

MINUTES
SARATOGA CITY COUNCIL
AUGUST 3, 2005

The City Council met at 5:00 p.m. in Open Session to interview Ernest Brookfield to fill a vacancy on the Heritage Preservation Commission.

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 5:15 p.m.

The following people were present: President Nomita Shahani, Past President & Secretary Glynis Weinberger, Board member Emily Ho, Board member Chris Oakes, Executive Director Kathy Phelan.

President Shahani thanked the City Council, City Manager Dave Anderson, and Assistant City Manager Lorie Tinfof for their ongoing efforts to work with the Chamber. President Shahani stated that the merchants along Saratoga-Sunnyvale Road are very excited about the Gateway Project. In regards to new members, President Shahani suggested that when someone comes into the City to apply for a business license the City could refer them to the Chamber.

President Shahani announced that Celebrate Saratoga is scheduled for September 17, 2005 and "Witchy-Walk-About" was being planned for October 2005.

President Shahani noted that the City and the Chamber should continue to work as partners to promote growth in Saratoga.

Vice Mayor Kline noted that the Chamber should not be event coordinators but promote business.

Mayor King stated that she disagreed with Vice Mayor Kline's comments. Mayor King stated that she believes events are important and sited that the Chamber in the Town of Los Gatos sponsors a lot of special events and they are very successful.

A discussion took place in regards to developing some type of tourist package using the wineries and the various concert venues in the City

Councilmember Waltonsmith stated that the Chamber should support the City especially when negative comments are said. Councilmember Waltonsmith referred to the recent letter to the editor complaining about the money the Council allocated funds to the Village Shuttle Program.

A discussion took place regarding forming a Business Improvement District (BID).

Mayor King thanked everyone for attending tonight's Joint Meeting.

The City Council met in Closed Session in the Administrative Conference Room, 13777 Fruitvale Avenue, at 6:15 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 Legal Counsel – Threatened Litigation: Significant exposure to litigation pursuant to Government Code section 54956.9(b): (1 potential case)

Public Employee Performance Evaluation (Gov't Code 54957)
Title: City Manager

Public Employee Performance Evaluation (Gov't Code 54957)
Title: City Attorney

Mayor King called the Regular City Council meeting to order at 7:00 p.m. and requested that Nomita Shahani to lead the Pledge of Allegiance.

ROLL CALL

PRESENT: Councilmembers Aileen Kao, Nick Streit,
Ann Waltonsmith, Vice Mayor Norman Kline,
Mayor Kathleen King

ABSENT: None

ALSO Dave Anderson, City Manager

PRESENT: Lorie Tinfow, Assistant City Manager
Richard Taylor, City Attorney
Cathleen Boyer, City Clerk
Michele Braucht, Administrative Services Director
John Livingstone, Interim Community Development Director
John Cherbone, Public Works Director

REPORT OF CITY CLERK ON POSTING OF AGENDA FOR AUGUST 3, 2005

Cathleen Boyer, City Clerk, reported that pursuant to Government Code Section 54954.2, the agenda for the meeting of August 3, 2005 was properly posted on July 29 2004.

ORAL COMMUNICATIONS

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

Citizen Ray pointed out that a bad accident occurred at the corner of Aloha Avenue and Saratoga-Los Gatos Road. Citizen Ray requested that the City agendize his request to install a "No left Turn" sign at that corner.

COUNCIL DIRECTION TO STAFF

Councilmember Waltonsmith stated that she recalled that staff was already working on this issue

City Manager Anderson stated that this item was on scheduled for the September 21, 2005 City Council meeting.

Mayor King stated that she agrees with Citizen Ray. Mayor King stated that the City has been looking at this problem for over two years. Mayor King asked if the Council could give Director Cherbone direction to place a “No Left Turn” sign.

Director Cherbone stated that he has the authority, in an emergency basis, to place any traffic control sign up for thirty days before coming back to Council for final approval.

