

**MINUTES
SARATOGA CITY COUNCIL
APRIL 4, 2007**

At 5:30 p.m., the City Council met in open session to interview candidates for the position of Hearing Officer. Nothing to report.

At 6:00 p.m., the City Council held a Joint Session with the Saratoga Library Commission and Friends of the Saratoga Libraries.

Mayor Kao called the Regular City Council meeting to order at 7:00pm and led the Pledge of Allegiance.

ROLL CALL:

PRESENT: Councilmembers Jill Hunter, Kathleen King, Chuck Page, Vice Mayor Ann Waltonsmith and Mayor Aileen Kao

ABSENT: None

ALSO

PRESENT: Dave Anderson, City Manager
Richard Taylor, City Attorney
Mary Furey, Administrative Services Director
John Cherbone, Public Works Director
John Livingstone, Community Development Director
Michael Taylor, Acting Recreation Director
Cathleen Boyer, City Clerk

REPORT OF CITY CLERK ON POSTING OF AGENDA

(Pursuant to Gov't. Code 54954.2, the agenda for this meeting was properly posted on March 30, 2007)

ORAL COMMUNICATIONS ON NON-AGENDIZED ITEMS

Jack Lucas, Board of Trustees member, from West Valley/Mission Community College District addressed the Council. He introduced Don Cordero, newly elected Board of Trustee member replacing Jeff Schwartz for Area 1. Mr. Cordero stressed his commitment to West Valley Community College and the commitment to communication with the City of Saratoga.

COMMUNICATIONS FROM BOARDS AND COMMISSIONS

Representatives from Friends of the Saratoga Libraries, addressed the Council regarding the joint meeting held prior to the Regular City Council meeting. The reopening of the library on Mondays, which began January 8, 2007 was well received by the public. The Book-Go-Round building will celebrate 80 years of existence and March 20, 2008 a celebration will be held to mark the 20-year anniversary of using the building as the Book Go Round. Besides the role of liaison to the Saratoga Library Commission, the

Libraries offer programs such as Saratoga Authors and Breakfast Club. The Easter Promenade will be held Saturday, April 10, 2007 from 3:00pm-5:00pm in the Village. The website for Friends of the Saratoga Library may be found at www://Fslonline.org

A representative from the Saratoga Library Commission addressed the Council. The Commission provides City Council recommendations regarding policies, budgets, plans and procedures. The focus forward is to establish goals for the Commission, leverage assets, and respond to emerging needs of the Community.

Janice Hemper gave an update about Saratoga's "Wear Your Helmet Day" progress. Deputy Brad Davis has been helping her. She requested assistance from the Council with advertising the day. Vice-Mayor Waltonsmith agreed to meet with Ms. Hemper offline to determine level of assistance.

Chuck Page suggested a joint meeting with the Trustees of West Valley College. Councilmember Hunter agreed and wanted enlightenment about what building will be going on at the College. City Manager Dave Anderson responded that there are plans available to view in the City Planning offices.

ANNOUNCEMENTS

As noted previously, the Easter Promenade will take place in the Village, on Saturday April 10 2007 from 3:00pm-5:00pm.

CEREMONIAL ITEMS

1A. COMMENDATION HONORING BERNICE GIAN SIRACUSA
This Item was heard following Item 2B

STAFF RECOMMENDATION:

Present commendation.

Mayor Kao read the commendation and presented it to City volunteer Mrs. Giansiracusa.

Staff member John Livingstone commended Mrs. Giansiracusa for twenty years of invaluable service.

1B. COMMENDATION HONORING THE SARATOGA CALIFORNIA
STAKE THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

STAFF RECOMMENDATION:

Present commendation.

Mayor Kao read the commendation and presented it to representatives of the Saratoga California Stake The Church of Jesus Christ of Latter-day Saints.

SPECIAL PRESENTATIONS

2A. WEST VALLEY COLLECTION AND RECYCLING (WVC&R) SERVICE UPDATE

STAFF RECOMMENDATION:

Informational only.

