

MINUTES

SARATOGA CITY COUNCIL MEETING SEPTEMBER 19, 2007

The City Council conducted interviews at 5:30 p.m. for vacancies on the Library Commission and the Traffic Safety Commission in the Administrative Conference Room.

City Manager Anderson announced that an urgency item needed to be added to tonight's agenda to consider whether to accept or reject Traffic Safety Commissioner Brigitte Ballingall's letter of resignation. City Manager Anderson explained that if the Council voted to accept the resignation letter they should appoint two Commissioners this evening instead of one.

WALTONSMITH/PAGE MOVED TO **ADD URGENCY ITEM TO AGENDA.**
MOTION PASSED 5-0.

Council discussion in regards to Commissioner Ballingall's resignation.

KING/HUNTER MOVED TO **REJECT COMMISSIONER BALLINGALL'S RESIGNATION LETTER AND ALLOW HER TO CONTINUE TO SERVE ON THE TRAFFIC SAFETY COMMISSION.** MOTION PASSED 5-0.

Council voted 5 - 0 to appoint Nancy Kirk to the Traffic Safety Commission.

The City Council held a Joint meeting at 6:00 p.m. with the Saratoga Union Elementary School District in the Administrative Conference Room.

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 WaltonsSmith, 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 19, 2007

Cathleen Boyer, City Clerk, reported that pursuant to Government Code Section 54954.2, the agenda for the meeting of September 19, 2007, was properly posted on September 14, 2007.

ORAL COMMUNICATIONS

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

Citizen Ray commented on several items; the illegal dumping of tree clippings on Highway 9; the dying pine trees on Highway 9; and the new crosswalk at Oak Street.

Chuck Schoppe, President of Saratoga Historical Foundation, invited everyone to the BBQ on the following Sunday and Mr. Schoppe also noted the Foundation is preparing to start their annual membership drive.

Diane Drewke addressed the Council on the difficulty of accessing public records. Ms Drewke stated public records must be recorded properly for citizens to access. She requested Council to consider addressing this issue further or have a consultant come in and assist the City .

Elli Rezaai, Vice Chair of the Saratoga Youth Commission, provided a synopsis of the Youth Commissions' recent activities and upcoming new events, and the main focus would be on student dances. One of their goals for the upcoming school year is to provide monthly updates in the Saratoga News.

COUNCIL DIRECTION TO STAFF

Councilmember King asked staff to look into the illegal tree clippings along Highway 9 and try to resolve this issue.

COMMUNICATIONS FROM BOARDS AND COMMISSIONS

Report from the Saratoga Union School District:

Michael Giep, President of the Saratoga Union School District Board of Trustees addressed the Council on the Joint Meeting held prior to the Regular Meeting. Mr. Giep noted there were several areas of concern; traffic safety and the safety of children as they go to and from school; disaster preparedness and the need to coordinate the efforts between the City and the School District; will continue to schedule meetings regarding disaster preparedness; and recreation opportunities with the City of Saratoga, Town of Los Gatos, Saratoga Union Schools, and particularly Redwood Middle School, which is across the street from the Saratoga Recreation Department. Discussion also took place regarding the role of the new Santa Clara County Sheriff's Deputy/Resource Officer that would be interacting with the City and the schools in Saratoga.

Mr. Gipe stated they also discussed the new Board goals the Saratoga Union School District had recently adopted for the 2007-2008 school year. He noted the public could view those goals by going to the Saratoga Union School District Website. One of the prominent goals adopted was to raise children to become responsible citizens that have the emotional literacy to work with society at large and grow up to be contributing citizens in the community. The School's first goal for the upcoming year is to promote a culture of kindness, respect, integrity, and equity.

Joyce Hlava, Planning Commission Chair, provided the Council with a status report on proposed Blight Ordinance. Ms. Hlava noted they have had two Study Sessions and one Public Hearing, with a variety of public opinion. Ms. Hlava noted a few people opposed the Blight Ordinance, however, most people were in favor of it. Ms. Hlava noted that Saratoga's draft ordinance was based around the City of San Jose's Blight Ordinance due to the fact that there weren't any available examples from neighboring cities the size of Saratoga. Ms. Hlava noted the Planning Commission would have to schedule more Study Sessions in order to complete the draft ordinance as well as seek input from Council as to how they should proceed with the Blight Ordinance.