City Attorney Taylor stated that staff would investigate this matter and take appropriate action.

COMMUNICATIONS FROM BOARDS AND COMMISSIONS

Nomita Shahani noted that she was the 2005 Chamber President. President Shahani thanked the City Council for a productive meeting. President Shahani stated that the City and the Chamber should work as partners in order to promote the City. President Shahani announced that Celebrate Saratoga was on September 17, 2005.

COUNCIL DIRECTION TO STAFF

None

ANNOUNCEMENTS

None

CEREMONIAL ITEMS

None

SPECIAL PRESENTATIONS

- 1A. **ROBERT HILTON, HILTON, FARNKOPE & HOBSON, LLC -
COLLECTION CONTRACTOR AND RECYCLING FACILITIES
SELECTION PROCESS**

STAFF RECOMMENDATION:

Informational only.

Bob Hilton stated that he represented Hilton, Farnkope & Hobson, LLC. Mr. Hilton provided an overview for the upcoming selection process for a collection contractor and recycling facility for the JPA.

Mayor King thanked Mr. Hilton for his presentation.

1B. **CHRISTINE VANHOY – RELAY FOR LIFE**

STAFF RECOMMENDATION:

Informational only.

Christine Vanhoy noted that she was the Chair for the 1st Annual “Relay for Life” to be held in Saratoga on August 6-7, 2005 at Redwood Middle School. Ms. Vanhoy explained the event and invited everyone to the Luminary Ceremony on Saturday at dusk.

Mayor King thanked Ms. Vanhoy for the information.

CONSENT CALENDAR

2A **CITY COUNCIL MINUTES – JULY 20, 2005**

STAFF RECOMMENDATION:

Approve minutes.

WALTONSMITH/STREIT MOVED TO **APPROVE CITY COUNCIL MINUTES OF JULY 20, 2005.** MOTION PASSED 3-0-2 WITH KLINE AND KING ABSTAINING.

2B. **REVIEW OF CHECK REGISTER**

STAFF RECOMMENDATION:

Approve check register.

WALTONSMITH/STREIT MOVED TO **APPROVE CHECK REGISTER.** MOTION PASSED 5-0.

2C **SECOND READING AND ADOPTION OF THE AMENDING CITY CODE 3-15.010 REGARDING FINES FOR VIOLATION OF THE BUILDING CODE**

STAFF RECOMMENDATION:

Adopt ordinance.

ORDINANCE:

WALTONSMITH/STREIT MOVED TO **ADOPT ORDINANCE AMENDING CITY CODE 3-15.010 REGARDING FINES FOR VIOLATION OF THE BUILDING CODE.** MOTION PASSED 5-0.

2D **TREE/BENCH DEDICATION APPLICATION AND GUIDELINES**

STAFF RECOMMENDATION:

Approve application and guidelines.

Mayor King requested that this item be removed from the Consent Calendar.

Mayor King stated that she would be giving the City Clerk a check for the first tree dedication to be located in the Gateway.

KING/ KLINE MOVED TO **APPROVE APPLICATION AND GUIDELINES FOR THE TREE/BENCH DEDICATION.** MOTION PASSED 5-0.

2E. **CONTRACT RENEWAL FOR MUNICIPAL TRAFFIC ENGINEERING**

STAFF RECOMMENDATION:

Approve contract and authorize City Manager to execute the same.

WALTONSMITH/STREIT MOVED TO **APPROVE CONTRACT WITH FEHR AND PEERS AND AUTHORIZE CITY MANAGER TO EXECUTE THE SAME.** MOTION PASSED 5-0.

2F. **2004 PAVEMENT MANAGEMENT PROGRAM – NOTICE OF COMPLETION**

STAFF RECOMMENDATION:

Accept Notice of Completion

WALTONSMITH/STREIT MOVED TO **ACCEPT NOTICE OF COMPLETION FOR THE 2004 PMP.** MOTION PASSED 5-0.