A representative from WVC&R provided an update to the implementation of the new service. It was reported that lower customer call volume indicated that citizens are getting used to the new system. Customer calls are still encouraged as are emails. The WVC&R website; www: WestValleyRecycles.com. Customer service number is (408) 283-9250.

Councilmember Hunter requested information about how best to pursue the idea of recycling in the Village. The representative suggested a meeting between WVC&R and the City, and will contact Cathleen Boyer to set it up.

Councilmember King inquired about replacement of existing yard waste, garbage and recycling bins. The WVC&R representative noted they will be replacing all of the bins with ones compatible with their equipment.

Councilmember King congratulated WVC&R on their responsiveness to City customers.

2B. SHIFT COALITION (SAFETY & HEALTH IS FIRST)

STAFF RECOMMENDATION:

Informational only.

Ms. LD Hirschklau and student members of SHIFT presented a brief overview of the program. Ms. Hirschklau reported on the history and goals of the organization. Their focus is to reduce under-aged drinking in the communities of Los Gatos, Monte Sereno and Saratoga. Ms. Hirschklau requested the Council take into consideration the following suggestions: Require signed agreements at community wide events, (such as at the Saratoga Street Dance), work with merchants regarding product placement, consider town ordinances regarding underage drinking at parties and support coalition efforts.

City Manager, Dave Anderson, suggested that SHIFT meet with Brad Davis, the Neighborhood Resource Officer, who could help them develop a cooperative program to assist SHIFT in meeting their goals.

Vice Mayor Waltonsmith requested that they connect with the City's Youth Commission, private schools and other school districts within Saratoga.

Councilmember King requested that Deputy Brad Davis submit an item in the Council Newsletter regarding current applicable City ordinances.

CONSENT CALENDAR

3A. CITY COUNCIL MINUTES – FEBRUARY 7, 2007

STAFF RECOMMENDATION:

Approve minutes.

Councilmember Waltonsmith removed this item for correction.

Councilmember Waltonsmith reported that the list of SASCC Board members present at the meeting was not correct. A corrected list of names was presented to City Clerk Boyer.

WALTONSMITH/PAGE MOVED TO **APPROVE CITY COUNCIL MINUTES OF FEBRUARY 7, 2007 WITH CORRECTIONS.** MOTION PASSED 5-0-0.

3B. CITY COUNCIL MINUTES – FEBRUARY 21, 2007

STAFF RECOMMENDATION:

Approve minutes.

WALTONSMITH/ KING MOVED TO **APPROVE CITY COUNCIL MINUTES OF FEBRUARY 21, 2007.** MOTION PASSED 5-0-0.

3C. CITY COUNCIL MINUTES – MARCH 2, 2007

STAFF RECOMMENDATION:

Approve minutes.

Councilmember Page removed the item from the Consent Calendar to present a correction. He stated that the incorrect item was in the recorded discussion of the direction on the North Campus. The minutes as written state, “Unanimous consensus on the following items: Direct staff to continue with the renovations of the Administrative Building, Fellowship Hall and making the Education building weatherproof.” Councilmember Page requested the minutes be changed to read “Unanimous consensus on the following items: Direct staff to continue with the renovations of the Administrative Building and Fellowship Hall.” with the phrase “...and making the Education Building weatherproof”, stricken from the record since it had not been unanimously agreed.

PAGE/KING MOVED TO **APPROVE CITY COUNCIL MINUTES OF MARCH 2, 2007 WITH CORRECTION.** MOTION PASSED 5-0-0.

3D. **CITY COUNCIL MINUTES – MARCH 7, 2007**

STAFF RECOMMENDATION:

Approve minutes.

WALTONSMITH/ KING MOVED TO **APPROVE CITY COUNCIL MINUTES OF MARCH 7, 2007.** MOTION PASSED 5-0-0.