COUNCIL DIRECTION TO STAFF

Councilmember King commented that the City should look at how they fund items such as records management as well as code amendment and enforcement issues.

Councilmember King also noted she would like to have the Blight Ordinance issue agendaized for further discussion.

Councilmember Hunter stated she felt a future Joint Meeting with the Planning Commission was necessary to address the Blight Ordinance issue.

Vice Mayor Waltonsmith stated she is also in favor of scheduling a Joint Meeting with the Planning Commission to address the Blight Ordinance issue.

Councilmember Page also noted he would also like to see a Joint Meeting scheduled to further discuss the Blight Ordinance issue.

ANNOUNCEMENTS

Vice Mayor Waltonsmith announced the three neighboring cities are having a "Going Green" meeting on how to be more "green" in our life and live more effectively in our environment. The meeting is scheduled on Thursday, September 27, 2008 from 6:00PM to 8:00PM in the Community Room – Saratoga Recreation Department.

Vice Mayor Waltonsmith announced the Creek Clean Up Day – "De-litter Saratoga Creeks" on Saturday, September 29, 2008 from 9:00AM to 12:00 noon and invited anyone who is interested to contact Kristin Borel in the Public Works Department.

Councilmember King announced the presentation by "First Act", a combination of creativity and art on Thursday evening.

Councilmember Hunter announced the "Lantern Walk" celebrating the Moon Festival from 5:00PM to 7:00PM on Saturday evening starting at Blaney Plaza in the Village.

CEREMONIAL ITEMS

None

SPECIAL PRESENTATIONS

None

CONSENT CALENDAR

1. CITY COUNCIL MINUTES – AUGUST 27, 2007

STAFF RECOMMENDATION:

Approve minutes.

Councilmember Page removed this item for discussion. Councilmember Page explained he had provided the City Clerk with typo corrections in the minutes.

PAGE/WALTONSMITH MOVED TO APPROVE CITY COUNCIL MINUTES FROM AUGUST 27, 2007 AS AMENDED. MOTION PASSED 5-0.

2. REVIEW OF ACCOUNTS PAYABLE AND PAYROLL CHECK REGISTERS

STAFF RECOMMENDATION:

Accept the Check Registers for Accounts Payable August 29 and September 5, 2007 and Payroll August 30, 2007.

WALTONSMITH/PAGE MOVED TO ACCEPT THE CHECK REGISTERS FOR ACCOUNTS PAYABLE AUGUST 29 AND SEPTEMBER 5, 2007 AND PAYROLL AUGUST 30, 2007. MOTION PASSED 5-0.

3. CREATION OF AD HOC COMMITTEE TO ASSIST IN NEGOTIATION WITH THE FRIENDS OF THE SARATOGA LIBRARIES FOR USE OF THE VILLAGE LIBRARY BUILDING

STAFF RECOMMENDATION:

Accept report and designate Mayor Kao and Council member Chuck Page to serve on an Ad Hoc Committee to assist in negotiations with the Friends of the Saratoga Libraries (FOSL) for the use of the Village Library Building for the Book-Go-Round.

Vice Mayor Waltonsmith removed this item for discussion. Item approved after clarification regarding direction given to the Adhoc Committee.

WALTONSMITH/PAGE MOVED TO DESIGNATE MAYOR KAO AND COUNCIL MEMBER CHUCK PAGE TO SERVE ON AN AD HOC COMMITTEE TO ASSIST IN NEGOTIATIONS WITH THE FRIENDS OF THE SARATOGA LIBRARIES (FOSL) FOR THE USE OF THE VILLAGE LIBRARY BUILDING FOR THE BOOK-GO-ROUND. MOTION PASSED 5-0.

4. APPROVAL OF NORTH CAMPUS FELLOWSHIP HALL IMPROVEMENT PLAN AND AUTHORIZATION TO SOLICIT CONSTRUCTION BIDS

STAFF RECOMMENDATION:

Accept the design and construction drawings and authorize the Public Works Department to solicit construction bids for renovation construction of the North Campus Fellowship Hall.

Mayor Kao removed this item for discussion. After discussion and math clarification by Director Michael Taylor, item was approved.