2G. **DYSL USE AGREEMENT FOR EL QUITO PARK**

STAFF RECOMMENDATION:

Approve amended agreement and authorize City Manager to execute the same.

WALTONSMITH/STREIT MOVED TO **APPROVE AMENDED AGREEMENT WITH DYSL AND AUTHORIZE CITY MANAGER TO EXECUTE THE SAME.** MOTION PASSED 5-0.

2H. **AWARD OF CONTRACT FOR THE CIVIC THEATER SEAT REFURBISHMENT PROJECT**

STAFF RECOMMENDATION:

Authorize City Manager to execute contract with Somerset Studios; Adopt resolution.

RESOLUTION: 05-049

WALTONSMITH/STREIT MOVED TO **AUTHORIZE CITY MANAGER TO EXECUTE CONTRACT WITH SOMERSET STUDIOS AND ADOPT RESOLUTION.** MOTION PASSED 5-0.

PUBLIC HEARINGS

3. HAZARDOUS VEGETATION ASSESSMENT REPORT 2005

STAFF RECOMMENDATION:

Conduct public hearing and adopt resolution.

RESOLUTION: 05-048

Cathleen Boyer, City Clerk, presented staff report.

City Clerk Boyer explained that under State and local laws, local government routinely abate the seasonal hazardous vegetation on undeveloped property. For the County and several cities, including Saratoga, this hazardous vegetation abatement program is administered by the Office of the Agricultural Commissioner. In many cases, property owners find it convenient to have government take care of the hazardous vegetation removal and to pay through a property tax lien.

City Clerk Boyer explained that this past year, the County performed hazardous vegetation abatement on parcels on the attached list in Saratoga. Tax liens and assessments on the owners of these parcels totaled \$1,406.25. 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 stated that Debbie Craver from the Office of the Agricultural Commissioner would be attending the meeting to answer any questions.

Mayor King opened the public hearing and invited public comments.

Seeing none, Mayor King closed the public hearing.

Mayor King asked if two notices were send out again this year.

Ms. Craver responded yes.

WALTONSMITH/STREIT MOVED TO ADOPT RESOLUTION CONFIRMING REPORT AND ASSESSMENT OF HAZARDOUS VEGETATION ABATEMENT CHARGES. MOTION PASSED 5-0.

OLD BUSINESS

4. SIDEWALK MAINTENANCE PROCEDURES AND FUNDING OPTIONS

STAFF RECOMMENDATION:

Accept report and direct staff accordingly; adopt resolution.

John Cherbone, Public Works Director, presented staff report.

Director Cherbone explained that at the June 15, 2005, City Council Meeting, Council held a public hearing regarding a proposed ordinance, which would (1) include in the City Code existing provisions of state law making landowners responsible for maintaining sidewalk's fronting their property in a safe and usable manner (See Streets and Highways Code sections 5610 et seq.) and (2) make landowners liable for damages that may occur as a result of the landowner's failure to properly maintain the sidewalk. Streets and Highways Code sections 5610 et seq. provides that landowners may be assessed costs borne by the City for sidewalk maintenance if the landowner fails to satisfy this duty. Although the City has generally borne these costs on behalf of landowners in the past, its ability to continue providing this benefit is limited by growing budget limitations. To help ensure that landowners were on notice of their obligations under state law, the proposed ordinance would have amended the City Code to implement the state law. Although the code amendments proposed in June were not required to begin enforcing the state law, they increase the likelihood that a landowner will be aware of the responsibilities imposed by the state.

Director Cherbone noted that after the public hearing was closed City Council opted not to move forward with the proposed ordinance. During the hearing members of the public raised a number of concerns. These included arguments that landowners should not have to bear the costs of maintaining sidewalks built by the City, that some sidewalk repairs were needed due to the manner in which the sidewalks were constructed or due to street trees, that landowners should not be responsible for maintaining unpaved pathways, and that landowners should not be liable for injuries arising from poorly maintained sidewalks. The minutes of the public hearing are attached for your information.

