

## MINUTES

### SARATOGA CITY COUNCIL SEPTEMBER 5, 2007

The City Council of the City of Saratoga met in Closed Session, Administrative Conference Room, 13777 Fruitvale Avenue at 5:30 p.m.

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

Conference With Legal Counsel – Threatened Litigation: Significant exposure to litigation pursuant to Government Code section 54956.9(b): (1 potential case)

The City Council held a Joint meeting at 6:00 p.m. with the West Valley College Board in the Administrative Conference Room.

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

Mayor Kao stated that there was no reportable information.

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 Jill Hunter, Kathleen King, Chuck Page,  
Vice Mayor Ann Waltonsmith, Mayor Aileen Kao

ABSENT: None

ALSO Dave Anderson, City Manager

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

#### **REPORT OF CITY CLERK ON POSTING OF AGENDA FOR SEPTEMBER 5, 2007**

Cathleen Boyer, City Clerk, reported that pursuant to Government Code Section 54954.2, the agenda for the meeting of September 5, 2007, was properly posted on August 31, 2007.

#### **ORAL COMMUNICATIONS**

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

Diane Drewke expressed her concern with the state of the City's records and its ability to protect its residents and enforce its ordinances. Ms. Drewke pointed out that there is no logic to the City's filing system and extensive public records are missing. Ms. Drewke

requested that the City hire an independent auditor to look into her allegations and institute a program so these problems do not continue to occur.

Matthew Robinson briefly explained to the Council his problem with the City's tree bond policy. Mr. Robinson noted that the City assigned a \$229,000 tree bond to his property. Fortunately, last week the Arborist found a mistake in the bond calculation which resulted in a reduction in the bond amount. Mr. Robinson agreed that the tree bonds are a good idea to protect the trees but it is very difficult and expensive to secure high bonds. Mr. Robinson also noted that bonds might discourage people to plant new oak trees.

Cheriel Jensen requested that the City contact Vector Control and demand that they provide more notice to residents when they are going to spray for West Nile Virus.

Janice Gamper expressed her disappointment that the City did not support her idea in having a "Helmet Day" in the Saratoga.

### **COUNCIL DIRECTION TO STAFF**

Councilmember King requested that the tree bond issue be agendized.

Councilmember Page stated that he supported Councilmember King's request.

In regards to Ms. Jensen's comments, Vice Mayor WaltonSmith asked staff to contact Vector Control.

### **COMMUNICATIONS FROM BOARDS AND COMMISSIONS**

Chris Constantine stated that he was the President of the West Valley Board of Trustees. Mr. Constantine thanked the City for the relationship that they currently have with the City. Mr. Constantine stated that the College and the City have recently formed a partnership for youth soccer and discussed future senior citizen programs. Mr. Constantine noted that possible utility bill inserts and joint web links were also discussed.

Councilmember Hunter thanked West Valley College for hosting the Farmers Market.

### **ANNOUNCEMENTS**

Vice Mayor WaltonSmith invited the public to attend a community meeting to help reduce the effects of global warming. Vice Mayor WaltonSmith noted that the meeting would be held on September 27<sup>th</sup> at 6:00 p.m. at the North Campus.

### **CEREMONIAL ITEMS**

None

### **SPECIAL PRESENTATIONS**

None

**CONSENT CALENDAR**

**1. CITY COUNCIL MINUTES - JUNE 26, 2007**

**STAFF RECOMMENDATION:**

Approve minutes.

WALTONSMITH/HUNTER MOVED TO **APPROVE COUNCIL MINUTES FROM JUNE 26, 2007.** MOTION PASSED 5-0.

**2. CITY COUNCIL MINUTES - AUGUST 1, 2007**

**STAFF RECOMMENDATION:**

Approve minutes.

WALTONSMITH/HUNTER MOVED TO **APPROVE COUNCIL MINUTES FROM AUGUST 1, 2007.** MOTION PASSED 5-0.

**3. REVIEW OF ACCOUNTS PAYABLE AND PAYROLL CHECK REGISTERS**

**STAFF RECOMMENDATION:**

That the City Council accepts the Check Registers for: Accounts Payable: July 25, August 1,8,15,22, 2007  
Payroll: August 2, 16, 2007

WALTONSMITH/HUNTER MOVED TO **ACCEPT THE CHECK REGISTERS FOR ACCOUNT PAYABLE JULY 25, 2007 AND AUGUST 1, 8, 15, 22, 2007 AND PAYROLL AUGUST 2, 2007.** MOTION PASSED 5-0.

