

## MINUTES

### SARATOGA CITY COUNCIL

OCTOBER 4, 2006

Due to a lack of quorum the scheduled Closed Session was cancelled.

Vice Mayor Kao 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  
ABSENT: Mayor Norman Kline  
ALSO Dave Anderson, City Manager  
PRESENT: Richard Taylor, City Attorney  
Cathleen Boyer, City Clerk  
Sandra Sato, Interim Administrative Services Director  
John Livingstone, Community Development Director  
John Cherbone, Public Works Director

#### **REPORT OF CITY CLERK ON POSTING OF AGENDA FOR OCTOBER 4, 2006**

Cathleen Boyer, City Clerk, reported that pursuant to Government Code Section 54954.2, the agenda for the meeting of October 4, 2006, was properly posted on September 29, 2006.

#### **ORAL COMMUNICATIONS**

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

Jim Yoke, Emergency Services Coordinator, announced on Thursday, October 26, from 7:00 to 9:00 p.m. in the Saunders Room at the Senior Center, the initial meeting of the Saratoga Community Emergency Response Team (CERT) will be held. This is both for people already trained in CERT as well as for untrained people who have an interest in disaster preparedness and response in the City of Saratoga.

Janice Clair Hamper requested that City hold a "Helmet Day".

#### **ANNOUNCEMENTS**

None

#### **CEREMONIAL ITEMS**

- 1A. **PROCLAMATION DECLARING THE WEEK OF OCTOBER 15-21, 2006 AS "TEEN READ WEEK"**

#### **STAFF RECOMMENDATION:**

Present proclamation.

Vice Mayor Kao read the proclamation and presented it to Judy Wiepkin, Saratoga Library's Teen Librarian and several teen volunteers.

**SPECIAL PRESENTATIONS**

**2A. PRESENTATION BY SUE BARRERA, PRESIDENT/FRIENDS OF THE SARATOGA LIBRARIES**

**STAFF RECOMMENDATION:**

Informational only.

Sue Barrera noted that she was the current President of the Friends of the Saratoga Libraries. President Barrera announced that starting in January 2007 the Friends would fund the Library to operate on Mondays.

**CONSENT CALENDAR**

**3A. CHECK REGISTER FOR 09/05/06**

**STAFF RECOMMENDATION:**

Accept register.

STREIT/KING MOVED TO **ACCEPT CHECK REGISTER FROM 09/05/2006.**  
MOTION PASSED 4-0-1 WITH KLINE ABSENT.

**3B. CHECK REGISTER FOR 09/19/06**

**STAFF RECOMMENDATION:**

Accept register.

STREIT/KING MOVED TO **ACCEPT CHECK REGISTER FROM 09/19/2006.**  
MOTION PASSED 4-0-1 WITH KLINE ABSENT.

**3C. BUDGET CARRYOVERS FROM FISCAL YEAR (FY) 2005-06 TO FY 2006-07**

**STAFF RECOMMENDATION:**

Adopt resolution approving the budget carryovers.

Sandra Sato, Interim Administrative Services Director, requested that this item be removed from the Consent Calendar.

Interim Director Sato requested that this item be postponed until the next meeting.

Consensus of the City Council to continue this item to October 18, 2006.

**3D. AMENDMENT TO LEASE WITH THE HAKONE FOUNDATION TO FACILITATE DEVELOPMENT OF A VISITOR CENTER**

**STAFF RECOMMENDATION:**

Approve lease amendment providing for a City matching contribution of \$250,000 towards the cost of developing a visitor center at Hakone Gardens.

STREIT/KING MOVED TO **APPROVE LEASE AMENDMENT**

**PROVIDING FOR A CITY MATCHING CONTRIBUTION OF \$250,000 TOWARDS THE COST OF DEVELOPING A VISITOR CENTER AT HAKONE GARDENS.** MOTION PASSED 4-0-1 WITH KLINE ABSENT.

