

MINUTES

SARATOGA CITY COUNCIL MEETING APRIL 5, 2006

The City Council held a Joint Meeting at 5:30PM with the Friends of the Saratoga Libraries in the Administrative Conference Room.

The City Council held a Joint Meeting at 6:00PM with the Library Commission in the Administrative Conference Room.

The City Council of the City of Saratoga met in Closed Session in the Administrative Conference Room at 6:30PM

CONFERENCE WITH LABOR NEGOTIATORS (Gov't Code 54957.6):

Agency designated representatives: Barbara Powell, Assistant City Manager, Michelle Braucht, Administrative Services Director, Monica LaBossiere, and Human Resource Manager.

Employee organization: SEA

CONFERENCE WITH LABOR NEGOTIATORS (Gov't Code 54957.6):

Agency designated representatives: Dave Anderson, City Manager

Employee organization: SMO

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

CONFERENCE WITH LEGAL COUNSEL - Existing Litigation (1 case)

(Government Code section 54956.9(a))

Name of case: Gen-Con Inc. aka Gen-Con Building Contractors, Debtor
(U.S. Bankruptcy Court Case No. 02-53885)

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

ROLL CALL:

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

ABSENT: None

ALSO PRESENT: Dave Anderson, City Manager
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
Lata Vasudevan, Associate Planner

REPORT OF CITY CLERK ON POSTING OF AGENDA

Cathleen Boyer, City Clerk, reported that pursuant to Government Code Section 54954.2, the agenda for this meeting was properly posted on March 30, 2006.

ORAL COMMUNICATIONS

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

Lee Song addressed the Council regarding the Concentration Camps in China and asked Council to propose a resolution to disband the Concentration Camps, release detainees and demand an international investigation.

Citizen Ray addressed the Council regarding illegal dumping on Highway 9.

Bob Wallace addressed the Council regarding the proposed demolition of the stone pillars at the Saratoga Gateway. He suggested planting trees in between the stone pillars.

Kathleen Casey addressed the Council regarding her displeasure of the demolition of the Komina property in the aftermath of a fire.

Claire Lee addressed the Council regarding the Concentration Camps in China.

COUNCIL DIRECTION TO STAFF

Councilmember WaltonsSmith noted that Council has a policy to not support issues that do not affect Saratoga, but that as individuals they may support various causes of their choosing. Mayor Kline concurred with Councilmember WaltonsSmith and noted that citizens are welcome to contact council members individually regarding their concerns for the people of China.

COMMUNICATIONS FROM BOARDS AND COMMISSIONS

Helen Lemmon, Chair of the Library Commission, addressed the Council regarding their meeting earlier in the evening with Council. She noted the large numbers of patrons that visit the library on a daily basis and the large volume of items checked out weekly. She also noted that City employee Thomas Scott was working on improving the lighting under the US flag. She also noted the Library Commission is very committed to working closely with the library staff and city employees to continue making their community library a place that everyone is proud of.

Councilmember WaltonsSmith noted the Friends of the Library met with Council earlier in the evening and stated that the Friends of the Library work on a volunteer basis raising funds to help support the library – such as collecting and selling used books. The funds they raise help fund programs for the Saratoga Library.

COUNCIL DIRECTION TO STAFF

None.

ANNOUNCEMENTS

Mayor Kline announced the “Celebrate Earth Day” program where citizens can recycle electronics. A free E-Waste Recycle Event will be held on Saturday, April 22, 2006 from 9AM to 2PM at Apple, 10500 De Anza Blvd, Cupertino, CA. For more information call the City Clerk at (408) 868-1269.

The Tree Pruning and Decorative Light Project began this week along Big Basin Way. This project should be completed by April 28. During this time, City staff will have to block off stretches of curbside parking to allow the Valleycrest crews to operate in a manner that is both efficient and safe for the public. Work will commence at daybreak and it is expected that work within these barricaded sections will be completed as quickly as possible to avoid disrupting business owners. If you have any questions regarding this project, please contact Joan Smith at 868-1245.

Councilmember King announced the “Transplant Awareness” event hosted by the Saratoga Youth Commission at 7:00 P.M. on Thursday, April 6, 2006 at the Civic Theater.

CEREMONIAL ITEMS

1A PROCLAMATION DECLARING THE MONTH OF APRIL “VOTER EDUCATION MONTH”

STAFF RECOMMENDATION:

Acknowledge proclamation.

Mayor Kline read the proclamation; no one was present to receive the proclamation.

SPECIAL PRESENTATIONS

None

CONSENT CALENDAR

2A. CITY COUNCIL MINUTES – SPECIAL MEETING MARCH 9, 2006

STAFF RECOMMENDATION:

Approve minutes.