3E. **CHECK REGISTER FOR MARCH 20, 2007**

STAFF RECOMMENDATION:

Accept check register.

WALTONSMITH/ KING MOVED TO **ACCEPT CHECK REGISTER FROM MARCH 20, 2007.** MOTION PASSED 5-0-0.

3F. **ADOPTION OF RESOLUTION APPROVING A LOCAL HAZARD MITIGATION PLAN PURSUANT TO THE DISASTER MITIGATION ACT OF 2000**

STAFF RECOMMENDATION:

Adopt the Resolution approving the Association of Bay Area Government's (ABAGs) report "Taming Natural Disasters" as the City of Saratoga's Local Hazard Mitigation Plan and authorize the City Manager to submit it, the City's Local Hazard Mitigation Plan (LHMP) Annex and mitigation matrices to the Federal Emergency Management Agency (FEMA) for their final approval.

RESOLUTION: 07-020

WALTONSMITH/ KING MOVED TO **ADOPT RESOLUTION APPROVING THE ABAG REPORT "TAMING NATURAL DISASTERS" AS THE CITY OF SARATOGA'S LOCAL HAZARD MITIGATION PLAN.** MOTION PASSED 5-0-0.

3G. **AGREEMENT FOR CITY SURVEYOR SERVICES**

STAFF RECOMMENDATION:

Authorize City Manager to execute an Independent Contract with CSG Consultants, Inc. for professional City Surveyor services.

WALTONSMITH/ KING MOVED TO **AUTHORIZE CITY MANAGER TO EXECUTE AN INDEPENDENT CONTRACT WITH CSG**

CONSULTANTS, INC. FOR PROFESSIONAL CITY SURVEYOR SERVICES. MOTION PASSED 5-0-0.

- 3H. **RESOLUTION TO SUPPORT THE METROPOLITAN TRANSPORTATION COMMISSION AUTHORIZING THE FILING OF AN APPLICATION FOR FEDERAL CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT (CMAQ) FUNDING FOR THE DEANZA TRAIL PROJECT**

STAFF RECOMMENDATION:

Approve the resolution supporting the Metropolitan Transportation Commission's (MTC) application for CMAQ funds for the DeAnza Trail Project.

RESOLUTION: 07-078

WALTONSMITH/ KING MOVED TO **ADOPT RESOLUTION OF LOCAL SUPPORT SAFETEA STP/CMAQ FUNDING.** MOTION PASSED 5-0-0.

- 3I. **COX AVENUE RAIL ROAD CROSSING PROJECT – CHANGE IN COST & SUPPLEMENTAL AGREEMENT**

STAFF RECOMMENDATION:

Authorize the City Manager to execute Supplemental Agreement with Union Pacific Railroad Company.

WALTONSMITH/ KING MOVED TO **AUTHORIZE THE CITY MANAGER TO EXECUTE SUPPLEMENTAL AGREEMENT WITH UNION PACIFIC RAILROAD COMPANY.** MOTION PASSED 5-0-0.

PUBLIC HEARINGS

4. **APPEAL OF A PLANNING COMMISSION DECISION RELATING TO 14451 OAK PLACE**

STAFF RECOMMENDATION:

None - appeal withdrawn.

City Attorney Taylor explained that, as a point of order, since this item was advertised in the Saratoga News as a public hearing, the Mayor should ask if there was anyone in the audience wishing to speak on the item.

Mayor Kao opened the public hearing and invited public comments.

Seeing none Mayor Kao closed the public hearing.

OLD BUSINESS

None

NEW BUSINESS

5. HIGHWAY 9 SAFETY IMPROVEMENTS – MASTER PLAN APPROVAL

This Item was heard after Item 6

STAFF RECOMMENDATION:

Approve Master Plan and Phase I scope of work for Highway 9 Safety Improvement Project.