**4. ESTABLISHMENT OF COUNCIL FINANCE STANDING COMMITTEE**

**STAFF RECOMMENDATION:**

Review report and direct staff accordingly.

WALTONSMITH/HUNTER MOVED TO **APPOINTED VICE MAYOR WALTONSMITH AND COUNCILMEMBER PAGE TO THE COUNCIL FINANCE STANDING COMMITTEE.** MOTION PASSED 5-0.

**5. APPROVAL OF CITY MANAGER CONTRACT**

**STAFF RECOMMENDATION:**

Approve a contract for City Manager services setting salary and benefits for 2007-2011.

WALTONSMITH/HUNTER MOVED TO **APPROVE A CONTRACT FOR CITY MANAGER SERVICES SETTING SALARY AND BENEFITS FOR 2007-2011.** MOTION PASSED 5-0.

**6. SEA MOU SIDE LETTER OF AGREEMENT**

**STAFF RECOMMENDATION:**

Adopt the resolution approving the Side Letter of Agreement between the City and the Saratoga Employees Association (SEA).

**RESOLUTION: 07-058**

WALTONSMITH/HUNTER MOVED TO **ADOPT THE RESOLUTION APPROVING THE SIDE LETTER OF AGREEMENT BETWEEN THE CITY AND THE SARATOGA EMPLOYEES ASSOCIATION (SEA).** Motion passed 5-0.

**7. MEMORANDUM OF UNDERSTANDING WITH THE NORTHERN CALIFORNIA CARPENTERS REGIONAL COUNCIL, CARPENTERS FORTY SIX NORTHERN CALIFORNIA COUNTIES CONFERENCE BOARD AND THEIR AFFILIATED LOCALS (UNION)**

**STAFF RECOMMENDATION:**

Adopt the resolution approving the Memorandum of Understanding (MOU) between the City and the Northern California Carpenters Regional Council, Carpenters Forty Six Northern California Counties Conference Board and their Affiliated Locals (Union) for the period July 1, 2007 through September 30, 2011, and authorize the City Manager to execute the MOU.

**RESOLUTION: 07-059**

WALTONSMITH/HUNTER MOVED TO **ADOPT THE RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY AND THE NORTHERN CALIFORNIA CARPENTERS REGIONAL COUNCIL, CARPENTERS FORTY SIX NORTHERN CALIFORNIA COUNTIES CONFERENCE BOARD AND THEIR AFFILIATED LOCALS (UNION) FOR THE PERIOD JULY 1, 2007 THROUGH SEPTEMBER 30, 2011, AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE MOU.** Motion passed 5-0.

**8. APPROVAL OF USER AGREEMENTS WITH AYSO AND CYSA FOR WEST VALLEY COLLEGE PLAY FIELDS**

**STAFF RECOMMENDATION:**

Approve User Agreements (Attachments 1 & 2) with American Youth Soccer Organization (AYSO) and California Youth Soccer Association (CYSA) for West Valley College play fields for organized sport use and authorize the City Manager to execute the same.

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

Vice Mayor Waltonsmith asked if the \$35 per hour covered all the associated costs.

Director Cherbone responded that the \$35 covers the cost to West Valley College and the other fees listed in the contract covers the City's expenses.

The following people requested to speak on this item:

Howard Miller thanked the Council for their continued support over the years. Mr. Miller pointed out that the sports user groups and the City started the process over ten years ago to gain access to the fields at West Valley College.

Jonathan Wolf stated that he was the new AYSO liaison to the City. Mr. Wolf urged the Council to approve the agreements.

**WALTONSMITH/KING APPROVE USER AGREEMENTS WITH AMERICAN YOUTH SOCCER ORGANIZATION (AYSO) AND CALIFORNIA YOUTH SOCCER ASSOCIATION (CYSA) FOR WEST VALLEY COLLEGE PLAY FIELDS FOR ORGANIZED SPORT USE AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE SAME.** MOTION PASSED 5-0.

## **9. MOTOR VEHICLE (MV) RESOLUTIONS**

### **STAFF RECOMMENDATION:**

1. Move to adopt the Motor Vehicle Resolution authorizing a red curb on Saratoga Avenue.
2. Move to adopt the Motor Vehicle Resolution authorizing changes on Big Basin Way
3. Move to adopt the Motor Vehicle Resolution authorizing "No Stopping or Parking Anytime" on Herriman Avenue.

