

MINUTES

SARATOGA CITY COUNCIL MEETING NOVEMBER 20, 2007

Mayor Aileen 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 Waltons-Smith, Mayor Aileen Kao

ABSENT: None

ALSO Dave Anderson, City Manager

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

REPORT OF CITY CLERK ON POSTING OF AGENDA FOR NOVEMBER 20, 2007

Cathleen Boyer, City Clerk, reported that pursuant to Government Code Section 54954.2, the agenda for the meeting of November 20, 2007, was properly posted on November 16, 2007.

COMMUNICATIONS FROM COMMISSIONS & PUBLIC

Oral Communications on Non-Agendized Items

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

Jenny Young Taylor spoke about the Madronia Cemetery Eminent Domain issue and the Madronia Cemetery District's Board (District) meetings being scheduled at 4:00 in the afternoon; when most citizens are at work and cannot attend the meetings.

Maggie Creighton addressed the Council regarding a real estate agent visiting the Teeter's residence on Oak Street indicating she was there to represent the Teeters with the sale of their property and would like to schedule a meeting with an appraiser to appraise the property. Ms. Creighton then stated the Boyd family was also visited by a real estate agent wanting to represent them in the sale of their property. Ms. Creighton stated this was the first indication of the possible purchase of these properties by the District. Ms. Creighton asked Council to protect the Oak Street neighborhood and the people that live in that neighborhood.

Theron Schaub spoke on behalf of the Boyd and Teeter family. Mr. Schaub stated the Boyd and Teeter families feel very threatened by the District's Board and the possible sale of their properties to the District. Mr. Schaub asked the Council to protect these families and prevent the taking of their homes by the District.

Nicki Teeter asked the Council to look at the Oak Street neighborhood stating it is a historic neighborhood and asked the Council to help the people in this neighborhood.

John Teeter addressed the Council regarding the District's plan to purchase the properties and was concerned about the fact that the District implied the sale of the properties was pretty much a done deal and that the District stated they have a claim on the specific properties.

Oral Communications - Council Direction to Staff

Vice Mayor Walton Smith asked City Attorney Richard Taylor what are the rights/obligations of the City Council regarding this type of situation.

City Attorney Richard Taylor informed the Council their influence would be political; Council can take a position regarding development proposals in Santa Clara County within the city boundaries. City Attorney Taylor also stated the Council does have the right to make sure the District follows all appropriate procedures.

Councilmember Page stated he would like to have a Joint Meeting with the Cemetery District.

Councilmember King stated she would like the neighbors to be represented and that they should attend the Joint Meeting as well.

Councilmember Hunter asked how you can mediate a situation in which the homeowners are not willing to sell.

City Attorney Richard Taylor recommended Council take an information gathering role and that all interested parties are hearing and being provided the same information. City Attorney Taylor also stated it would be difficult to engage in a formal mediation process at this point; but Council could facilitate information sharing.

Councilmember Hunter asked if this could be agendaized on a future Regular Council meeting as opposed to having a Joint Meeting with the Cemetery District.

Vice Mayor Walton Smith noted she also would like to have some type of meeting to further discuss this situation.

City Attorney Taylor stated the Council needs to have an agenda item in order to discuss and determine what direction the Council wishes to proceed with.

Councilmember Hunter suggested a meeting after Christmas.

City Manager Dave Anderson suggested the second meeting in January 2008.

Councilmember Page noted that would be a long time to wait for the people that are involved.

City Manager Dave Anderson noted the holiday furlough would affect preparation of staff reports.

City Attorney Richard Taylor stated he would not be available for any Council meeting in December, but would be attending the second meeting in January.

Vice Mayor Waltonsmith stated she would prefer agendaizing the item on the second meeting in January so that staff has time to put together a staff report focusing on Eminent Domain.

City Manager Dave Anderson noted the City Attorney recommends agendaizing the item on the December 5, 2008 Council agenda for further discussion and the possibility of forming an AdHoc Committee.

Communications from Boards and Commissions

None.

Council Direction to Staff

None.