John Cherbone, Public Works Director, and Iveta Harvancik, Associate Engineer, presented the staff report. The project covers both sides of the 4.4 miles of Highway 9 between Los Gatos and Saratoga. Staff from the Tri City group; Saratoga, Monte Sereno and Los Gatos, are working cooperatively to define cost distribution and plan. Ad Hoc committee was formed to review master plan and obtain public input. Project is funded by a Federal grant that only supports Phase One of the project. The Master Plan includes adding new and widening current bicycle lanes to between a minimum of four feet wide and a maximum of eight feet wide, creating pedestrian pathways to a maximum of six feet wide and safe pedestrian crossing at certain key points. The overall intent is for both bicycle lanes and the pedestrian pathways to be continuous from the City of Saratoga, through Monte Sereno and to the Town of Los Gatos. Phase One will include; striping for a partial bike lane and the installation of one pedestrian activated crosswalk at Vickery Street. Construction will be summer of 2007. Public Works is aggressively looking for other grant funds to support the rest of the Master Plan.

Councilmember Hunter asked why the crosswalk would be put at Vickery Street instead of Horseshoe Drive. Director Cherbone said the decision was made to put a pedestrian activated crosswalk at Vickery because it is a shorter, safer distance for pedestrians to cross.

Councilmember Hunter asked whether residents near Fruitvale Avenue, who were asked several years ago by the Planning Commission to provide pedestrian pathways along the front of their properties as a condition for remodeling their homes, had actually put the pathways in and if they were being used in conjunction with this plan. Director Cherbone was aware of two other locations where pedestrian pathways were conditional and would check into the homes near Fruitvale.

Public Works was commended by Council for working with the other cities and public agencies.

Jim Stallman, Saratoga resident, addressed the Council mentioning that according to his understanding of the California Vehicle Code, the street could be set at a lower speed if the City desired. Councilmember King clarified that CalTrans owns the street and that the City of Saratoga can not set the speed, but can request a reduction.

Joanne Pip, representing Citizens for Hwy 9 Safety, addressed the Council to note that the grant money should not be used to fund a resurfacing project that CalTrans had already slated to do. In addition, she asked the Council to request three Speed Radar Feedback signs that CalTrans had once agreed to fund. Ms. Pip requested that the Council work to reduce the speed limit all along Hwy. 9; and thanked the Council for their support.

Councilmember King asked if Ms. Pip could provide written documentation to support her claim that CalTrans committed to providing the Speed Radar Feedback signs. Ms. Pip agreed to provide the documentation in the form of a published article. Director Cherbone stated that he asked CalTrans multiple times regarding the commitment, but to date CalTrans has not agreed that they made a commitment. He also stated that the City obtained two other Speed Radar Feedback signs from the County, and VTA, with an application through the Sheriff's Office. The two signs are awaiting parts and will then be installed.

KING/PAGE MOVED TO APPROVE MASTER PLAN, ENGINEERING DRAWINGS AND PHASE I SCOPE OF WORK FOR HIGHWAY 9 SAFETY IMPROVEMENT PROJECT. MOTION PASSED 5-0-0.

Vice Mayor WaltonSmith requested Staff to explore what speed limit rights and privileges there might be now that bike lanes will be present on both side of Highway 9, and report back in the Council newsletter.

Mayor Kao declared a 5 Minute break at 9:00pm.

Council reconvened at 9:05pm

6. DIRECTION REGARDING USE OF AQUATIC FACILITIES AT SARATOGA HIGH SCHOOL

STAFF RECOMMENDATION:

Accept report and direct Staff and the City's School Ad-Hoc Committee accordingly.

Michael Taylor, Interim Recreation Director, presented the staff report regarding the use of the aquatic facilities at Saratoga High School.

Upon the decision of the high school administration, aquatic use was discontinued with the lapse of the most recent use agreement between the City and the District. At the March 21, 2007 Council meeting, citizens addressed the Council and

requested reinstatement of the noontime swim program. Staff is seeking direction from Council.

