

MINUTES

SARATOGA CITY COUNCIL NOVEMBER 19, 2008

Mayor Waltonsmith 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, Vice Mayor Chuck Page, Mayor Ann Waltonsmith

ABSENT: Councilmember Aileen Kao

ALSO Dave Anderson, City Manager

PRESENT: Richard Taylor, City Attorney
Ann Sullivan, City Clerk
Barbara Powell, Assistant City Manager
Mary Furey, Administrative Services Director
John Cherbone, Public Works Director
John Livingstone, Community Development Director
Heather Bradley, Contract Planner

REPORT OF CITY CLERK ON POSTING OF AGENDA

Ann Sullivan, City Clerk, reported that pursuant to Government Code Section 54954.2, the agenda for the meeting of November 19, 2008, was properly posted on November 13, 2008.

ORAL COMMUNICATIONS

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

Willys Peck asked if he could address the council on Agenda Item 13 –Heritage Orchard Preservation – because he was unable to stay until that item came up for discussion later in the meeting. Council concurred that he could. Mr. Peck stated he was concerned that subsequent councils could replace the Heritage Orchard with athletic fields and suggested that the Orchard be held in an irrevocable trust that would ensure its perpetuity.

Kathleen Casey Coakley thanked the Saratoga News for the recent article on the proposed removal of the oak tree in the Heritage Orchard. Ms. Coakley noted some residents have started an organization called "Friends of Saratoga" promoting the non-removal of oak trees in the Orchard. In addition, she commented about Citizen Ray using more than 3 minutes to speak at Council meetings; the Fence Ordinance; and the number of staff absent on Veterans Day Holiday.

Vibha Gaitonde addressed the Council regarding her emergency generator permit and the required 15 day waiting period to install the generator. She noted she would like the length of the waiting period waived because she would be traveling and would not be at her home at the conclusion of the waiting period.

Citizen Ray commended Mayor Waltonsmith for her years of service to the city council; spoke about dead pines in Saratoga; and expressed his appreciation for the safety improvements that have been done on Highway 9.

COUNCIL DIRECTION TO STAFF

Councilmember King asked City Attorney Richard Taylor about the City's Code regarding the 15 day waiting period to install an emergency generator.

City Attorney Richard Taylor noted the City Code says there is a 15 day waiting period to allow for an appeal process.

COMMUNICATIONS FROM BOARDS AND COMMISSIONS

Prior to the Regular Meeting representatives from the Mountain Winery met in a Joint Meeting with the City Council. Bill Hirschman and Dave House, two of four owners of the Mountain Winery were present to address the Council. Mr. Hirschman noted renovation of the Mountain Winery began in September and that the first phase of the renovation is almost complete. He thanked the neighbors residing in the immediate area for their patience during this phase of the renovation and construction traffic and stated the renovation should be completed in March of 2009. In addition, he noted the concert season for this year opened on July 13th, the wine tasting is open, and their first wine production in 60 years – produced from grapes harvested from their vineyards – is now available for purchase.

ANNOUNCEMENTS

Councilmember Hunter announced the Village Open House on Friday, November 28th from 5:30 p.m. to 8:00 p.m.

Mayor Waltonsmith stated the Silicon Valley Leadership Group was holding a fund raiser for three non-profit organizations on Thursday, November 27th. The event is called "The Turkey Trot".

Vice Mayor Page announced he will be presenting a "Family Week" commendation to the Saratoga Ministerial Association on Thanksgiving Day. The presentation will take place during the 10:00 a.m. service at the Federated Church in Saratoga. [*On November 25, 2008 I received confirmation from Vice Mayor Page that Councilmember Jill Hunter will present the commendation.*] Ann Sullivan, City Clerk.

CEREMONIAL ITEMS

1. COMMENDATION HONORING THE LEAGUE OF WOMEN VOTERS – SOUTHWEST SANTA CLARA COUNTY

STAFF RECOMMENDATION:

Present commendation.

Mayor Waltonsmith read the commendation and presented it to Ann Roberts, Marge Bunyard, Gladys and Fred Armstrong, and Terry and Judy Zaccone, representatives from the League of Women Voters.

2. **PROCLAMATION DECLARING THE WEEK OF NOVEMBER 23-29, 2008 AS “NATIONAL FAMILY WEEK”**

STAFF RECOMMENDATION:

Present proclamation.

Vice Mayor Page will be presenting the proclamation to the Saratoga Ministerial Association during the 10:00 a.m. Thanksgiving service at the Federated Church. [*On November 25, 2008 I received confirmation from Vice Mayor Page that Councilmember Jill Hunter will present the commendation.*] Ann Sullivan, City Clerk.

SPECIAL PRESENTATIONS

None

CONSENT CALENDAR

3. **CITY COUNCIL MINUTES – NOVEMBER 5, 2008**

STAFF RECOMMENDATION:

Approve minutes.

HUNTER/PAGE MOVED TO **APPROVE CITY COUNCIL MINUTES – NOVEMBER 5, 2008.** MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

4. **TREASURER’S REPORT FOR THE MONTH ENDED JULY 31, 2008**

STAFF RECOMMENDATION:

The City Council review and accept the Treasurer's Report for the month ended July 31, 2008.

Vice Mayor Page removed this item for clarification. Vice Mayor Page noted the Economic Uncertainty Fund is actually 1.3 million dollars and not 1.5 million dollars due to the \$200K funding for the Comer Debris Wall and that the next Treasurer’s Report will reflect this correction.

