

## **MINUTES**

### **SARATOGA CITY COUNCIL SPECIAL MEETING MARCH 9, 2006**

The City Council of the City of Saratoga met in Closed Session in the Administrative Conference Room, at 13777 Fruitvale Avenue, at 6:30 p.m. for the purpose of Conference with Legal Counsel.

#### **CALL TO ORDER**

Mayor Kline called the meeting to order at 6:30 p.m.

#### **ROLL CALL**

**PRESENT:** Mayor Norman Kline  
Vice Mayor Aileen Kao  
Councilmember Nick Streit  
Councilmember Ann Waltonsmith  
Councilmember Kathleen King

**ABSENT:** None

**ALSO PRESENT:** Dave Anderson, City Manager  
Richard Taylor, City Attorney  
Cathleen Boyer, City Clerk  
John Cherbone, Public Works Director

#### **REPORT OF CITY CLERK POSTING OF AGENDA FOR MARCH 9, 2006**

Cathleen Boyer, City Clerk, reported that pursuant to Government Code Section 54954.2 the agenda for the meeting of was properly posted on March 7, 2006.

#### **CLOSED SESSION**

**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.

#### **OPEN SESSION – 7:30 P.M.**

#### **ADMINISTRATIVE CONFERENCE ROOM – 13777 FRUITVALE AVENUE**

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

Mayor Kline reported there was Council discussion and direction given to staff.

Mayor Kline called the special meeting to order at 7:30 p.m.

1. **CONSIDER REVISED CONTRACT FOR PURCHASE OF CITY OWNED PROPERTY LOCATED AT 19848 PROSPECT ROAD**

**STAFF RECOMMENDATION:**

1. Approve Resolutions and Provide Direction to Staff to Take Measures Necessary to Seek Voter Approval of Revised Contract for Purchase of City Owned Property located at 19848 Prospect Road at the June 6, 2006 Election.
2. Rescind Approval of Contract Approved March 1, 2006.
3. Designate Councilmembers to prepare arguments in support or opposition to the ballot measure.

**RESOLUTION: 06-016, 017, & 018**

Richard Taylor, City Attorney, presented staff report. City Attorney Taylor reported that at its meeting of March 1, 2006 the City Council approved a resolution authorizing the sale of City owned property at 19848 Prospect Road. At that meeting members of the community indicated their intent to circulate a petition to require the City Council to repeal the resolution or put the matter to a vote of the people.

City Attorney Taylor explained that the contract approved by Council on March 1<sup>st</sup> first had two prices - \$7 million if there was no referendum or \$6.5 if there was a referendum election held in November and approved by the voters.

City Attorney Taylor stated that the buyer has stated that if the referendum election was held in June he would pay a purchase price of \$6.75 million dollars with the following conditions:

- Extent the closing period from 45 – 60 days
- Waive the Public Works Department inspection fees for improvements and final map processing fees costs
- Process the final subdivision map

City Attorney Taylor reported that Council discussed this in closed session and with a Council vote of 3-2 stated that in the event that they decide to put the question on the ballot in June that contract would be acceptable to them.

City Attorney stated three resolutions are attached that would implement this proposal.

City Attorney Taylor explained that the first resolution would approve the sale of the City property conditioned on voter approval of the sale at the June 6, 2006 election. The resolution provides that the sale may take place only if approved by the voters. The resolution authorizes the sale pursuant to the contract most recently proposed by the high bidder or to another buyer if for some reason (other than rejection of the sale by the voters) the sale to the high bidder is not completed.

City Attorney Taylor explained that the second resolution places the matter on the ballot for the June 6, 2006 election. It calls for the ballot question to be worded as follows: “Shall Resolution Number 06-\_\_\_\_ authorizing the sale of City-owned property at 19848 Prospect Road, Saratoga, California, be approved?”

City Attorney Taylor noted that the second resolution also directs that the City Attorney prepare an impartial analysis of the measure. In addition, the resolution would authorize the filing of rebuttal arguments concerning the two measures. State law provides that arguments for and against each measure may be submitted. Rebuttal arguments are allowed only if authorized by the City Council. The City Council has previously acted to authorize rebuttal arguments and this resolution continues that authorization. If the Council does not wish to authorize rebuttal arguments, paragraph 7 should be revised accordingly.

City Attorney Taylor explained that the third resolution would rescind Resolution No. 06-013 adopted by the City Council on March 1, 2006. That resolution approved a sales contract for the property on different terms than those in the agreement referenced in the new sale resolution (the first resolution described above).