KAO/WALTONSMITH MOVED TO ACCEPT THE DESIGN AND CONSTRUCTION DRAWINGS AND AUTHORIZE THE PUBLIC WORKS DEPARTMENT TO SOLICIT CONSTRUCTION BIDS FOR RENOVATION CONSTRUCTION OF THE NORTH CAMPUS FELLOWSHIP HALL.
MOTION PASSED 5-0.

5. USE AGREEMENT WITH THE SARATOGA HISTORICAL FOUNDATION TO OPERATE A MUSEUM AT THE SARATOGA HISTORICAL PARK

STAFF RECOMMENDATION:

Adopt a resolution authorizing the City Manager to enter into a lease agreement with the Saratoga Historical Foundation for the use of the Museum Building and former McWilliams House to be operated as a Museum.

Mayor Kao removed this item for discussion. After discussion and clarification by Director Michael Taylor and recommendations from City Attorney Richard Taylor to approve item subject to two changes; one in 10.11 and 11.2 of the Insurance Certificate, and with the acceptance of the Historical Foundation.

RESOLUTION: 07- 061

KAO/KING MOVED TO ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH THE SARATOGA HISTORICAL FOUNDATION FOR THE USE OF THE MUSEUM BUILDING AND FORMER MCWILLIAMS HOUSE TO BE OPERATED AS A MUSEUM. MOTION PASSED 5-0.

6. SECOND READING AND ADOPTION FOR LANDMARK STATUS AND MILLS ACT AGREEMENT

STAFF RECOMMENDATION:

Grant the Second Reading and adopt the Ordinance approving landmark status for the property located at 13855 Saratoga Avenue.

ORDINANCE: 253

WALTONSMITH/PAGE MOVED TO ADOPT THE ORDINANCE APPROVING LANDMARK STATUS FOR THE PROPERTY LOCATED AT 13855 SARATOGA AVENUE. MOTION PASSED 5-0.

7. FINAL ACCEPTANCE OF SUBDIVISION PUBLIC IMPROVEMENTS WITHIN TRACT 9120

STAFF RECOMMENDATION:

1. Move to grant final acceptance of the subdivision public improvements within the Tract 9120.
2. Move to adopt the resolution rescinding the previously rejected Offers of Dedications and accepting dedication of streets within Tract 9120 which includes Alta Vista Avenue into the City's publicly maintained street system.

RESOLUTION: 36-B-259

WALTONSMITH/PAGE MOVED TO GRANT FINAL ACCEPTANCE OF THE SUBDIVISION PUBLIC IMPROVEMENTS WITHIN THE TRACT 9120 AND ADOPT THE RESOLUTION RESCINDING THE PREVIOUSLY REJECTED OFFERS OF DEDICATIONS AND ACCEPTING DEDICATION OF STREETS WITHIN TRACT 9120 WHICH INCLUDES ALTA VISTA AVENUE INTO THE CITY'S PUBLICLY MAINTAINED STREET SYSTEM. MOTION PASSED 5 -0.

8. 2007 PAVEMENT MANAGEMENT PROGRAM: AWARD OF CONTRACT

STAFF RECOMMENDATION:

1. Move to declare El Camino Paving, Inc. of Sunnyvale to be the lowest responsible bidder on the project.
2. Move to award a construction contract to El Camino Paving, Inc. in the amount of \$733,157.
3. Approve additional work to contract in the amount of \$50,000.00.
4. Move to authorize staff to execute change orders to the contract up to \$66,843.

WALTONSMITH/PAGE MOVED TO DECLARE EL CAMINO PAVING, INC. OF SUNNYVALE TO BE THE LOWEST RESPONSIBLE BIDDER ON THE PROJECT; AWARD A CONSTRUCTION CONTRACT TO EL CAMINO PAVING, INC. IN THE AMOUNT OF \$733,157; APPROVE ADDITIONAL WORK TO CONTRACT IN THE AMOUNT OF \$50,000.00; AUTHORIZE STAFF TO EXECUTE CHANGE ORDERS TO THE CONTRACT UP TO \$66,843. MOTION PASSED 5-0.

PUBLIC HEARINGS

9. APPEAL OF THE PLANNING COMMISSION'S JUNE 13, 2007 MODIFICATION OF USE PERMITS FOR ST. ARCHANGEL MICHAEL SERBIAN ORTHODOX CHURCH AT 18870 ALLENDALE AVENUE (PLANNING COMMISSION RESOLUTION NO. 07-056).