Councilmember King asked why the pool was not included in options for credits at the time the \$150,000.00 funding was made and why the City's Recreation program doesn't include swim programs. Director Taylor responded that the high school aquatic facility was never intended or specifically designed for public use as are other pools. Aquatic programs are very costly, and given the City's mandate for the Recreation Department to seek full cost recovery, it would be cost prohibitive to provide aquatics programs.

Councilmember Waltonsmith stated that DACA performs the task of providing aquatic programs making it unnecessary for the City to provide one.

Cary Matsuoka, Superintendent of Saratoga/Los Gatos High School District addressed the Council. He reported findings from a DACA audit on adult use during noontime swim hours. Currently 16-18 individuals per week use the pool, six to eight of whom are Saratoga residents.

Councilmember Hunter commented that residents gave money for the original pool in the 1980's because they thought they were getting a "town swimming pool". She asked Mr. Matsuoka what changed in 2002, when it became a school only pool. Mr. Matsuoka was unable to respond to that question.

Councilmember King asked if other pools were available in the area. Mr. Matsuoka noted that Fremont/Union High School District is the only district he found that offers public swim; however, separate locker rooms are used by adults.

Councilmember Page asked Mr. Matsuoka what other swim programs are available at Saratoga High School. Mr. Matsuoka responded that DACA offers early morning adult swim and afternoon child swim programs. DACA also offers Summer swim.

Cynthia Chang, Board President of Saratoga/Los Gatos High School Board addressed the Council. She noted that the pool was built for the school and students and the safety and privacy of the students cannot be compromised. The pool should be offered in the mornings, afternoons and summers when the students are not using the pool.

Councilmember King asked Ms. Cheng if the School Board would be willing to look at any other programs during the noontime. Ms. Cheng responded that she didn't feel it could be an option and reiterated that her obligation was to the safety of the students.

The following people spoke in favor of keeping the noontime swim program:

Lisa Fisher Colbry
Shannon Newton
Connie Curry
Tom Lawrence
Ken Strasser

Helen Chan, from Saratoga and a PTSA member spoke on behalf of the parents and students of Saratoga High School in support of the closure of the noontime swim for the protection and safety of the students. Councilmember Page asked Ms. Chan the number of students and families attending Saratoga High School. Ms. Chan responded with an approximate number of 1300 students and 900 families.

Vice Mayor Waltonsmith suggested the School Ad Hoc Committee meet and continue the discussion of the use agreement, including pool use. She noted that DACA does provide the high school with some funding from the fees they charge the public. Vice Mayor Waltonsmith expressed hope that Saratoga citizens wouldn't be surprised by decisions made by the Council or the School District in the future.

Councilmember Hunter recalled when the pool was built and the idea that it would be for community use. However, she noted the issue of pool use is not the Council's purview but rather the School Board's and she respected their decision.

Councilmember Page noted that the School Board has a responsibility to the students. He stated that as the school continues to offer open times for the public, he deferred to the school board's decision.

Councilmember King was in agreement with Councilmember Page. She noted that during the School Ad Hoc meeting about the use permit, the District expressed willingness to add 5 more years to the agreement, but the all weather turf field and pool would not be part of it.

Mayor Kao stated that safety is the number one issue of the city government and could understand why this is also the school's priority. She reiterated that during school hours, the pool should be kept for students and staff.

Vice Mayor Waltonsmith thanked the citizens and the school for coming to the Council meeting to discuss the issue.

7. **PEDESTRIAN FACILITIES AT HERRIMAN AVENUE AND LEXINGTON COURT**

STAFF RECOMMENDATION:

Accept report and direct staff accordingly.

Public Works Director John Cherbone presented the staff report, responding to the request from the March 21, 2007 City Council meeting to address the issue of pedestrian safety at the crossing of Herriman Avenue at Lexington Court.