- 3E. **RENEWAL OF JOINT USE AGREEMENT WITH SANTA CLARA VALLEY WATER DISTRICT FOR THE CONTINUED USE OF DISTRICT PROPERTY FOR AN EXISTING PUBLIC PATHWAY BETWEEN VIA MONTE DRIVE AND ST. ANDREWS SCHOOL**

**STAFF RECOMMENDATION:**

Authorize the City Manager to execute Joint Use Agreement with Santa Clara Valley Water District for the continued use of District property for an existing public pathway between Via Monte Drive and St. Andrews School.

STREIT/KING MOVED TO **AUTHORIZE THE CITY MANAGER TO EXECUTE JOINT USE AGREEMENT WITH SANTA CLARA VALLEY WATER DISTRICT FOR THE CONTINUED USE OF DISTRICT PROPERTY FOR AN EXISTING PUBLIC PATHWAY BETWEEN VIA MONTE DRIVE AND ST. ANDREWS SCHOOL.** MOTION PASSED 4-0-1 WITH KLINE ABSENT.

- 3F. **RESOLUTION SUPPORTING PROPOSITION 84 - CLEAN WATER, PARKS AND COASTAL PROTECTION BOND**

**STAFF RECOMMENDATION:**

Adopt resolution of support.

Councilmember Streit requested that this item be removed from the Consent Calendar.

Councilmember Streit noted that he would not be supporting this resolution.

WALTONSMITH/KING MOVED TO **ADOPT RESOLUTION SUPPORTING PROPOSITION 84 - CLEAN WATER, PARKS AND COASTAL PROTECTION BOND.** MOTION PASSED 3-0-1-1 WITH STREIT ABSTAINING AND KLINE ABSENT.

- 3G. **APPROVAL OF ANNUAL MAINTENANCE SERVICE CONTRACTS**

**STAFF RECOMMENDATION:**

1. Approve a two-year contract with Gachina Landscape Maintenance for monthly landscape maintenance services in the amount of \$74,000 per year and authorize City Manager to execute the same.
2. Approve a two-year contract with Evens West Valley Spray Co, Inc. for annual roadside weed control in the amount of \$35,000 per year and authorize City Manager to execute the same.
3. Approve a two-year contract with Valley Crest Tree Care Service, Inc. for annual tree trimming and emergency tree removal services in the amount of \$75,000 and authorize City Manager to execute the same.
4. Approve a two-year contract with Hydrotec Irrigation Equipment Service for on call irrigation repair and improvements in the amount \$60,000 per year and authorize City Manager to execute the same.

**STREIT/KING APPROVAL OF ANNUAL MAINTENANCE SERVICE CONTRACTS.** MOTION PASSED 4-0-1 WITH KLINE ABSENT.

**3H. AGREEMENT AMENDMENT FOR PUBLIC NOTICING SERVICES CONTRACT**

**STAFF RECOMMENDATION:**

Accept report and adopt the resolution approving the Amendment to the Agreement with Denise Kaspar for Public Noticing Services.

**STREIT/KING MOVED TO ACCEPT REPORT AND ADOPT THE RESOLUTION APPROVING THE AMENDMENT TO THE AGREEMENT WITH DENISE KASPAR FOR PUBLIC NOTICING SERVICES.** MOTION PASSED 4-0-1 WITH KLINE ABSENT.

**PUBLIC HEARINGS**

**4. AN ORDINANCE AMENDING CHAPTER 15 OF THE SARATOGA CITY CODE REGARDING COMPLIANCE WITH THE CONDITIONS OF DESIGN REVIEW APPROVAL – FIRST READING**

**STAFF RECOMMENDATION:**

1. Open and conduct the public hearing,
2. Introduce the ordinance amendment
3. Waive the first reading
4. Schedule the item for second reading and adoption on consent calendar.

John Livingstone, Community Development Director, presented staff report.

Director Livingstone explained that Ordinance 233-B requires compliance with prior design review conditions for all properties in the City that were the subject of design review approval and received final approval after January 1, 2004. Projects that deviate from approved design review conditions are allowed by Ordinance 233-B, but only upon approval by the entity that issued the design review approval. Therefore, modification on projects that obtained administrative design review approval is reviewed and approved by the Community Development Director and modification to projects that obtained Planning Commission design review approval requires approval by the Planning Commission. Ordinance 233-B is an interim urgency ordinance that expires November 20, 2006 and cannot be extended as an urgency ordinance beyond that date. In consideration of their expiration date Council requested the Planning Commission to consider two options to amend the City Code so that the provision – or similar provision – of Ordinance 233-B remain in effect.

