

## MINUTES

### SARATOGA CITY COUNCIL

MARCH 1, 2006

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

The following Planning Commissioners were present: Chair Susie Nagpal, Jill Hunter, Michael Schallop, Linda Rodgers, and Robert Kuntz.

Chair Nagpal summarized the following information:

- 2005 Application Data - total 448
- 2002-2005 Comparison
- Discussion Items
  - Village Development Standards
  - Ordinance by Numbers
  - Buildings of Architectural Significance
  - Story Poles
  - Arborist/Tree Permit Issues
  - Counsel Present at PC Meetings
  - General Plan Clean up

Direction to Planning Commission from the City Council:

- Investigate Story Pole ordinance
- Assistant City Attorney attendance at PC meeting

Mayor Kline thanked the Planning Commission for attending the joint meeting.

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

### **ANNOUNCEMENT OF CLOSED SESSION ITEMS**

CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Section 54956.8):

Property: 19848 Prospect Road

Agency Negotiator: Dave Anderson, City Manager and John Cherbone, Public Works Director

Under negotiation: Price and terms of payment for sale of real property.

CONFERENCE WITH LEGAL COUNSEL – Threatened Litigation: Significant exposure to litigation pursuant to Government Code section 54956.9(b): (1 potential case)

### **MAYOR'S REPORT ON CLOSED SESSION**

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

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

## **ROLL CALL**

PRESENT: Councilmembers Kathleen King, Nick Streit, Ann Waltonsmith,  
Vice Mayor Aileen Kao, Mayor Norman Kline  
ABSENT: None  
ALSO Dave Anderson, City Manager  
PRESENT: Richard Taylor, City Attorney  
Cathleen Boyer, City Clerk  
Michele Braucht, Administrative Services Director  
John Livingstone, Community Development Director  
John Cherbone, Public Works Director  
Joan Pisani, Recreation Director

## **REPORT OF CITY CLERK ON POSTING OF AGENDA FOR MARCH 1, 2006**

Cathleen Boyer, City Clerk, reported that pursuant to Government Code Section 54954.2, the agenda for the meeting of March 1, 2006, was properly posted on February 23, 2005.

## **ORAL COMMUNICATIONS**

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

Jill Hunter announced the St. Paddy's Day celebration in the Village on March 17, 2006 from 6 -9 p.m.

Citizen Ray reported that a tree went down on Highway 9 due to the high winds. Citizen Ray also reported the tree clippings that have been left along the road.

Chuck Schoppe announced that the Saratoga Museum was displaying a 1906 Earthquake exhibit to honor the 100<sup>th</sup> anniversary of the earthquake.

## **COUNCIL DIRECTION TO STAFF**

Councilmember King asked Director Cherbone to respond to Citizen Ray's report.

Director Cherbone reported that staff already sent Caltran a letter asking them to clean up along Highway 9.

## **COMMUNICATIONS FROM BOARDS AND COMMISSIONS**

Susie Nagpal, Planning Commisison Chair, summarized the joint meeting with the City Council.

## **ANNOUNCEMENTS**

Mayor Kline read the following announcement:

The City is now accepting applications to fill two positions on the Planning Commission, five positions on the Heritage Preservation Commission, two positions on the Traffic Safety Commission, and several positions on the Youth Commission. For more information contact Cathleen Boyer, City Clerk at 868-1269 or visit the City's website at [www.saratoga.ca.us](http://www.saratoga.ca.us).

**CEREMONIAL ITEMS**

None

**SPECIAL PRESENTATIONS**

None

**CONSENT CALENDAR**

**1A CITY COUNCIL MINUTES – FEBRUARY 15, 2006**

**STAFF RECOMMENDATION:**

Approve minutes.

WALTONSMITH/KING MOVED TO APPROVED **MINUTES OF FEBRUARY 15, 2006.** MOTION PASSED 5-0.

**1B. APPROVAL OF CHECK REGISTER**

**STAFF RECOMMENDATION:**

Approve register.

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

**1C. RESOLUTION TO SUPPORT A MEASURE TO SECURE LOCAL TRANSPORTATION FUNDING PROPOSITION 42**

**STAFF RECOMMENDATION:**

Adopt resolution.