The mid-block crossing is used heavily by Foothill Elementary students to cross Saratoga/Sunnyvale Road. It is also used by high school students. Currently there are no sidewalks leading to the controlled crossing (traffic signal) over Saratoga/Sunnyvale Road from the Lexington Court side. Foothill students cross Herriman at the point of Lexington Court to access the sidewalk in front of Saratoga High School.

Director Cherbone described options for safety improvements:

Option 1: Install traffic signal. It would most likely not meet the warrant (criteria) for traffic signalization and cost would be prohibitive at \$120,000.00.

Option 2: In paving flashing lights. Pedestrian presses button to activate. Cost is \$75,000.00.

Option 3A: Create a continuous walkway all the way from Herriman to Saratoga/Sunnyvale Road. Students would cross Herriman at Saratoga/Sunnyvale Road to access the controlled crossing. The cost would be about \$45,000.00.

Option 3B: Install the sidewalk as in Option 3A and additionally create a controlled crossing on the Lexington side of Saratoga/Sunnyvale Road by modifying the traffic signal at an additional cost of \$30,000.00, totaling \$75,000.00. This option would eliminate the need for the elementary students to cross Herriman. Director Cherbone requested direction from Council.

Councilmember King questioned the expense for one crosswalk and signal change. Director Cherbone responded that costs were in line with other similar projects and specific costs for this project were attributable to software modifications, materials, and labor.

Councilmember Hunter asked why stop signs weren't being considered.

Director Cherbone said that they would not meet the required "warrants", (criteria).

Councilmember Page asked if the Arborist had looked at the impacts the various options would have on trees along the route.

Director Cherbone responded that landscaping and easement impacts had not yet been investigated, nor had affected neighbors been communicated with but all would be done upon direction from Council to Staff.

Vice Mayor Waltonsmith observed that knockdown barriers have been put up on the existing crosswalk. Councilmember King noted, and Director Cherbone concurred, that the Presbyterian church and one homeowner along Herriman

would be the only two properties affected. Councilmember Waltonsmith asked the date of the next Traffic Safety Commission meeting.

Director Cherbone stated April 12, 2007.

Mayor Kao commented that Camino Rico also has a knockdown barrier going in and asked if a sidewalk could be installed along that section as well.

Director Cherbone noted this concept would have a greater impact to landscaping along the front of homeowner properties and stated the route more likely used by students was along Lexington Court.

Mayor Kao asked what the procedure would be to request a signal light. Director Cherbone responded that typically these issues go through the Traffic Safety Commission first and when funding is required, go to Council.

Councilmember Hunter asked what feedback Public Works has received regarding the knockdowns in the Village.

Director Cherbone responded that he has received positive feedback regarding the Village knockdowns, acknowledged that aesthetics play a large role in the Village, but that safety should come first regarding this issue, though aesthetics would be duly considered.

Jao Sing, Lexington Court resident addressed the Council. He thanked the City for the knockdowns but stated that they aren't enough.

Bridget Ballingal, member of the Traffic Safety Commission and resident adjacent to Lexington Court, addressed the Council. She recommended keeping the project as an agenda item with the Traffic Safety Commission and that the project should be looked at comprehensively before a decision is made. She cited other issues such as speeding and egress and exit issues that should also be addressed.

Karen Perrizolo, Saratoga resident, addressed the Council. She requested a study for a stop sign at Lexington and Herriman to see if one is warranted.

Ms. Sujatha, Saratoga resident, addressed the Council and reiterated the need for safety and for a study. Ms. Sujatha suggested sidewalks or pathways be installed.

Brian Scottalini, Saratoga resident, addressed the Council and echoed the request for a comprehensive study.

Councilmembers King, Hunter and Vice Mayor Waltonsmith suggested the project continue with a full study, via the Traffic Safety Commission.

Councilmember Page commended Staff for their quick response. He agreed that

with the complexities, it should be given to the Traffic Safety Commission for review and recommendation.

Mayor Kao agreed it should be given to the Traffic Safety Commission and requested continued citizen involvement.