Director Livingstone explained that staff has identified two possible approaches to amending the City Code. Director Livingstone explained that the first option would involve adopting code provisions comparable to the requirements now in effect under Ordinance 233-B. This would have the effect of making permanent all design review conditions for all projects approved since January 1, 2004.

Changes to a structure or related landscaping that are inconsistent with the earlier design review conditions could be made, but only after approval by the entity that issued the original design.

The second options, Director Livingstone explained, would involve amending the design review requirements of the City Code to authorize the entity issuing the design review approval to specify those conditions that must remain in effect following sign-off of the building permit. This would allow some flexibility with respect to future changes in a home, but would allow staff or the Planning Commission to specify particular aspects of the design that are required to remain in effect in order to address neighbors concerns or other issues raised during the design review process.

Director Livingstone reported that the Planning Commission considered this item on September 27, 2005 and voted to recommend City Council approval of the second option, where identified conditions of approval can be deemed permanent or effective for a specified term. The Planning Commission chose not to require applicant to record the design review restriction with the County Recorder's Office.

Vice Mayor Kao opened the public hearing and invited public comments.

Dave Mighdoll noted that it has been two years ago since he and his neighbors brought this issue to the attention of the City Council. Mr. Mighdoll thanked the Council for all of their efforts on this ordinance. Mr. Mighdoll noted that he and his neighbors support option number one.

Linda Rodgers, Chair/Planning Commission, noted that two Commissioners opposed to the recordation of design review approval.

Vice Mayor Kao closed the public hearing.

Council discussion in regards to recoding all design review approvals with the County Recorder's Office.

**STREIT/WALTONSMITH MOVED TO WAIVE THE FIRST READING OF ORDINANCE AMENDING CHAPTER 15 OF THE SARATOGA CITY CODE REGARDING COMPLIANCE WITH THE CONDITIONS OF DESIGN REVIEW APPROVAL AND DIRECT STAFF TO PLACE ORDINANCE ON THE CONSENT CALENDAR FOR A SECOND READING; ALL CONDITIONS WHICH ARE IDENTIFIED AS PERMANENT SHALL BE RECORDED WITH THE COUNTY RECORDER'S OFFICE.** MOTION PASSED 4-0-1 WITH KLINE ABSENT.

5. **ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTERS 7, 9, 14, 15 AND 16 OF THE CITY CODE, AND ADDING SECTION 15-05.588 PROVIDING A DEFINITION OF "SETBACK AREAS" AND APPENDICES A AND B TO CHAPTER 15**

**STAFF RECOMMENDATION:**

1. Conduct hearing.
2. Read the title of the proposed Ordinance amending various sections of the

- City Code, and adding a definition and appendices to the City Code pertaining to zoning regulations.
3. Waive reading of the full ordinance
  4. Direct staff to place Ordinance on the consent calendar for a second reading.

John Livingstone, Community Development Director, presented staff report.

Director Livingstone explained that the City has adopted and amended Zoning Regulations contained in Chapter 15 of the City Code at various times in a piecemeal fashion. In the course of applying the Zoning Regulations, staff has noted internal inconsistencies, provisions that frequently require additional explanation or detail to be understood by applicants and the public, staff interpretations of provisions that are not codified, provision that are no longer necessary or relevant, and grammatical and other errors.

Director Livingstone stated that staff proposes amendment and additions to Zoning Regulations to remedy these issues. Some of the proposed amendments to the Zoning Regulations affect other chapters of the Code. Thus, for consistency among chapter of the Code, staff proposes changes to certain chapters in addition to the Zoning Regulation in Chapter 15.

Director Livingstone explained that the proposed amendments are not intended to make substantive changes to the Zoning Regulations. Rather, they are intended to clarify the requirements of the existing Code.

Vice Mayor Kao opened the public hearing and invited public comments.

Meg Giberson noted that she feels that the update process has been rushed and without public input. Mrs. Giberson stated that the City should have been more transparent. Mrs. Giberson argued that the amends are not minor changes but quite significant changes. Mrs. Giberson stated that the City should have held study session to discuss the proposed changes.

