in the Science and Technology laboratories - bringing them into the 21st century.

KLINKE/STREIT MOVED TO ADOPT RESOLUTION SUPPORTING MEASURE H. MOTION PASSES 4-0-1 WITH BOGOSIAN ABSENT.

PUBLIC HEARINGS

None

OLD BUSINESS

3. SANTA CLARA COUNTY SHERIFF'S OFFICE CONTRACT

STAFF RECOMMENDATION:

Accept and authorize City Manager to execute the Law Enforcement Contract with Santa Clara County.

Lorie Tinfow, Assistant City Manager, presented staff report.

Assistant City Manager Tinfow stated that costs controls have been put in place to provide some degree of predictability. Service and funding levels adopted as part of the City's 2004-05 budget represent the base year. Specific controls follow:

- Salary and benefit increases exclusive of PERS are tied to either actual increases or CPI/W plus 2% whichever is smaller. The County has received the CPI data for the past 20 years in order to calculate the outcome of this salary and benefit cap – the average had been 5.4% annually. They are confident that the formula will produce increases that will meet service level needs.
- Rent increases are capped at 3% per year. The Sheriff's Office expects to move in November 2004 and Saratoga's annual costs will be prorated to reflect the rent on the new location. Rent increases would be assessed next in November 2005.
- Controllable operating cost increases are capped at 5% per year. Examples are landscaping, janitorial services, capital improvements, property management fees, etc.
- The Sheriff's Office have offered to absorb the moving costs without contribution by the contract cities.
- The Sheriff's office will treat Saratoga as any other mutual aid city and provide special services (i.e. SWAT helicopter time, etc.) as needed, at no additional costs.
- The County will front the tenant improvement costs and prorate the amount plus 5% interest for City payback over the 10-year contract term. A maximum of \$250,000 has been allocated; actual costs may be less. Only the actual amount used (plus interest) will be passed on to the contracted cities.

- The County cannot unilaterally change service levels. The service Saratoga has today becomes the base service level.

City Manager Anderson stated that PERS restricted the County that in order to even out the amortization they cannot increase their PERS for ten years.

Adding to the City Manager's comments, Captain John Hiramawa, Santa Clara County Sheriff's Office, stated the Pete Kutros has verbally told the County Executives that increases to PERS have to be deferred over ten years.

Assistant City Manager Tinfow pointed out that there are some disadvantages that come with this contract:

- Some costs are not capped such as the PERS pension increases. These increases are not capped but based on actual increases that the County might receive
- Insurance, tax, and utility increases over the life of the contract are limited to actual costs but are not capped.
- Term of the agreement is 10-years. If the City should want to cancel the contract all of the costs associated with the contract would have to be met including the rent & tenant improvements.

Councilmember Streit stated that he had several concerns regarding this contract but staff did a great job answering his questions and he fully supports the contract.

Vice Mayor King and Councilmember Kline both noted that they fully supported the contract.

Mayor WaltonSmith stated that although she fully supported the contract, she is sad to see the Sheriff's Office move to Cupertino, but unfortunately there was no place to relocate them in Saratoga.

KING/STREIT MOVED TO ACCEPT AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE LAW ENFORCEMENT CONTRACT WITH SANTA CLARA COUNTY. MOTION PASSED 4-0-1 WITH BOGOSIAN ABSENT.

4. **SANTA CLARA COUNTY PARKS AND RECREATION DEPARTMENT - MCWILLIAMS HOUSE RESTORATION PROJECT**

STAFF RECOMMENDATION:

Approve agreement and authorize City Manager to execute the same.

John Livingstone, Associate Planner, presented staff report.

Planner Livingstone reported that on October 1, 2003 the City Council approved the Heritage Preservation Commission's request to apply for a grant for the City's Historic Park. The original grant request was for \$500,000 to restore the McWilliams House and landscape the park. The grant was approved for only \$100,000 limited to the restoration of the McWilliams House.