KLINE/WALTONSMITH MOVED TO **APPROVE CITY COUNCIL MINUTES OF THE SPECIAL MEETING ON MARCH 9, 2006.** MOTION PASSED 5-0-0.

2B. CITY COUNCIL MINUTES – MARCH 13, 2006 & MARCH 15, 2006

STAFF RECOMMENDATION:

Approve minutes.

KLINE/WALTONSMITH MOVED TO APPROVE CITY COUNCIL MINUTES FOR MARCH 13, 2006 AND MARCH 15, 2006. MOTION WAS PASSED 5-0-0.

2C. **APPROVAL OF CHECK REGISTER**

STAFF RECOMMENDATION:

Approve register.

KLINE/WALTONSMITH MOVED TO APPROVE CHECK REGISTER. MOTION WAS PASSED 5-0-0.

2D. **RESOLUTION PROVIDING FUNDING ALLOCATION FOR THE JOE GONSALVES & SONS CONTRACT**

STAFF RECOMMENDATION:

Adopt resolution.

RESOLUTION NO. 06-029

KLINE/WALTONSMITH MOVED TO ADOPT RESOLUTION TO PROVIDE FUNDING ALLOCATION FOR THE JOE GONSALVES AND SONS CONTRACT. MOTION WAS PASSED 5-0-0.

2E. **RESOLUTION OF SUPPORT – YES ON PARKS**

STAFF RECOMMENDATION:

Adopt resolution.

Matt Hannah requested to remove this item for comment.

Mr. Hannah urged Council to support Measure B, a tax that extends the present park charter amendment tax for another 12 years, and to direct county money to support county parks projects.

RESOLUTION NO. 06-032

WALTONSMITH/KING MOVED TO ADOPT RESOLUTION OF SUPPORT – YES ON PARKS. MOTION PASSED 5-0-0.

2F. **RESOLUTION SUPPORTING AB 117 (COHEN)**

STAFF RECOMMENDATION:

Adopt resolution.

Mayor Kline requested to remove this item for comment.

Mayor Kline spoke in favor of supporting a Resolution urging passage of AB 117 which assures that low or no tax cities receive at least 7% of property taxes. The four affected cities, and the County supports it. Mayor Kline thanked Assembly

Member Rebecca Cohen, and the Gonsalves and Sons Legislative Consultants for supporting the effort to approve the legislation.

RESOLUTION NO. 06-028

WALTONSMITH/KING MOVED TO ADOPT RESOLUTION SUPPORTING AB 117. MOTION PASSED 5-0-0.

- 2G. **REAPPOINTMENT OF REPRESENTATIVE TO VALLEY TRANSPORTATION AUTHORITY'S BICYCLE & PEDESTRIAN ADVISORY COMMITTEE (BPAC)**

STAFF RECOMMENDATION:

Adopt resolution.

RESOLUTION NO. 06-031

KLINE/WALTONSMITH MOVED TO ADOPT RESOLUTION OF REAPPOINTMENT OF REPRESENTATIVE TO VALLEY TRANSPORTATION AUTHORITY'S BICYCLE AND PEDESTRIAN ADVISORY COMMITTEE (BPAC). MOTION PASSED 5-0-0.

- 2H. **REQUEST TO REAPPOINT INCUMBENTS TO THE TRAFFIC SAFETY COMMISSION**

STAFF RECOMMENDATION:

Adopt resolution.

RESOLUTION NO. 06-030

KLINE/WALTONSMITH MOVED TO ADOPT RESOLUTION TO REAPPOINT INCUMBENTS TO THE TRAFFIC SAFETY COMMISSION. MOTION PASSED 5-0-0.

- 2I. **HAYMEADOW DRIVE SUBDRAIN REPAIR - AWARD OF CONSTRUCTION CONTRACT**

STAFF RECOMMENDATION:

Move to declare Soil Engineering Construction, Inc. the lowest bidder. Award a construction contract for Haymeadow Drive Subdrain Repair to Soil Engineering, Inc. in the amount of \$183,300 and authorize the City Manager to execute the same. Authorize staff to execute change orders in the amount of \$18,930 and other miscellaneous expenses up to \$2,195.

KLINE/WALTONSMITH MOVED TO DECLARE SOIL ENGINEERING CONSTRUCTION, INC. THE LOWEST BIDDER. AWARD A CONSTRUCTION CONTRACT FOR HAYMEADOW DRIVE SUBDRAIN REPAIR TO SOIL ENGINEERING, INC. IN THE AMOUNT OF \$183,300.00 AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE SAME. AUTHORIZE STAFF TO EXECUTE CHANGE ORDERS IN THE AMOUNT OF \$18,930.00 AND OTHER MISCELLANEOUS EXPENSES UP TO \$2,195.00. MOTION PASSED 5-0-0.