ANNOUNCEMENTS

Vice Mayor Waltonsmith announced that West Valley Greenleaf Committee is encouraging residents in Monte Sereno, Los Gatos and Saratoga to participate in a community Holiday Lighting contest – changing to energy efficient LED lights. For more information people can visit their website at www.westvalleygreenleaf.com. She also noted the Parks and Recreation Commission has just been reinstated and they are looking for applicants for this Commission, as well as applicants for the Library Commission.

Councilmember Hunter announced the wreaths and banners have been hung in the Village and invited people to participate in the Village Open House and Tree Lighting Ceremony on Friday, November 23, 2008 from 5:30 to 9:00.

CEREMONIAL ITEMS

1. COMMENDATION HONORING CHUCK AND PEGGY SCHOPPE

STAFF RECOMMENDATION:

Present commendation.

The following people spoke on this item.

April Halberstadt, Director of the Saratoga Museum, addressed the Council on the various activities the Museum is involved in and thanked the Council for recognizing Mr. and Mrs. Schoppe for their generous donation of time and efforts given to the restoration of the McWilliams House.

Mayor Kao read the proclamation and presented it to Chuck and Peggy Schoppe.

2. PROCLAMATION DECLARING THE WEEK OF NOVEMBER 18-24, 2007 AS “NATIONAL FAMILY WEEK”

STAFF RECOMMENDATION:

Present proclamation.

Mayor Kao read the proclamation and presented it to members of the Church of Jesus Christ Latter Day Saints.

SPECIAL PRESENTATIONS

None

CONSENT CALENDAR

3. REVIEW OF ACCOUNTS PAYABLE REGISTERS

STAFF RECOMMENDATION:

That the City Council accepts the Check Registers for the following Accounts

Payable cycles:

October 31, 2007

November 7, 2007

WALTONSMITH/PAGE MOVED TO ACCEPT CHECK REGISTERS FOR OCTOBER 31, 2007 AND NOVEMBER 7, 2007. MOTION PASSED 5 -0

4. TREE CITY USA

STAFF RECOMMENDATION:

Accept report and authorize staff to submit an application to the Arbor Day Foundation to designate the City of Saratoga as a Tree City USA.

Councilmember Hunter removed this item to thank Crystal Morrow and Barbara Powell for their efforts in establishing the City of Saratoga as a Tree City USA.

HUNTER/PAGE MOVED TO AUTHORIZE STAFF TO SUBMIT AN APPLICATION TO THE ARBOR DAY FOUNDATION TO DESIGNATE THE CITY OF SARATOGA AS A TREE CITY USA. MOTION PASSED 5 – 0.

5. HERITAGE ORCHARD PATHWAY – CONSTRUCTION APPROVAL

STAFF RECOMMENDATION:

Approve construction of the Heritage Orchard pathway by Donald Hays Trail Contractor, Inc.

WALTONSMITH/PAGE MOVED TO APPROVE CONSTRUCTION OF THE HERITAGE ORCHARD PATHWAY BY DONALD HAYS TRAIL CONTRACTOR, INC. MOTION PASSED 5 – 0.

6. RENEWAL OF USE AGREEMENT WITH CITY OF SARATOGA AREA SENIOR COORDINATING COUNCIL

STAFF RECOMMENDATION:

Accept report and adopt a resolution authorizing the City Manager to execute the Agreement for Cooperative Program Planning and Use of Facilities with the Saratoga Area Senior Coordinating Council.

Councilmember King removed this item for discussion. She asked Recreation Department Director Michael Taylor why the contract didn't reflect Council's direction to staff was to have the Recreation Department take over scheduling of Senior Center classes as opposed to the Senior Center scheduling classes.

Director Taylor noted the Recreation Department is providing a number of fee-based activities and SASCC continues to do no/low cost and no-cost recovery activities.

There was lengthy discussion on this item and Councilmember King stated she was not comfortable with this 5-year agreement with SASCC.

RESOLUTION 07-077

WALTONSMITH/HUNTER MOVED TO **ACCEPT REPORT AND ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT FOR COOPERATIVE PROGRAM PLANNING AND USE OF FACILITIES WITH THE SARATOGA AREA SENIOR COORDINATING COUNCIL.** MOTION PASSED 4- 1 WITH KING OPPOSING.