**RESOLUTION: 06-023**

WALTONSMITH/KING MOVED TO **ADOPT RESOLUTION IN SUPPORT OF MEASURE TO SECURE LOCAL TRANSPORTATION FUNDING.** MOTION PASSED 5-0.

**1D. APPROVAL OF CONTRACT FOR TAX EQUITY RECOVERY (TEA) CONSULTANT GREG SELLERS**

**STAFF RECOMMENDATION:**

Approve contract and authorize Mayor to execute the same.

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

Mayor Kline thanked Councilmember King and Supervisor Liz Kniss for their support at the recent Santa Clara County Board of Supervisor’s meeting in which they passed a resolution of support for the TEA recovery. Mayor Kline also thanked Assemblymember Rebecca Cohen who would carry it through the process in Sacramento.

WALTONSMITH/KING MOVED TO APPROVE CONTRACT FOR TAX EQUITY RECOVERY (TEA) CONSULTANT GREG SELLERS AND AUTHORIZE MAYOR TO EXECUTE THE SAME. MOTION PASSED 5-0.

1E. **RESOLUTION FORMING TAX EQUITY RECOVERY ADHOC COMMITTEE**

**STAFF RECOMMENDATION:**

Adopt resolution.

**RESOLUTION: 06-022**

WALTONSMITH/KING MOVED TO ADOPT RESOLUTION TO FORM A TAX EQUITY RECOVERY (TEA) ADHOC COMMITTEE APPOINTING KLINE AND KING. MOTION PASSED 5-0.

1F. **FINAL MAP APPROVAL FOR TWO LOTS LOCATED AT 19330 SARATOGA-LOS GATOS ROAD. OWNER: SPITTS**

**STAFF RECOMMENDATION:**

Approve Final map.

**RESOLUTION: 06-012**

WALTONSMITH/KING MOVED TO ADOPT RESOLUTION APPROVING THE FINAL MAP OF APPLICATION NO. 05-122 19330 SARATOGA-LOS GATOS ROAD. MOTION PASSED 5-0.

1G. **RESOLUTION ADOPTING A RISK MANAGEMENT POLICY**

**STAFF RECOMMENDATION:**

Adopt resolution.

**RESOLUTION: 06-015**

WALTONSMITH/KING MOVED TO ADOPT RESOLUTION ADOPTING A RISK MANAGEMENT POLICY. MOTION PASSED 5-0.

1H. **MOTOR VEHICLE (MV) RESOLUTION PROHIBITING ALONG VERDE VISTA LANE**

**STAFF RECOMMENDATION:**

Move to adopt Motor Vehicle Resolution prohibiting parking on a portion of Verde Vista Lane.

**RESOLUTION: MV-250**

WALTONSMITH/KING MOVED TOP ADOPT RESOLUTION RESTRICTING PARKING ON VERDE VISTA LANE. MOTION PASSED 5-0.

11. **HAKONE GARDENS HISTORICAL RENOVATION PROJECT –  
AWARD OF CONTRACT**

**STAFF RECOMMENDATION:**

1. Approve Budget Resolution.
2. Move to declare DeShmidt Design Build to be the lowest responsible bidder on the Hakone Gardens Historical Renovation Project.
3. Approve a construction contract with DeShmidt Design Build in the amount of \$89,500 for the Hakone Gardens Historical Renovation Project and authorize City Manager to execute the same.

**RESOLUTION: 06-027**

Vice Mayor Aileen Kao requested that this item be removed from the Consent Calendar.

Vice Mayor Kao thanked Hakone Foundation for their contribution of \$19,000 to make up the budget shortfall.

**KAO/STREIT MOVED TO APPROVE BUDGET RESOLUTION.; MOVE TO DECLARE DESHMDT DESIGN BUILD TO BE THE LOWEST RESPONSIBLE BIDDER ON THE HAKONE GARDENS HISTORICAL RENOVATION PROJECT.; APPROVE A CONSTRUCTION CONTRACT WITH DESHMDT DESIGN BUILD IN THE AMOUNT OF \$89,500 FOR THE HAKONE GARDENS HISTORICAL RENOVATION PROJECT AND AUTHORIZE CITY MANAGER TO EXECUTE THE SAME.** MOTION PASSED 5-0.