PUBLIC HEARINGS

3. Application #06-306 – Appeal of a Planning Commission Denial of Application #06-216 for a Conditional Use permit to Establish a Subway Sandwich Shop at 14410 Big Basin Way (Corinthian Corners)

STAFF RECOMMEDATION:

Staff recommends that the City Council conduct the public hearing, consider all public testimony and base its decision on the granting of a Conditional Use Permit for a new Subway sandwich shop within a tenant space at 14410 Big Basin Way pursuant to the findings stated in City Code Sections 15-55.020 and 15-55.070.

Lata Vasudevan presented the staff report.

Miya Glasauer, the applicant, addressed the Council regarding the quality of the Subway sandwiches by displaying a freshly made 4 foot long Subway sandwich.

Diana Kazarian, representing the franchiser, supported the appeal of the Planning Commission decisions.

Mayor Kline opened the public comment.

The following people requested to speak:

The following people spoke in support of the Appellant:

Laurel Perusa

Jenni Young Taylor

Juliette Bloxham

Annette Casabonne

Lillian Benson

Nasser Hiekali spoke in support of the Applicant.

Susie Nagpal, representing the Planning Commission, addressed the Council noting she was present to answer any questions Council may have.

Councilmember Waltonsmith asked Ms. Nagpal if there was any discussion regarding the look of the signage.

Ms. Nagpal stated there was some discussion regarding signage appearance, however that is not what the Commission based their decision on. The decision was based primarily on the CH 1 District requirements.

No one else requested to speak on this item.

Mayor Kline closed the public comment.

Diana Kazarian readdressed the Council in rebuttal noting traffic would not increase as a result of being in the vicinity of Starbucks due to the fact that people would be visiting the Subway restaurant at opposite times of the day – noon time versus morning hours. In addition, she noted Subway donates to numerous

charitable organizations in the community, including Cancer and Heart Research, Little League Clubs, and more. She also noted that 50% of Subway's sales are taxable, thereby bringing tax revenue to the City.

Miya Glasauer readdressed the Council in rebuttal.

Mayor Kline closed the Public Hearing.

Council continued to discuss signage appearance, the character of the sandwich shop, safety concerns and traffic.

Councilmember Striet noted traffic would be a sign of a successful business in the Village and that is what the Village needs – a successful business generating traffic. In addition, he noted that when Mr. Nasser was issued the remodel permit for that building, Council knew the square footage of the building and was aware that there would be an interest in that location for a retail or restaurant business; and yet the Planning Commission is denying this application because of traffic.

City Attorney Taylor responded that as per the Municipal Code, the City has two kinds of permit uses; uses that are allowed as a right in a specific District and uses for which a Conditional Use Permit is required. He further noted that when the City approves a building remodel, they don't look at all the types of uses for that building and the impact to that building, the City looks at the uses that are allowed as of right – at that time.

Community Director John Livingstone added that any use that is not a Conditional Use would be a Permitted Use – which would be retail, florist or any business that is not a Conditional Use, could go into that space with just a business license approval.

Mayor Kline asked if the Planning Commission and/or the Council would ever see that activity occurring?

Director Livingstone stated they would not; it would simply be handled by staff in the Community Development Department.

Councilmember King asked the Applicant about the signage appearance that would fit the style of Saratoga.

Applicant Diana Kazarian responded that they could use whatever materials the City would require to blend into the environment; however, they would prefer that the City would allow them to keep the integrity of the Subway logo, which would be the Round "S" sign in the white color.

Councilmember Streit stated he was supportive of the Subway application.

Councilmember Waltons-Smith stated she supported the Planning Commission's decision to deny the Subway application.

Councilmember King stated she was supportive of the Subway application.

Vice Mayor Kao stated she supported the Planning Commission's decision to deny

the Subway application.

Mayor Kline stated in supported the Planning Commission's decision to deny the Subway application.

RESOLUTION NO. 06-033

WALTONSMITH/KAO MOVED TO **SUPPORT THE PLANNING COMMISSION'S DENIAL OF THE APPLICATION.** MOTION PASSED 3-2-0 WITH COUNCILMEMBERS KING AND STREIT OPPOSING.

Mayor Kline declared a 5 minute break at 10:00PM.

The City Council meeting reconvened at 10:05PM.

OLD BUSINESS

4. EXPEDITED ANNEXATION PROGRAM FOR COUNTY ISLANDS

STAFF RECOMMENDATION:

Receive report and provide direction to staff regarding annexation of the 104 acre Prospect Road Area and the 20 acre Hidden Hill Road Area.

Community Development Director John Livingstone presented the staff report.

Santa Clara County Board of Supervisors Liz Kniss was present to address any questions presented by Council.

Supervisor Kniss noted the County supports annexation requests by cities, however, the County cannot force the annexation to happen.

Council thanked Ms. Kniss for attending the meeting.