Staff Direction:

Agendize this issue on the next Traffic Safety Commission meeting of April 12, 2007. After a traffic engineering study is complete, the Commission will readdress the issue in their following meeting and prepare recommendations and budget requirements for a subsequent Council meeting.

8. **MIXED-USE DEVELOPMENT STANDARDS**

STAFF RECOMMENDATION:

Accept report and direct staff accordingly.

John Livingstone, Community Development Director, presented the staff report.

In 2002, the Housing Element of the City's General Plan was updated. In order to obtain approval and certification of the plan from the State, the City was required to show how it met the City's fair share of the bay area's regional housing needs. Two new policies were approved in order to meet this requirement.

- 1) make secondary units easier to get, via an incentive of deed restriction for low income for additional floor area allowances by the City.
- 2) create a mixed-use development standard.

These two housing element policies from the General Plan were implemented in the City Zoning Ordinances in 2004. The new ordinance provided for additional housing opportunities and acted to preserve the future commercial development in the Village and other areas throughout the City by controlling dwelling units development to be no more than 50% of the total building area of the total site development.

One of the other requirements of the Mixed-Use Standards was that the residential component had to be rental housing only and no greater than 1250sf. This requirement prohibits owner occupied condominiums in these areas.

Director Livingstone reported that feedback from some Village area single family home owners was that they would welcome condo living in the Village, but with the current standards requiring apartment rentals only, this would not be possible. He also noted that in order to allow condos in the Village, the City would have to amend both the City Zoning Ordinance and the Housing Element. If the rental requirement was removed, the City would have to produce other options to support the required low income housing. One option noted could be inclusionary housing.

Councilmember Hunter asked if homes along Big Basin Way burned down, is the zoning such that they would not be able to rebuild their home as it would fall under the new zoning, which requires a new mixed use.

Director Livingstone responded by using the example of a condo complex. If it burned down, under the current Mixed-Use restrictions, and was rebuilt, only 50% of the condo complex would be able to be rebuilt as is, while the remainder would have to be commercial.

City Attorney Taylor added that the Housing Element is part of the General Plan. The City can not change anything in the Zoning Code if it will be different than the City's General Plan. Regarding the nonconforming use issue, there may be a way to amend the code to say that the City can do 100% housing as long as 50% is comprised of the 1250sf rental unit housing. Another option might be to allow homeowners a time allowance, e.g., for 10 years they would be allowed to rebuild, but that homeowners need to be aware that the use and zoning has ultimately changed.

Attorney Taylor also reminded Council that whatever was decided could not be contrary to what the City told the State in the Housing Element. There are very strict state laws regarding variances. There needs to be some unusual characteristics of the property in order to grant a variance. A non conforming use would not be a valid criteria to approve a variance.

Vice Mayor Waltonsmith asked when the Housing Element is due to be redone.

Director Livingstone responded that it needs to happen in 2009 and then designate an area for low cost housing or determine inclusionary housing, (distributed percentage) in future projects.

Vice Mayor Waltonsmith provided a brief background to the issue, noting that when first planned in 2004, it was decided that the new housing element requirement would be spread throughout the City. Her concern is that it might now be located in just one area.

Councilmember Page asked for definition of low income housing. Director Livingstone responded that any apartment is typically considered low income housing, but rents are based on county average and median income.

Councilmember Page noted that the State could come back and tell the City to come up with a stiffer plan and actually make the City build the units, not just plan for them. He asked if it would be possible for Staff to look at a Village specific plan and alternatives that would meet all or part of the requirements for low income housing.

Councilmember Hunter noted because this issue will take lots of time and money; she wanted to see the State housing requirement numbers prior to proceeding. Councilmember Page and King debated the use of the General Plan fees as method for paying for the study.

Director Livingstone described the process to develop and review plans and noted that at the Council retreat, it was agreed that the next General Plan element to review would be the Housing Element which is typically reviewed every 5 years. Community Development plans, in May, to present the entire work plan, General Plan, and ordinances, in a public forum.