1J. **APPROVAL OF CONTRACT FOR PURCHASE OF CITY OWNED  
PROPERTY LOCATED AT 19848 PROSPECT ROAD**

**STAFF RECOMMENDATION:**

Approve Contract and adopt resolution.

**RESOLUTION: 06-013**

Mayor Kline and Councilmember WaltonSmith both requested that this item be removed from the Consent Calendar.

City Attorney Taylor noted that a letter from an attorney who represents a group of citizens who have stated they were going to sponsor a referendum on this subject. City Attorney Taylor explained his recent meeting with the proposed buyer and listed the terms of sale agreement.

City Attorney Taylor explained the referendum process.

A discussion took place in regards to the outcome of a possible referendum.

F.L. Stutzman noted that he was a former Mayor of the City of Saratoga. Dr. Stutzman stated that it is immoral and dishonest for the Council to approve the sale of the North Campus.

Cheriel Jensen requested that the City hold on to the North Campus property and use it for community purposes.

Norman Siegler reported that a group of people has been formed to the sale of the North Campus by referendum.

John Feemster stated that the North Campus should be used for senior services.

**STREIT/KING MOVED TO ADOPT RESOLUTION APPROVING AN AGREEMENT FOR SALE OF CITY-OWNED LAND AT 19848 PROSPECT ROAD.** MOTION PASSED 3-2 WITH KAO AND WALTONSMITH OPPOSING.

**1K. PUBLIC WORKS DOCUMENT IMAGING PROJECT**

**STAFF RECOMMENDATION:**

Adopt resolution.

**WALTONSMITH/KING MOVED TO APPROVE IMAGING PROPOSAL FROM ECS IMAGING.** MOTION PASSED 5-0.

**PUBLIC HEARINGS**

**2. ORDINANCE AMENDING PROCEDURES FOR COMPENSATION OF CITY COUNCIL MEMBERS AND RESOLUTION ESTABLISHING AN EXPENSE REIMBURSEMENT POLICY**

**STAFF RECOMMENDATION:**

Open the public hearing and accept public testimony on the ordinance then close the hearing. Introduce and waive first reading of the attached ordinance and direct staff to place the second reading and adoption of the ordinance on the consent calendar for the next regular Council meeting. Adopt the attached resolution.

Richard Taylor, City Attorney, presented staff report.

City Attorney Taylor explained that the proposed ordinance and resolution implemented portions of AB 1234, which became operative on January 1, 2006. City Attorney Taylor explained that AB 1234 sets specific standards governing compensation and reimbursement of City Council members and other appointed officials (such as Commissioners). Compensation is permitted in four situations: 1) "A meeting of the legislative body"; 2) "A meeting of the advisory body"; 3) "A conference or organized educational activity"; 4) Other occurrences "if the governing body has adopted, in a public meeting, a written policy specifying other types of occasions that constitute the performance of official duties for which a member of the legislative body may receive payment." Gov. Code § 53232.1(a), (b).

City Attorney Taylor continued to explain that AB 1234 further provides that an agency may reimburse elected officials and commissioners only if it has adopted in a public meeting, a written policy "specifying the types of occurrences that

qualify for reimbursement of expense relating to travel, meals, lodging, and other actual and necessary expenses.” Gov. Code § 53232.2(b). That policy must allow reimbursement of only “actual and necessary expenses incurred in the performance of official duties

Finally, City Attorney Taylor explained that AB 1234 also includes requirements for ethics training of members of a local agency’s legislative body and any appointed officials (e.g., Commissioners) who receive compensation or reimbursement for performance of their official duties, and/or of employees designated to receive training by a local agency. Staff will be providing the City Council with additional information on the ethics training requirement at a later date. The ordinance and resolution attached to the staff report address only the compensation and reimbursement requirements of AB 1234.

City Attorney Taylor explained the proposed ordinance noting that it makes minor revisions to the City Code to ensure that it is structured in accordance with AB 1234. The ordinance amends the Code to clarify that these stipends are purely compensatory in nature; they do not represent reimbursement for actual and necessary expenses relating to official duties of the City Council.