In light of the City's budget limitations and because maintenance is a prerequisite, Director Cherbone explained that for sidewalks to be safe and usable, the City Council has directed staff to bring back various procedural and funding options for consideration.

Director Cherbone explained the following Procedural Options:

1. Continue Current City Procedures for Sidewalk Maintenance Reporting
2. Perform annual inspections of all City Sidewalks

Director Cherbone explained the following Funding Options:

1. **City pays 100% of cost** (current policy; however the current budget does not include funds for any sidewalk repair). If the City Council selects this option no further action is needed. Staff will return with a budget resolution amending the City budget to provide for sidewalk repair.
2. **Property owner pays 100% of cost**. If the City Council selects this option it should adopt the attached resolution with direction that section 2 be deleted from the resolution.
3. **City and property share the cost 50/50** (this option can be modified to include any combination of shared cost percentage). If the City Council selects this option it should adopt the attached resolution with direction that section 2 be revised to include only subparagraph (a).

4. **Establish a grant program to reimburse eligible property owners** for the cost of repair. For example the grant amounts can be based upon the estimated repair cost with caps on the grant amounts and available funding. This option requires staff time to administer the grant program. If the City Council selects this option it should adopt the attached resolution with direction that section 2 be revised to include only subparagraph (b). Staff will return with a budget resolution amending the City budget to provide funds for the grant program.
5. **Implement one of options 2, 3, or 4, above, but only after the City repairs all sidewalks in the City.** This option will require a large lump sum cost, which perhaps could be funded as a CIP Project, and will require an extensive inspection of all City sidewalks. If the City Council selects this option it should adopt the attached resolution with direction that section 2 be revised to include subparagraph (c) alone [for the 100% cost recovery of Option 2 after the initial repair program] or together with either subparagraph (a) [50% cost recovery of Option 3 after initial repairs] or (b) [grant program of Option 4]. The budget for the sidewalk repair program would be determined during the CIP process.
6. **Limit sidewalk maintenance responsibility of property owners to paved sidewalks on local streets only.** The City would be responsible for sidewalks on arterial streets and in commercial districts and for unpaved sidewalks. This policy is similar to the City's ordinance regarding street tree maintenance. Costs for local street sidewalk maintenance could take the form of Options 2, 3, 4, or 5. If the City Council selects this option it should adopt the attached resolution with direction that section 2 be revised to include subparagraph (d) together. This can be combined with other subparagraphs depending on whether Council wishes to seek 100% cost recovery [no other subparagraphs needed], partial cost recovery [include subparagraph (a)], or a grant program [include subparagraph (b)]. If Council would like this option to take effect only after a citywide repair program it should also include subparagraph (c).

The following members from the public requested to speak on this item:

Bob Cancellieri noted that he would like to see the City repair the sidewalks in the Village.

Ken Wilton cited State code regarding sidewalks. Mr. Wilton requested that the City continue repairing the sidewalks as it has in the past.

Nancy Kirk stated that she lives on La Paloma, which is one of the oldest neighborhoods in Saratoga. Ms. Kirk thanked Director Cherbone for the letter announcing this meeting. Ms. Kirk stated that she requested that the City continue to pay for sidewalk repairs.

Mayor King thanked the speakers.

Referring to Mr. Cancellari's comments, Mayor King stated that the State recently relinquished the ownership of the sidewalks to the City, which included \$700k for repairs.

City Manager Anderson added that the Village sidewalk improvements would be brought back in September during the CIP discussions.

Councilmember Kao stated that she thinks property owners should pay for repairs to sidewalk near their property.

Vice Mayor Kline stated that he has thought about this item and doesn't support any of the options. Vice Mayor Kline stated that people move to Saratoga for the rural environment. Vice Mayor Kline stated that most people feel the City should pay for repairs to infrastructure, which includes sidewalks. Vice Mayor Kline stated that the sidewalk program should be left as is.