PUBLIC HEARINGS

7. APPEAL OF VARIANCE AND DESIGN REVIEW APPLICATION NO. 07-233: 20640 THIRD STREET, WHICH WAS APPROVED BY THE PLANNING COMMISSION ALLOWING CONSTRUCTION OF A NEW 3,798 SQUARE FOOT COMMERCIAL BUILDING

STAFF RECOMMENDATION:

Deny the appeal, thus affirming the Planning Commission Variance and Design Review Approval issued on September 26, 2007.

City Attorney Richard Taylor explained the hearing process. Taylor noted that staff had received a letter from the Appellant earlier in the day withdrawing the Appeal. Mr. Taylor noted that because the appeal had been filed that started a process that only the City Council can end. He noted that the City Code requires the Council to hear the matter; and after hearing the matter Council has four options – 1) uphold the Planning Commission's decision in its entirety; 2) Council can modify the Planning Commission's decision; 3) Council can reverse it completely; 4) or Council can send the matter back to the Planning Commission.

Mr. Taylor recommended Council receive the staff report, open the Public Hearing, receive testimony from the Applicant if the Applicant wishes to provide testimony,

and then receive public comments. Mr. Taylor noted the Appellant was not present; therefore, there would be no rebuttal from the Appellant. The Mayor would then close the Public Hearing.

Heather Bradley presented the staff report.

Councilmember King had questions regarding a staircase/elevator to the fourth floor.

Councilmember Hunter raised the issue regarding the approval of variances.

Mayor Kao invited the Applicant to speak.

Craig Awbrey spoke on behalf of the Applicant. He stated he was thankful the Appeal had been withdrawn and asked the Council to modify the approval regarding the lost square footage issue. He noted they would like permission to meet with staff to discuss options to restore the lost square footage.

Mayor Kao opened the public hearing and invited comments.

The following people requested to speak on this item:

Planning Commissioner Linda Rodgers, addressed the Council and stated the Planning Commission had three Study Sessions regarding this project and said all elements for this building were considered carefully and with sensitivity.

There was additional Council discussion regarding square footage.

Applicant representative Awbrey addressed the Council and stated the Applicant would rather have the Council deny the appeal and uphold the Planning Commission's decision and resubmit another set of plans with an entitlement, than to go back to another Planning Commission meeting.

Mayor Kao closed the public hearing.

WALTONSMITH/PAGE MOVED TO DENY THE APPEAL OF VARIANCE AND DESIGN REVIEW APPLICATION NO. 07-233: 20640 THIRD STREET, WHICH WAS APPROVED BY THE PLANNING COMMISSION ALLOWING CONSTRUCTION OF A NEW 3,798 SQUARE FOOT COMMERCIAL BUILDING. MOTION PASSED 5-0.

Mayor Kao declared a break at 9:00.

Mayor Kao recovered the meeting at 9:05.

OLD BUSINESS

8. ESTABLISHING A TIMELINE FOR THE NORTH CAMPUS CHILD DEVELOPMENT CENTER AND GYMNASIUM PROJECT.

STAFF RECOMMENDATION:

Accept report and establish a timeline for the North Campus Child Development Center and Gymnasium project and direct staff accordingly.

Recreation Director Michael Taylor presented the staff report noting the North Campus proposers have requested a commitment from the City in the form of a Memorandum of Understanding from the City prior to further personal investment to the project.

Councilmember Page had questions regarding the Memorandum of Understanding and what it would provide.

Project Proposer Alan Beck addressed the Council. He noted that it has been a year since they submitted a proposal for a Child Development Center at North Campus. He stated they could not afford the required expenditure of \$30,000 without some kind of commitment from the City stating that the City will be working with Becks and LLC on the development of the gymnasium/child development center, and that the City will not be putting this project out to bid

Councilmember King asked Mr. Beck if they would be comfortable with the City requesting bids before they expend additional funds.

Mr. Beck stated they would leave the project at that point noting they have already put in a year's worth of work on this project.

Councilmember Hunter asked City Attorney Richard Taylor to define an MOU in this type of situation and type of agreement requirements would be needed.