Alan Giberson stated that he thinks that are some CEQA issues and feels that there was no need to rush the proposed changes through the process.

Mrs. Giberson added CEQA Guideline 15061(b) (3). Mrs. Giberson noted that he proposed changes affect height, setbacks, and frontage and front lot lines.

Vice Mayor Kao closed the public hearing.

**WALTONSMITH/STREIT MOVED TO WAIVE READING OF THE FULL ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTERS 7, 9, 14, 15 AND 16 OF THE CITY CODE, AND ADDING SECTION 15-05.588 PROVIDING A DEFINITION OF "SETBACK AREAS" AND APPENDICES A AND B TO CHAPTER 15 AND DIRECT STAFF TO PLACE ORDINANCE ON THE CONSENT CALENDAR FOR A SECOND READING. MOTION PASSED 4-0-1 WITH KLINE ABSENT.**

## **OLD BUSINESS**

6. **STATUS OF VALLEY OAK AT WILDWOOD PARK**

**STAFF RECOMMENDATION:**

Direct staff on which option to pursue with respect to the status of the valley oak.

Kate Bear, City Arborist, presented staff report.

Arborist Bear explained that following the September 20<sup>th</sup> Council meeting the City hired Arborist Joe McNeil to inspect the valley oak that Mr. Coate recommended removing.

Arborist Bear reported that Mr. McNeil inspected the valley oak on September 29, 2006 and is recommending that the tree be removed as he considers it to be a hazard and could fail at any time.

Arborist Bear introduced Arborist Joe McNeil. Arborist McNeil briefly outlined his findings in regards to the valley oak.

WALTONSMITH/KING MOVED TO **REMOVE THE VALLEY OAK TREE AT WILDWOOD PARK AND REPLACE IT WITH THE SAME SPECIES.**  
MOTION PASSED 4-0-1 WITH KLINE ABSENT.

7. **LIBRARY BOND REMAINING PROCEEDS OVERSIGHT OPTIONS**

**STAFF RECOMMENDATION:**

Accept report and direct staff accordingly.

Cathleen Boyer, City Clerk, presented staff report.

City Clerk Boyer explained that the library expansion bond measure was approved by voters in March 2000. The Citizen Oversight Committee (COC) was charged to ensure that the funds were used properly.

City Clerk Boyer explained that at the March 3, 2004 City Council meeting staff brought forward a report to form a 9-member Library Capital Improvement Fund Committee (LCIF). This Committee would have been responsible for making recommendations to the Council related to the remaining funds. At this meeting the Council voted 4-1 not to form the proposed LCIF and voted to reassign responsibility for identifying, evaluating, and recommending library related improvements to be paid for with bond funds to the Library Commission.

City Clerk Boyer noted that the fund balance to date in the Library Capital Expansion Project Fund is \$740,000.

City Clerk Boyer pointed out that at the September 27, 2006 Library Commission meeting the Commissioners argued that it makes more sense to relieve them of the responsibility to oversee of a fund that it has never managed.

Staff is requesting the City Council accept the report and provide direction to staff with one of the following options:

1. Continue with the current process.

2. Reinstate the Finance Commission and assign the oversight of the bond fund to them.
3. Reinstate the Citizen Oversight Committee.

Consensus of the City Council to delay any decision regarding oversight of the library bond funds until the Council Retreat in February 2006.

### **NEW BUSINESS**

None

### **ADHOC & AGENCY ASSIGNMENT REPORTS**

Vice Mayor Aileen Kao reported the following information:  
SASCC – in need of volunteers to help with the lunch program.

Councilmember Streit had no reportable information.

Councilmember Waltonsmith had no reportable information.

Councilmember King had no reportable information.

### **CITY COUNCIL ITEMS**

Councilmember King requested that the Land Use element be agendaized for discussion.

Mayor Kline responded that he would agendaize this request on the October 18<sup>th</sup> agenda.

### **CITY MANAGER'S REPORT**

None

### **ADJOURNMENT**

There being no further business Mayor Kline adjourned the regular meeting at 8:40 p.m.

Respectfully submitted,

Cathleen Boyer, CMC  
City Clerk