Mayor Kao asked for clarification on whether affordable units could be for sale or for rent.

Director Livingstone responded that they could be either, but in Saratoga the cost to develop generally is so high that developers cannot afford to sell the units at below market rates, hence they end up typically as rentals.

Gene Zambetti addressed the Council and requested that the agenda item be continued to future Council meetings so the residents and commercial owners from the Village could be involved. He has a current project proposing a commercial business on street front, two 1250sf apartments in the rear, and an office on the top.

Councilmember King commented that from her research banks are not open to financing apartments above retail space and suggested that the City needs a redevelopment agency to help with financing businesses who want to come in the Village.

Councilmember Page stated that he wanted to look at options, such as building a Village neighborhood, where people live and can walk to stores and restaurants. He suggested Staff be given 45 days to come up with creative alternatives for a viable village neighborhood that will bring people to live in the Village.

Vice Mayor Waltonsmith noted the requirement of meeting State demands with the current Housing Element was accomplished and feels that more condos in the village is not the answer for creating a vibrant Village.

Mayor Kao stated she would like to consider all commercial areas in the study not just the village and suggests the Staff come up with more ideas that make it successful for property owners and residents alike.

Vice Mayor Waltonsmith suggested waiting for the new State housing requirement numbers.

Mayor Kao asked when the State numbers would come in.

City Manager Dave Anderson stated it's unsure exactly when the City would receive the numbers; however, we anticipate the numbers will be somewhere in the mid 300's. It was also noted that by waiting, the State could impart more stringent requirements, for example, requiring the building of units, not just putting the capacity in place.

City Attorney Taylor also noted that the laws are already more restrictive than when the City adopted the Housing Element in 2002 and noted they will continue to get tougher. The City should evaluate the current plan and use the mid 300's as a good working number.

Direction to Staff:

On June 20, 2007, the Council will hold a Village Revitalization Study Session. For that meeting, Staff will have conceptual alternatives, a process timeline, roadmap, and budget prepared.

9. **TIME SCHEDULING FOR SITE VISITS**

STAFF RECOMMENDATION:

Accept report and direct staff accordingly.

John Livingstone, Community Development Director, presented the staff report.

After discussion by Council, it was agreed that site visits would be moved to Mondays at 9:30 a.m..

CITY COUNCIL ITEMS-

Councilmember Waltonsmith announced that May 19 is anti-litter/pickup and anti-graffiti day. She also noted that on May 2nd, a Joint meeting with Villa Montalvo and Mountain Winery has been scheduled. She suggested that separate meetings should be scheduled with each of the organizations. City Manager Anderson suggested the issue be discussed the following day at the meeting with the Mayor.

Councilmember King requested an update on efforts by City to go paperless. City Clerk Boyer will publish update in newsletter.

Councilmember Hunter requested recycling at the village be an agenda item. Council suggested that Councilmember Hunter meet with a representative of WVC&R to discuss the issue.

OTHER

CITY MANAGER'S REPORT – none

CITY ATTORNEY'S REPORT

City Attorney Taylor proposed the Council make a motion to continue its meeting in closed session in the Administrative Conference room, in order to continue the hearing officer agenda item, as well as other closed session items, or continue the closed session at a future time.

PAGE/KING MOVED TO **CONTINUE MEETING AS CLOSED SESSION.**
MOTION PASSED 5-0-0

**CLOSED SESSION –ADMINISTRATIVE CONFERENCE ROOM, 13777
FRUITVALE AVENUE**

ANNOUNCEMENT OF CLOSED SESSION ITEMS

Conference With Legal Counsel – Initiation of Litigation Gov't Code section 54956.9(c):
(2 potential cases).

ADJOURNMENT

There being no further business Mayor Kao adjourned the regular meeting at 11:00 p.m.

Respectfully submitted,

Ann Sullivan, CMC
Acting City Clerk