City Attorney Taylor explained that the State law provides that the City Council may authorize one or more members of the Council to file a written argument for or against each measure. (Elections Code section 9282.) In the event that multiple arguments are submitted, an argument submitted by an authorized member of the City Council would take precedence over another argument. (Up to five names may appear on an argument and they may include Council members as well as non-Council members. See Elections Code sections 9282, 9283.) If Council wishes, it may authorize Council members to prepare arguments for or against each measure. If three or more Council members are designated to draft an argument all meetings of those Council members are subject to the Brown Act. Arguments for and against the measure are due March 15, 2006 and rebuttals to those arguments are due March 22, 2006.

Referring to the buyers stipulations, Councilmember WaltonSmith asked the total cost waived proposed to be waived by the City.

Director Cherbone responded:

- approximately \$75,000 for improvement plan checking fees and inspection fees
- processing of the map @ 80 hours of work \$5,000
- creating the final map \$5,000

Director Cherbone stated that the total would be approximately \$85,000, though it could be higher or lower depending on the cost of the improvements.

Councilmember WaltonSmith requested that the Council eliminate rebuttal to the arguments for and against noting that it would save the City approximately \$10,000.

Vice Mayor Kao asked how many people can sign the argument.

City Attorney Taylor responded that five qualified people can sign.

Vice Mayor Kao asked if the people collecting signatures to place a referendum on the ballot should continue.

City Attorney Taylor stated that it was no longer necessary to collect signatures.

Councilmember King asked City Attorney Taylor the difference between a referendum and an imitative.

City Attorney Taylor explained that differences.

Vice Mayor Kao asked why the huge price difference between a June election and November election.

City Clerk Boyer explained that June was a primary election which means the voter booklet must be printed in six political parties in five languages. Whereas in November there's only one booklet printed in five languages.

Mayor Kline invited public comments.

Jeff Schwartz thanked the City Council for putting forth the measure to the voters. Mr. Schwartz noted that this was the simplest and easiest way to hear the voice of the people. Mr. Schwartz noted that during their petition drive they heard a lot of positive comments. Regarding rebuttal arguments, Mr. Schwartz agreed with Councilmember WaltonSmith's earlier comments – they aren't necessary save the City \$10,000.

**STREIT/KING MOVED TO ADOPT APPROVING THE SALE OF CITY-OWNED LAND AT 19848 PROSPECT ROAD FOR \$6.75 MILLION DOLLARS, CONTRACT SIGNED BY MIKE MASUMI ON MARCH 8, 2006. MOTION PASSED 3-2 WITH KAO AND WALTONSMITH OPPOSING.**

Mayor Kline noted that it is his opinion that this measure be placed on the June ballot instead of in November. Mayor Kline noted that this way the focus will be on the measure and not candidate elections. Mayor Kline noted that this Fall is the City's 50<sup>th</sup> anniversary party and the atmosphere should be positive. On a final note Mayor Kline noted that this Council has really supported each other over the past four years and this issue really split them up.

Discussion took place in regards to the question. Consensus of the City Council in regards to the ballot question to read as follows: "Shall the sale of City-owned property at 19848 Prospect Road, Saratoga, California (also known as the "North Campus") be approved as set forth in Resolution 06-016?"

**STREIT/WALTONSMITH MOVED TO ADOPT RESOLUTION REQUESTING CONSOLIDATION OF ELECTIONS AND SPECIFYING CERTAIN PROCEDURES FOR THE CONSOLIDATION OF ELECTIONS; REQUESTING THE SERVICES OF THE REGISTRAR OF VOTERS; PROVIDING FOR GIVING NOTICE OF ELECTION; AND PROVIDING FOR THE SUBMISSION OF ARGUMENTS FOR AND AGAINST THE RESOLUTION, AND WITHDRAWING PRIOR AUTHORIZATION OF REBUTTAL ARGUMENTS ON CITY MEASURES.** MOTION PASSED 5-0.

**STREIT/KING MOVED TO ADOPT RESOLUTION RESCINDING RESOLUTION NO. 06-013.** MOTION PASSED 5-0.

**STREIT/KING MOVE TO DESIGNATE COUNCILMEMBERS WALTONSMITH AND VICE MAYOR KAO TO WRITE THE ARGUMENT AGAINST.** MOTION PASSED 5-0.

**KLING/KING MOVED TO DESIGNATE COUNCILMEMBER NICK STREIT TO WRITE THE ARGUMENT FOR.** MOTION PASSED 5-0.

Mayor Kline thanked everyone for attending tonight's meeting.

### **ADJOURNMENT**

Mayor Kline adjourned the meeting at 8:20 p.m.

Respectfully submitted,

Cathleen Boyer, CMC  
City Clerk, City of Saratoga