City Attorney Taylor explained that in order to ensure that reimbursement is available to Council members and Commissioners for costs incurred while on City business, the attached resolution adopts a reimbursement policy. The policy is based on the model reimbursement policy developed by the California League of Cities.

Council expressed their concerns regarding the proposed policy and directed staff to research and clarify the item more thoroughly and return to Council at future meeting.

### **OLD BUSINESS**

#### **3. REQUEST TO AUGMENT THE COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM**

##### **STAFF RECOMMENDATION:**

Accept report and adopt budget resolution.

##### **RESOLUTION: 06-014**

Cathleen Boyer, City Clerk, presented staff report.

City Clerk Boyer reminded Council that on May 4, 2005 they approved the Second Amendment to the Agency Agreement for Countywide Household Hazardous Waste Collection Program that extended the contract one more year. City Clerk Boyer pointed out that due to Citywide budget constraints staff did not recommend any additional funding to this program for FY 05-06.

City Clerk Boyer stated that Saratoga has historically generated less solid waste per capita than other jurisdictions. City residents have a high level of environmental awareness which minimizes solid waste tonnage going for disposal, which of course is what the AB 939 solid waste tipping fee is based on. The

tipping fee generates approximately \$33,000 per year for the City's HHW services. The funding available to serve residents does not support the minimum level of service (3% of households in each jurisdiction) that was the basis for the tipping fee. To compound matters, a higher than average number of household from Saratoga request services. The countywide average is roughly 4% of households, historically, 8% of Saratoga households request service. Additionally, Universal Waste (batteries, florescent bulbs, e-waste) were banned by the State Legislature February 9 of this year and will significantly increase the demand for HHW services.

City Clerk Boyer stated that on November 22, 2005 the City received a letter from Rob D'Arcy, Hazardous Materials Program Manager, indicating that as of November 19, 2005 the HHW Program provided service to 316 Saratoga residents and would not be able to provide any additional service for the remainder of the fiscal year. Mr. D'Arcy once again requested that the Council consider a \$25,000 augmentation to the program.

City Clerk Boyer reported that since December 2005 the HHW Program staff has been referring all Saratoga calls to the City Clerk's Office. Staff has received approximately 300 calls since that time. Staff has referred residents to alternative sites to dispose of batteries, motor oil, and florescent light bulbs. Unfortunately alternative disposal sites for the following items are not available: latex/oil base paint, pesticides and other household chemicals.

In addition to the public's need for this service, City Clerk Boyer explained that the City's National Pollutant Discharge Elimination System (NPDES) Permit, the Pesticide Management Plan (PMP) and Saratoga's Work Plan for FY -05-06 all indicate the City's obligation to provide disposal sites to its residents.

City Clerk Boyer explained that in March 2007 when the new solid waste contract goes into effect there will be a permanent site for City residents to use for the following types waste: e-waste, batteries, motor oil, and florescent light bulbs. This will reduce the need for City residents to use the County's HHW program for these types of waste and therefore the need to augment the HHW Program will be reduced significantly.

**KING/KAO MOVED TO ADOPT RESOLUTION AUTHORIZING A BUDGET INCREASE OF \$20,000 FUNDED BY A REDUCTION IN THE ENVIRONMENTAL SERVICES FUND BUDGET OF \$20,000. MOTION PASSED 5-0.**

## **NEW BUSINESS**

None

## **ADHOC & AGENCY ASSIGNMENT REPORTS**

Mayor Kline had no reportable information.

Vice Mayor Kao had no reportable information.

Councilmember Streit had no reportable information

Councilmember Ann Waltonsmith reported the following information:  
KSAR Community Access TV Board – looking at an alternative way to be solvent.

Councilmember Kathleen King reported the following information:  
Peninsula Division, League of California Cities – announced the upcoming AB 1234 training on March 16<sup>th</sup>.

**CITY COUNCIL ITEMS**

None

**CITY MANAGER'S REPORT**

None

**ADJOURNMENT**

There being no further regular business Mayor Kline adjourned the meeting to reconvene in Closed Session at 9:30 p.m. Mayor Kline adjourned Closed Session at 10:00 p.m.

Respectfully submitted,

Cathleen Boyer, CMC  
City Clerk