Mayor Kline opened the Public Hearing and invited public comment.

The following people spoke in opposition of the annexation of the proposed areas:

Vivian Tseng
Jim Brandt

Wanda Kownacki addressed the Council to speak in favor of the annexation.

Richard Sogg addressed the Council regarding his Post Office address, property taxes and responses from fire departments located in Saratoga or Los Gatos.

Councilmember Waltonsmith noted the closest fire station would respond to any call from Mr. Sogg's address asking for assistance.

Community Development Director provided a response to speaker Sogg noting the Post Office Box and fire response would not change; however, the property tax base could change due to the Saratoga Library Bond or any changes made by the County Tax Assessor.

No one else requested to speak on this item.

Mayor Kline closed the Public Hearing.

Councilmember Waltonsmith noted the approval of the annexation would ultimately prove to be a positive step in assisting the affected property owners to maintain their property values and would like to move forward with the proposed annexation.

WALTONSMITH/STREIT MOVED TO EXPEDITE THE ANNEXATION PROGRAM FOR COUNTY ISLANDS – 104 ACRE PROSPECT ROAD AREA AND THE 20 ACRE HIDDEN HILL ROAD AREA. MOTION PASSED 5-0-0.

City Attorney Richard Taylor noted the Public Hearing that was held this evening was an optional hearing in terms of legislative requirements and that before the City can act to approve this annexation, the City is required to conduct two additional formally noticed public hearings before Council will be asked whether or not to approve the annexation of the proposed properties.

Mayor Kline concurred that this agenda item was for Council discussion and direction to staff and that there will be additional scheduled public hearings and property owners would be notified of those scheduled public hearings.

Councilmember Waltonsmith added that as this discussion moves forward, she would like any trail easements that are on the affected properties to be included in the upcoming staff reports to Council.

Council concurred with Councilmember's request.

5. **STATUS REPORT ON ADVANCED PLANNING ACTIVITIES**

STAFF RECOMMENDATIONS:

Accept report and direct staff accordingly.

Community Development Director, John Livingstone presented the staff report and addressed Council questions.

Council discussed the Planning projects and priorities at length.

Mayor Kline invited public comment.

Kathleen Casey addressed the Council to comment on the Planning activities.

Mayor Kline closed the public comment.

Council thanked Director Livingstone for his report and provided no additional direction to Staff.

NEW BUSINESS

6. 50TH ANNIVERSARY BUDGET ALLOCATION TRANSFER OF FUNDS

STAFF RECOMMENDATION:

Accept resolution to approve the transfer of \$20,000 from General Fund Balance – Un-designated Fund Balance to the Recreation Department’s material and supplies budget.

Recreation Director, Joan Pisani, addressed the Council to request a transfer of funds to the Recreation Department to eliminate red tape. The goal is to not actually use the \$20,000.00 but ask for donations from the public.

Mayor Kline opened public comment.

Kathleen Casey addressed the Council to comment on the budget.

Mayor Kline closed public comment.

RESOLUTION NO. 06-104

STREIT/KING MOVED TO ACCEPT RESOLUTION TO APPROVE THE TRANSFER OF \$20,000.00 FROM GENERAL FUND BALANCE – DESIGNATED FUND BALANCE TO THE RECREATION DEPARTMENT’S MATERIAL AND SUPPLIES BUDGET. MOTION PASSED 5-0-0.

ADHOC & AGENCY ASSIGNMENT REPORTS

Mayor Norman Kline – reported:

Chamber of Commerce – hasn’t been able to attend the meetings; will try to attend next meeting.

West Valley Mayors and Managers Association – will be meeting later this month.

Vice Mayor Aileen Kao – reported:

SASCC Task Force – Met on Monday to work on drafting the lease agreement.

Councilmember Nick Streit – nothing to report.

Councilmember Ann Waltonsmith – reported:

KSAR Community Access TV Board – KSAR has new brochure and they are looking for more Board members.

Councilmember Kathleen King – reported:

SCC Cities Association-Joint Economic Development Policy Committee (JEDPC)- Meeting is tomorrow evening.

Village AdHoc – Next meeting is the third Wednesday of this month.

Reminder to Council Members: League Ethics training – AB1234 is in Millbrae on April 6, 2006.

CITY COUNCIL ITEMS

Kathleen King suggested the Gateway pillar issue be agendaized for the April 19 Council Meeting.

Councilmember Waltonsmith asked for clarification on the amount of sales tax generated by the sale of food in a restaurant in the Village.

CITY MANAGER'S REPORT

None

ADJOURNMENT

KLINE/KING MOVED TO **ADJOURN THE REGULAR MEETING.** MOTION PASSED 5-0-0.

There being no further business, Mayor Kline adjourned the Regular meeting at 11:30PM

Respectfully submitted,

Ann Sullivan, CMC
City Clerk