STAFF RECOMMENDATION:

Conduct public hearing and consider Appeal of Planning Commission Resolution 07-056 modifying and superseding two Use Permits issued in 1961 and 1968 to the St. Archangel Michael Serbian Orthodox Church (hereafter "Church"). Consider grounds of Appeal raised by Appellants and affirm Planning Commission decision with minor modifications by adopting Resolution in the form of Attachment A.

RESOLUTION: 07-067

Assistant City Attorney Jonathan Wittwer presented the staff report.

Appellant Rhonda Huff addressed the Council on several issues, one of which pertained to the incidental uses noted in the Proposed Use Permit.

Council presented questions to Appellant and after some dialog moved on to Permittee's presentation.

Jolie Houston spoke on behalf of the Serbian St. Michael's Church (Permittee) and wanted to clarify the issue regarding the June 13, 2007 Planning Commission meeting and the closing of the public hearing regarding the hours the church would be open to the public. Ms. Houston also addressed other issues pertaining to the Proposed Use Permit.

John Ivancovich, St. Michael's Serbian Church representative, addressed the council and clarified church practices and traditions.

Council presented questions to Permittee's representatives and after some dialog moved on to the public hearing and comments.

Mayor Kao opened the public hearing and invited public comments.

The following people spoke on this item:

Reverend Basil Rhodes spoke in support of use permit approval.

Father John spoke in support of use permit approval.

Chuck Walton spoke in support of use permit approval.

Lee Pellicciotti spoke in support of use permit approval.

Sonja Cvitanich spoke in support of use permit approval.

Muriel Mahrer spoke in support of use permit approval.

Lisa Kurasch spoke in support of use permit approval.

Danny Wong stated he had to move out of his house because of the disturbances over the years from the church and asked people to work towards a common goal.

Robert Barr non-supportive of use permit approval. Lighting concerns and recommended a sound wall be built.

Ann Worobey spoke in support of use permit approval.

Diane Drewke non-supportive of use permit approval.

Ted Macauley non-supportive of use permit approval.

Bob Thornton spoke in support of use permit approval.

Irina Thornton spoke in support of use permit approval.

Scott Wheelwright in support of use permit approval.

Eric Grube spoke in support of use permit approval.

William Brooks spoke in support of use permit approval.

Appellant rebuttal: Steve Schwartzkopf addressed the Council.

Permittee rebuttal: Jolie Houston addressed the Council.

Page/Waltonsmith moved to close the public hearing.

Mayor Kao closed the public hearing and public comments.

Council discussion and questioning took place.

Mayor Kao declared a break at 10:15 p.m.

Mayor Kao reconvened the meeting at 10:25 p.m.

After lengthy discussion, the Council:

PAGE/HUNTER MOVED TO DENY APPEAL OF PLANNING COMMISSION RESOLUTION 07-056 MODIFYING AND SUPERSEDING TWO USE PERMITS ISSUED IN 1961 AND 1968 TO THE ST. ARCHANGEL MICHAEL SERBIAN ORTHODOX CHURCH (HEREAFTER "CHURCH"). CONSIDER GROUNDS OF APPEAL RAISED BY APPELLANTS AND AFFIRM PLANNING COMMISSION DECISION WITH MINOR MODIFICATIONS BY ADOPTING RESOLUTION IN THE FORM OF ATTACHMENT A.
MOTION PASSED 5 – 0.

Councilmember King suggested moving Item 11 ahead of Item 10 due to the lateness of the hour and the fact that there were people present to speak on Item 11. Council discussion took place and Council concurred with Item 11 being brought forward ahead of Item 10.

KING/WALTONSMITH MOVED TO MOVE ITEM 11 IN FRONT OF ITEM 10.
MOTION PASSED 5 – 0.

10. PROPOSED NEWSRACK ORDINANCE

STAFF RECOMMENDATION:

Conduct open the public hearing; approve the attached ordinance; waive the First Reading; direct staff to schedule this item for a Second Reading for adoption on the consent calendar at the next regularly scheduled City Council meeting.

John Livingstone, Community Development Director presented staff report.