Vice Mayor Kline stated that this item was originally placed on the agenda in an effort to save \$50k. Vice Mayor Kline suggested bringing this item back midyear and look at the budget and try to fully fund the sidewalk program.

Councilmember Streit stated that he disagreed with Vice Mayor Kline.

Councilmember Streit stated that he supports the following:

- Complaint base program
- Option #6 – limited sidewalk maintenance responsibility to property owners to paved sidewalks on local streets only
- Full cost recovery form property owners
- Establish a grant program

Councilmember Waltonsmith noted that she concurred with Councilmember Steit.

Vice Mayor Kline asked Director Cherbone how much money it would take to implement Option #6.

Director Cherbone responded that it would take a minimum of \$25k and the City must maintain major arterials and commercial areas.

Mayor King asked what would happen if a property owner was told to repair a sidewalk and they don't comply.

Director Cherbone stated that the City would repair the sidewalk and start the lien process against their property for payment.

In regards to implementing any of the options mentioned in Director Cherbone's report, Mayor King stated that she feels property owners would have to spend too much money repairing sidewalks and it wouldn't be worth the City's time.

Councilmember Streit asked Director Cherbone if he agreed with the Mayor's opinion.

Director Cherbone stated that he agrees with the Mayor that it's not worth the effort to develop a program just for residential sidewalks. Director Cherbone stated that it's easier just to continue as is with \$50k. Director Cherbone suggested developing a CIP program for sidewalk repairs.

Censuses of the City Council to continue sidewalk maintenance as is unfunded and add a sidewalk maintenance program to the wish list for the CIP discussion in September.

NEW BUSINESS

5 PRIORITIZATION OF ADVANCED PLANNING ACTIVITIES

STAFF RECOMMENDATION:

Accept report and direct staff accordingly.

John Livingstone, Community Development Director, presented staff report.

Director Livingstone explained that there are several City Ordinances and General Plan Elements that need to be updated. In addition to these required updates, the Local Agency Formation Commission (LAFCO) is strongly encouraging the annexation of several county islands into the City of Saratoga. Director Livingstone stated that staff is requesting guidance from the City Council on prioritizing these tasks.

Director Livingstone explained that the tasks include the following:

- Update fifteen Ordinances
- Update the General Plan
- Annex County islands into the City

Director Livingstone explained that the prioritizing the tasks is necessary due to the small planning staff and constraints upon staff time devoted to current planning projects, and general customer service at the front counter and phones.

In regards to the General Plan Elements, Director Livingstone stated that the City has received a letter from the State advising us that our general plan needs to be updated. They recommend that the plan be updated every 10 years, except for the Housing Element that has to be updated every 5 years. They recommend that at least 5 of the 7 required elements should have been updated in the last 10 years.

Director Livingstone explained that currently the City has two that have been updated, the Housing Element in 2002, and the Circulation Element in 2000. Director Livingstone noted that staff is planning to have the Land Use and Open Space/Parks Elements updated by a consultant this fiscal year. One additional element should be updated every year after that. The Housing Element will need to be updated again in 2007. Director Livingstone noted that Staff will accomplish this with the help of a consultant, but it will also include staff time working with the consultant and the community. The fees for the General Plan updates will be recovered as part of the new General Plan Maintenance fee that has been included in this year's budget.

In regards to the discussion of annexation, Director Livingstone explained that in order to encourage cities to annex urban unincorporated islands, the State of California has created a streamlined process that does not require protest or election requirements (see attached flow charts). This process is only available to January 1, 2007. LAFCO has identified six islands located in the City of Saratoga (see attached maps).

Director Livingstone explained that as part of the LAFCO policy to encourage cities participation they have made the policy that cities should annex unincorporated islands before adding to any of the City's Urban Service Areas (USA). The Mountain Winery is one such area that the city may be interested in expanding the USA to include in the future.

Director Livingstone noted that to further encourage annexation the County of Santa Clara Board of Supervisors has agreed to subsidize the costs of the survey mapping, Board of Equalizations Fees, and provide street improvements.