### **RESOLUTION: MV-268,269,270**

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

Council discussion regarding the merits of the proposed resolution on Herriman.

The following people requested to speak on this item:

Bill Dougherty noted that he agrees that additional pedestrian safety is needed on Herriman Avenue but he does not support proposed no parking option. Mr. Dougherty stated that it would inconvenience his guests. Mr. Dougherty suggested speed bumps be installed along Herriman especially around the curve.

Joe Finali noted that he opposed the proposed resolution on Herriman Avenue. Mr. Finali explained that he needs the parking on Herriman Avenue so his contractors can access his backyard. Mr. Finali stated that if there is no parking on Herriman Avenue it would be an inconvenience for him.

Ray Glasstone stated that if his guests cannot park on Herriman Avenue they would have to park 200-300 feet away from his house. Mr. Glasstone expressed his concern on where his gardener would park if parking was restricted.

Annette Casabonne stated that restricting parking on Herriman would not slow the traffic down. Ms. Casabonne suggested a three way stop at Saratoga Vista Avenue and asked if an Environmental Impact Report should be done on.

**WALTONSMITH/KING MOVE TO ADOPT THE MOTOR VEHICLE RESOLUTION AUTHORIZING A RED CURB ON SARATOGA AVENUE; MOVE TO ADOPT THE MOTOR VEHICLE RESOLUTION AUTHORIZING CHANGES ON BIG BASIN WAY.** MOTION PASSED 5-0.

**WALTONSMITH/KING MOVED TO ADOPT MOTOR VEHICLE RESOLUTION AUTHORIZING “NO STOPPING OR PARKING ANYTIME” ON HERRIMAN AVENUE.** MOTION PASSED 4-1 WITH KAO OPPOSING.

**10. 2006 ANNUAL CONCRETE REPAIR PROJECT - EXTENSION OF CONSTRUCTION CONTRACT TO PERFORM ADDITIONAL WORK**

**STAFF RECOMMENDATION:**

Authorize an increase to the change order authority for an existing construction contract with George Bianchi Construction, Inc. in the amount of \$175,000

**WALTONSMITH/HUNTER MOVED TO AUTHORIZE AN INCREASE TO THE CHANGE ORDER AUTHORITY FOR AN EXISTING CONSTRUCTION CONTRACT WITH GEORGE BIANCHI CONSTRUCTION, INC. IN THE AMOUNT OF \$175,000.** MOTION PASSED 5-0.

**11. 2006 STORMDRAIN REPAIR AND UPGRADE PROJECT – EXTENSION OF CONSTRUCTION CONTRACT TO PERFORM ADDITIONAL WORK**

**STAFF RECOMMENDATION:**

Authorize an increase to the change order authority for an existing construction contract with Furlo & Furlo in the amount of \$58,623 for the 2006 Stormdrain Upgrade and Repair Project.

**WALTONSMITH/HUNTER MOVED TO AUTHORIZE AN INCREASE TO THE CHANGE ORDER AUTHORITY FOR AN EXISTING CONSTRUCTION CONTRACT WITH FURLO & FURLO IN THE AMOUNT OF \$58,623 FOR THE 2006 STORMDRAIN UPGRADE AND REPAIR PROJECT.** MOTION PASSED 5-0.

**PUBLIC HEARINGS**

**12. 13855 SARATOGA AVENUE; APPLICATION 07-385 FOR LANDMARK STATUS AND MILLS ACT AGREEMENT**

**STAFF RECOMMENDATION:**

The Heritage Preservation Commission (HPC) recommends the City Council:

- (1) Open the public hearing and accept public testimony on the attached Ordinance to designate the subject property as a historic landmark and Resolution to enter into a Mills Act Agreement;
- (2) Close the hearing and introduce and waive first reading of the attached Ordinance;

- (3) Direct staff to place the second reading and adoption of the Ordinance on the consent calendar for the next regular Council meeting;
- (4) Following introduction of the Ordinance, adopt the attached Resolution and direct the City Manager to enter into a Mills Act Agreement for the property located at 13855 Saratoga Avenue.

**RESOLUTION: 07-061**

Shweta Bhatt, Assistant Planner, presented staff report.

Mayor Kao opened the public hearing and invited public comments.

Mike Belshe noted that he was the property owner and urged the Council to approve his application for Landmark Status and Mills Act Agreement. Mr. Belshe described some of the renovations they already finished.