City Attorney Taylor noted an MOU would enable both parties to negotiate the terms that are agreeable. He also noted the City Council cannot commit to the project proposal in the next several months because CEQA requires an environmental review be completed first; which could cost between \$75,000 and \$100,000; and the City would be required to issue an RFP.

Additional discussion occurred regarding proposed uses of this property and traffic issues.

Mayor Kao invited public comment.

Patty Woolcock addressed the Council on this item and asked why the residents haven't been made aware of this proposed project in their neighborhood. She stated she isn't necessarily opposed to this project; however, she feels there should be more input from the neighbors.

Norma Ford spoke in opposition to the proposed gymnasium project and asked Council if it would be possible to establish a Task Force to look into possible options.

William Ford concurred with Norma Ford and noted he has concerns regarding the fact that their property borders the southwest corner of the North Campus property.

Gordon Ko addressed the Council and stated his property also borders the North Campus property.

Peggy Kimball spoke in support of a cultural/art/music center at the North Campus.

John Kimball stated he has contacted two foundations regarding a cultural/art/education center to be considered for this project and feels it would enhance the quality of life for everyone. He also advocates having a foundation leasing the property for 10 years; restoring the sanctuary building, remove the education building; and requested a proposal be put forth in 90 days.

Dave Wyatt noted he lives on the east side of North Campus and has a concern regarding the proximity of their property to the fence; noise and traffic issues and stated he is not in favor of the proposed project.

Jack Mallory noted he hopes that whatever decision the Council arrives at that it is a comprehensive plan for the site and not just separate buildings; that it needs to be attractive and well designed and that it should be a community center that brings people together.

Mayor Kao closed public comment.

Council continued discussion regarding the suggested uses of the North Campus property and the need to have a comprehensive plan for the property as well as continued neighborhood participation.

Council direction to staff is to move forward by directing:

- Staff to prepare a draft survey regarding uses for North Campus.
- Mayor form an Adhoc to review draft survey and create a Memorandum of Understanding, which includes project timeline.
- Staff place survey that includes City financial statement on the City's website.
- Staff to schedule a Visioning Meeting that includes residents in late January and is facilitated by City Manager.
- Bring MOU with timeline back to Council in early February.

Councilmembers King and Page volunteered to serve on the Adhoc.

NEW BUSINESS

None

ADHOC & AGENCY ASSIGNMENT REPORTS

Mayor Aileen Kao reported:

Association of Bay Area Government voted to approve the Regional Housing Needs Allocation (allocated 292 units)

Vice Mayor Ann Waltonsmith reported:

Comprehensive County Expressway Planning Study Policy Advisory Board (PAB) will be meeting in January.

Councilmember Chuck Page - had nothing to report, but did ask to Agendize creation of Sustainability/Green Building Ordinance. Build It Green – Incentives.

Councilmember Jill Hunter – had nothing to report.

Councilmember King – reported:

County Cities Association Legislative Task Force looked at “Going Green” and noted all 15 cities are going back to their perspective cities to determine whether to adopt LEED standards.

She also asked to agendize the evaluation of Village Zoning for Use Permits and to have Bruce Davis, Art Council representative, provide a presentation on Artsopolis.

CITY COUNCIL ITEMS

None.

CITY MANAGER’S REPORT

City Manager Dave Anderson noted he will be out of town on vacation from Wednesday, November 21, 2007 through Sunday, November 28, 2008. He also noted that he will be meeting on Monday, November 25, 2008 with Assemblymember Jim Beall in Sacramento with Kathleen King and representatives of the other TEA cities.

CITY ATTORNEY’S REPORT

City Attorney Richard Taylor commented on an email Council had received asking if Council had adopted a noise ordinance prohibiting playing of the National Anthem at West Valley College and flying the flag during games at the College. He stated there is an initiative in the City Code that prohibits amplified sound regarding field use at West Valley College, but no prohibition of singing the National Anthem. He will provide the Mayor with text regarding her response to the email and noted the City Manager will convey to West Valley College that the City has no objection to people singing the National Anthem or flying the US flag during games at the College.

ADJOURNMENT

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

There being no further business Mayor Waltonsmith adjourned the regular meeting at 10:55PM.

Respectfully submitted,

Ann Sullivan, CMC
Acting City Clerk