Director Livingstone stated that of the six identified areas in Saratoga only four are less than the 150 acres maximum allowed to participate in the expedited program. The area on Map #3 by Hakone Gardens, does not qualify because it was created by the City after January 1, 2000, which does not meet the guidelines for participation. Director Livingstone listed the areas that qualify:

- Map #1, Prospect Road Area 104 acres.
- Map #4, On Orbit Drive Area 93 acres. Due to the steep terrain and unstable nature of the geology in this area a detailed geologic and geotechnical study is recommended. Public Works is concerned with future maintenance issues that regularly occur in this area of the City.
- Map #5, Hidden Hill Road Area, 20 acres. This area has moderate slopes and the roads are in good condition.

In regards to the fifteen ordinances, Director Livingstone explained that each ordinance update would require approximately two months. This includes the time to write the ordinance and take it before the Planning Commission and City Council. Some of the more complicated ordinance changes may require more time for community meetings and study sessions.

Vice Mayor Kline asked what the estimated time of completion for these ordinances to be updated and how much effort does the legal requirements take staff to complete them.

City Manager Anderson responded that an 18 months timeframe - as discussed at the last Council retreat - is the time staff thinks would take to most of the items.

A discussion took place in regards to staff time and City Attorney costs.

In regards to the streamline annexation process, Councilmember Streit asked how much time and money does it save the city.

Director Livingstone responded that it cuts the process time in half and would save the City money because the County has agreed to pay for the mapping services and hold the hearings.

City Manager Anderson reminded Council that at the City Council retreat in January 2003 Council agreed to actively pursue annexation.

Council requested more information regarding the property available to annex and return to Council in September.

Director Livingstone suggested that he schedule a site visit to the prospective properties before the next meeting.

City Council concurred with Director Livingstone's suggestion.

Consensus of the City Council on the priority of the ordinances and directed staff to return to Council with a work program:

- General Plan Updates
- Personal Services Ordinance
- Density Bonus Per SB 1818 and Housing Element 2.1
- Conditions of Approval
- Noise Ordinance
- City Landmark Status
- Village Parking

6. **DESIGNATION OF VOTING DELEGATE FOR 2005 LEAGUE ANNUAL CONFERENCE**

STAFF RECOMMENDATION:

Designate a Voting Delegate.

Cathleen Boyer, City Clerk, presented staff report.

City Clerk Boyer stated that the League of California Cities Annual Conference is scheduled for October 6- 8, 2005 in San Francisco.

City Clerk Boyer stated that the League is requesting that the City elect a voting delegate and an alternate to vote in matters effecting municipal or League policy at the conference in October.

Consensus of the City Council to appoint Councilmember Waltonsmith as the voting delegate and Mayor King as the alternative.

ADHOC & AGENCY ASSIGNMENT REPORTS

Mayor Kathleen King had no reportable information.

Vice Mayor Norman Kline had no reportable information.

Councilmember Nick Streit had no reportable information.

Councilmember Aileen Kao reported the following information:
Chamber of Commerce – “Celebrate Saratoga” September 17, 2005.

Councilmember Ann Waltonsmith reported the following information:
Sister City Liaison – exchange student ceremony at City Hall on August 11, 2005 at 10 a.m.

CITY COUNCIL ITEMS

Vice Mayor Kline noted that he has been recently appointed to the Chamber of Commerce Board. Vice Mayor Kline stated that he has discussed this appointment with City Attorney Taylor and there are no conflicts.

OTHER

None

CITY MANAGER’S REPORT

City Manager Dave Anderson announced the he would be on vacation from August 5-27, 2005. City Manager Anderson explained that during his absence Assistant City Manager Tinfo would be Acting City Manager.

ADJOURNMENT

There being no further business Mayor King adjourned the meeting at 10:45 p.m.

Respectfully submitted,

Cathleen Boyer, CMC
City Clerk