Planner Livingstone explained how the grant would be used:

\$15,000 – Architectural Services

\$80,000 – Construction and materials

\$5,000 – Contingency

Vice Mayor King requested that the Mayor send a thank you letter to the County for granting the funds to the City.

KLINGBARGER STREIT MOVED TO APPROVE AGREEMENT AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE SAME. MOTION PASSED 4-0-1 WITH BOGOSIAN ABSENT.

5. **AUTHORIZATION TO SUBMIT GRANT APPLICATIONS**

STAFF RECOMMENDATION:

Authorize Randall Funding to submit grant application packets.

Cary Bloomquist, Administrative Analyst, presented staff report.

Analyst Bloomquist stated on September 1, 2004 the City Council authorized Randall Funding to process grant applications for the City of Saratoga and Saratoga Historical Museum.

Analyst Bloomquist reviewed a new grant opportunity for Hakone Foundation. Analyst Bloomquist stated that Hakone has requested to apply for California Cultural & Historic Endowment Grant and, which was reviewed and approved by the AdHoc Grant Review Committee. Analyst Bloomquist stated that due to the grant deadline, Executive Director Lon Saavdera has requested that the grant be delayed until the next cycle in January.

Council discussion in regards applications from groups outside City limits that would have some benefit to the City.

Analyst Bloomquist requested permission from the Council to bring back the Policy & Procedures guidelines for discussion.

Consensus of the City Council to direct staff to agendaize the Policy & Procedures guidelines for the meeting on October 6, 2004.

KLINGBARGER STREIT MOVED TO AUTHORIZE RANDALL FUNDING TO SUBMIT GRANT APPLICATION PACKETS AND APPROVE HAKONE'S GRANT OPPORTUNITY AT \$75,000. MOTION PASSED 4-0-1 WITH BOGOSIAN ABSENT.

NEW BUSINESS

None

COMMISSION ASSIGNMENT REPORTS

Vice Mayor King reported the following information:

City/School AdHoc Committee – noted that they recently meet with the new principal at Blue Hills School. The principal stated that this was the first time in her career that a City Council ever contacted her. Discussed traffic and field use.

Councilmember Kline reported the following information:

Village AdHoc Committee – RDA consultant would be bringing a feasibility report to the Council with in the next month or two.

Councilmember Streit reported the following information:

City/School AdHoc Committee – Campbell Union School District recently finished \$400,000 road improvements around Marshall Lane School.

CITY COUNCIL ITEMS

Referring to Councilmember Bogosian, Mayor Waltonsmith pointed out that he has missed several City Council meetings. Mayor Waltonsmith requested consensus to send him a letter.

City Attorney Wittwer stated that in the California Code, a Councilmember's seat becomes vacant if the Councilmember is absent from Council meetings without permission for 60 days consecutively starting from the last regular meeting they attended.

Councilmember Kline noted that at this time, he doesn't see a problem if Councilmember Bogosian misses a few meetings. Councilmember Kline noted that Councilmember Bogosian has been a great service to the City the past eight years.

Councilmember Streit noted that he concurred with Councilmember Kline.

Vice Mayor King stated that she would like to know what the code specifically states.

Attorney Wittwer noted that he would email the City Council the section of the code that addresses this issue.

Vice Mayor King announce that the Saratoga Fire Department would be having a pancake breakfast on Saturday September 18th from 8:00 a.m. – 11:00 a.m. Vice Mayor King also noted that they would be giving tours of the new station from 1:00 p.m. – 4:00 p.m.

OTHER

None

CITY MANAGER'S REPORT

City Manager Anderson stated that he would be attending the League's Annual Conference September 16-17, 2004. Assistant City Manager Tinfow would be acting City Manager on Thursday and Director Cherbone would be acting City Manager on Friday.

ADJOURNMENT

There being no further business Mayor WaltonSmith adjourned the meeting at 8:30 p.m.

Respectfully submitted,

Cathleen Boyer, CMC
City Clerk