There was Council discussion and questions presented to Community Development Director John Livingstone and Public Works Director John Cherbone.

Mayor Kao opened the public hearing and invited public comments.

There was no one present to speak on this item.

Mayor Kao closed the public hearing and comments.

ORDINANCE: 254

PAGE/HUNTER MOVED TO APPROVE THE ATTACHED ORDINANCE ADDING ARTICLE 10-40 TO THE SARATOGA CITY CODE RELATING TO NEWSRACKS. MOTION PASSED 5 – 0.

OLD BUSINESS

None

NEW BUSINESS

11. MOTION TO RECONSIDER HERRIMAN AVENUE MOTOR VEHICLE RESOLUTION APPROVED SEPTEMBER 5, 2007

STAFF RECOMMENDATION:

Consider whether to approve the motion to reconsider the Motor Vehicle Resolution regarding Herriman Avenue approved by the City Council on September 5, 2007 and direct staff accordingly.

After lengthy Council discussion, Mayor Kao invited public comments.

The following people requested to speak on this item:

Marilyn Foust does not support the Herriman Avenue striping and recommends making structural changes on Herriman Avenue instead as well as addressing the speeding problem.

Carl Dcosta does not support the Herriman Avenue striping and feels the speeding issue needs to be addressed by placing speeding cameras in the area.

Ray Glasstone does not support the Herriman Avenue striping and that if the bike lane was incorporated, he would literally be stepping into the bike lane as he exits his front door. He feels children that have to cross the road are in more danger than walking along side the road.

Mayor Kao closed the public comments.

There was further Council discussion and questions presented to Public Works Director John Cherbone.

PAGE/KAO MOVED TO APPROVE THE MOTION TO RECONSIDER THE MOTOR VEHICLE RESOLUTION REGARDING HERRIMAN AVENUE APPROVED BY THE CITY COUNCIL ON SEPTEMBER 5, 2007. MOTION FAILED 3 – 2 WITH WALTONSMITH, HUNTER AND KING OPPOSING.

ADHOC & AGENCY ASSIGNMENT REPORTS

Mayor Kao reported the following information:

Association of Bay Area Government

Hakone Foundation – reported the next meeting is scheduled for the following Friday.

West Valley Mayors and Managers Association – reported the next meeting is on Wednesday of the following week.

Vice Mayor WaltonSmith reported the following information:

KSAR – reported KSAR is facing funding concerns and a reassessment will be made in November.

SASCC – reported the next meeting will be the following week.

Councilmember Page reported the following information:

Chamber of Commerce – commented that Celebrate Saratoga event that just occurred was well attended, however, there were a number of concerns related to the event.

West Valley Solid Waste Joint Powers Association - noted the next meeting will be in November and discussion will take place regarding hard-to-service rates.

Chamber of Commerce AdHoc – recommended this Adhoc be discontinued.

Councilmember King reported the following information:

County Cities Association Legislative Task Force – recommended any Council members that were available to attend the meeting the following evening.

Valley Transportation Authority PAC – noted she was asked to provide feedback on the VTA route the City will be losing. King reported the smaller proposed buses weren't any more efficient than using the large buses. Not to expect anything to happen regarding the use of smaller buses anytime soon as there are a number of issues to address.

City School AdHoc – reported Prospect High School is doing additional work on the back fields and noted the lighting contractor was asked to work with Public Works Director John Cherbone.

Councilmember Hunter reported the following information:

Historic Foundation - reported the Foundation has an Education Program and the McWilliams House is working with docents who will be dressed in costumes depicting 1980. Will provide handouts regarding this event.

Noted the Museum is in need of more members.

Noted the Museum will be meeting to discuss a possible new Museum.

CITY COUNCIL ITEMS

Councilmember King asked to agendaize Celebrate Saratoga regarding the issues that resulted from the recent Celebrate Saratoga event earlier in the month.

Councilmember Page proposed agendaizing a City-Wide Garage Sale.

Councilmember Page also noted the Plumed Horse Restaurant has reopened and suggested looking into City sponsored valet parking.

CITY MANAGER'S REPORT

Nothing to report.

ADJOURNMENT

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

There being no further business Mayor Kao adjourned the regular meeting at 1:10a.m.

Respectfully submitted,

Ann Sullivan, CMC
Acting City Clerk