Norman Koepernik noted that he was the Chair of the Heritage Preservation Commission. Chair Koepernik stated the Commission fully supported this application.

Mayor Kao closed the public hearing.

**HUNTER/KING MOVED TO WAIVE FIRST READING OF THE ATTACHED ORDINANCE; DIRECT STAFF TO PLACE THE SECOND READING AND ADOPTION OF THE ORDINANCE ON THE CONSENT CALENDAR FOR THE NEXT REGULAR COUNCIL MEETING; ADOPT RESOLUTION AND DIRECT THE CITY MANAGER TO ENTER INTO A MILLS ACT AGREEMENT FOR THE PROPERTY LOCATED AT 13855 SARATOGA AVENUE. MOTION PASSED 5-0.**

**13. APPEAL OF THE PLANNING COMMISSIONS JUNE 13, 2007  
MODIFICATION OF USE PERMITS FOR ST. ARCHANGEL MICHAEL  
SERBIAN ORTHODOX CHURCH AT 18870 ALLENDALE AVENUE**

**STAFF RECOMMENDATION:**

Conduct public hearing. Direct staff to continue hearing to September 19, 2007.

Richard Taylor, City Attorney, explained the City's continuance policy and how tonight's hearing should proceed. City Attorney Taylor noted that if anyone from the public spoke on this item tonight they could not testify again on September 19, 2007.

Mayor Kao opened the public hearing and invited public comments.

Rabbi Daniel Pressman noted that he felt the Planning Commission reached a fair and rational decision. Rabbi Pressman noted that just because St. Michael's has a catering license does not mean they are running a restaurant. Rabbi Pressman urged the Council to uphold the Planning Commission's decision.

Darko Fazarinc urged the Council to uphold the Planning Commission's decision.

Donald Randolph noted that he has lived in Saratoga for the past 21 years, two blocks away from the Church, and has never heard or seen anything out of line. Mr.

Randolph noted that he has attended functions at the Church and had a great time. Mr. Randolph mentioned that he read about the vandalism at the Church in the newspaper and noted that he feels it was a hate crime.

**PAGE/WALTONSMITH MOVED TO CONTINUE THE PUBLIC HEARING UNTIL SEPTEMBER 19, 2007. MOTION PASSED 5-0.**

**OLD BUSINESS**

None

**NEW BUSINESS**

None

Mayor Kao declared a ten-minute break at 9:15 p.m.

Mayor Kao reconvened the meeting at 9:25 p.m.

**ADHOC & AGENCY ASSIGNMENT REPORTS**

Mayor Kao reported that following information:  
Valley Transportation Authority PAC – attended the meeting for Councilmember King and commended her on perfect attendance. Discussed the modified bus routes in Saratoga and the Saratoga Village Enhancement Grant of \$425,000.

Vice Mayor Waltonsmith reported the following information:  
SASCC – Board is diligently working on addressing issues and she would report more when final decisions were made.

Sister City Liaison – successful student exchange program in August.

Councilmember Page reported the following information:  
Chamber of Commerce – first movie night was recently held in the Village and approximately 50 people attended.  
West Valley Solid Waste Joint Powers Association – would like to agendize the hard to service rates before the November 1<sup>st</sup> Authority Board Meeting.  
Village AdHoc – he and Jill recently walked the Village.

Mayor Kao responded that the hard-to-serve rates were already agendized for the October 3, 2007 City Council meeting.

Councilmember King reported the following information:  
Santa Clara County Cities Association – “First Act” presentation will be held on September 20, 2007 at the Tech Museum in San Jose.  
City School AdHoc – discussing field use on the weekend at Prospect High School.

Councilmember Hunter had no reportable information.

**CITY COUNCIL ITEMS**

Councilmember King requested that the City’s Appeal Policy be agendized.

Mayor Kao concurred with Councilmember King's request.

**OTHER**

None

**CITY MANAGER'S REPORT**

City Manager Anderson announced that he would be on vacation the week of September 29-October 5, 2007. City Manger Anderson noted that Assistant City Manager Powell would be acting City Manager.

**ADJOURNMENT**

WALTONSMITH/PAGE MOVED TO **ADJOURN THE MEETING**. MOTION PASSED 5-0.

There being no further business Mayor Kao adjourned the regular meeting at 9:45 p.m.

Respectfully submitted,

Cathleen Boyer, CMC  
City Clerk