PAGE/HUNTER MOVED TO **ACCEPT THE TREASURER’S REPORT FOR THE MONTH ENDED JULY 31, 2008.** MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

5. **REVIEW OF ACCOUNTS PAYABLE REGISTERS**

STAFF RECOMMENDATION:

That the City Council accepts the Check Registers for Accounts Payable cycles:
October 30, 2008
November 6, 2008

HUNTER/PAGE MOVED TO **ACCEPT THE CHECK REGISTERS FOR ACCOUNTS PAYABLE CYCLES: OCTOBER 30, 2008 AND NOVEMBER 6, 2008.** MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

6. **COMPREHENSIVE COUNTY EXPRESSWAY 2008 PLAN UPDATE**

STAFF RECOMMENDATION:

Support the Comprehensive County Expressway Planning Study Draft 2008 Update.

Councilmember Hunter removed this item for discussion. Councilmember Hunter asked Public Works Director John Cherbone to clarify the Expressway Plan regarding the signal lights.

Director Cherbone stated the Expressway Plan applies to all the expressways in Santa Clara County. He stated there will be signal light timing improvements along the Lawrence Expressway corridor and since Lawrence Expressway ends in Saratoga this would benefit Saratoga by moving the traffic along more efficiently. He also noted there would be some minor improvements to the intersection of Lawrence Expressway and Prospect Avenue by adding a turning lane, thereby increasing the functionality of this intersection. Director Cherbone stated this is a long-term plan and that improvements will happen in phases.

HUNTER/PAGE MOVED TO **SUPPORT THE COMPREHENSIVE COUNTY EXPRESSWAY PLANNING STUDY DRAFT 2008 UPDATE.** MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

7. **LANDSCAPE MAINTENANCE AGREEMENT – 18610 MARSHALL LANE**

STAFF RECOMMENDATION:

Approve a Landscape Maintenance Agreement for public right-of-way landscaping at 18610 Marshall Lane and authorize the City Manager to execute the same.

HUNTER/PAGE MOVED TO **APPROVE A LANDSCAPE MAINTENANCE AGREEMENT FOR PUBLIC RIGHT-OF-WAY LANDSCAPING AT 18610 MARSHALL LANE AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE SAME.** MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

8. **CITYWIDE STRIPING AND SIGNAGE – APPROPRIATION OF FUNDS**

STAFF RECOMMENDATION:

Approve Budget Resolution appropriating funds for Citywide Striping.

RESOLUTION NO. 08-071

HUNTER/PAGE MOVED TO **APPROVE BUDGET RESOLUTION APPROPRIATING FUNDS FOR CITYWIDE STRIPING.** MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

9. **AMENDMENT TO PROFESSIONAL SERVICES CONTRACT WITH MPA DESIGN**

STAFF RECOMMENDATION:

Approve an Amendment to the existing professional services contract with MPA Design for additional construction design work in the amount of \$9,600 and authorize the City Manager to execute the same.

HUNTER/PAGE MOVED TO APPROVE AN AMENDMENT TO THE EXISTING PROFESSIONAL SERVICES CONTRACT WITH MPA DESIGN FOR ADDITIONAL CONSTRUCTION DESIGN WORK IN THE AMOUNT OF \$9,600 AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE SAME. MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

10. AUTHORIZATION TO PURCHASE TWO FORD ESCAPE HYBRID VEHICLES

STAFF RECOMMENDATION:

1. Authorize purchase of two (2) 2009 Ford Escape Hybrids from The Ford Store in the amount of \$61,921.12
2. Approve Budget Resolution appropriating additional funding for the purchase of the hybrid vehicles.
3. Move to declare the following vehicles as surplus and authorize their disposal:
 - 1996 Oldsmobile Ciera-Vehicle #92
 - 1996 Saturn -Vehicle # 87

RESOLUTION NO. 08-074

HUNTER/PAGE MOVED TO: 1) AUTHORIZE PURCHASE OF TWO (2) 2009 FORD ESCAPE HYBRIDS FROM THE FORD STORE IN THE AMOUNT OF \$61,921.12; 2) APPROVE BUDGET RESOLUTION APPROPRIATING ADDITIONAL FUNDING FOR THE PURCHASE OF THE HYBRID VEHICLES; 3) MOVE TO DECLARE THE FOLLOWING VEHICLES AS SURPLUS AND AUTHORIZE THEIR DISPOSAL: 1996 OLDSMOBILE CIERA – VEHICLE #92 AND 1996 SATURN – VEHICLE #87. MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

11. REQUEST TO CHANGE PARKS AND RECREATION COMMISSION MEETING LOCATION

STAFF RECOMMENDATION:

Adopt resolution amending the meeting location of the Parks and Recreation Commission.

RESOLUTION NO. 08-072

HUNTER/PAGE MOVED TO ADOPT RESOLUTION AMENDING THE MEETING LOCATION OF THE PARKS AND RECREATION COMMISSION. MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

PUBLIC HEARINGS

12. Appeal – APPLICATION #APCC08-0004 – 18605 LYONS COURT APN:389-25-012; Appellant - Brennan: Appeal of a Planning Commission denial of Design Review PDR07-008 requesting approval to add a second floor to the existing single story residence. The proposal denied by the Planning Commission includes an

approximately 594 square foot second-story addition, and a 251 square foot first floor addition to the existing 2,189 square foot residence. Total proposed floor area would be approximately 3,034 square feet. The maximum height of the proposed building will be approximately 22 feet. The lot site is approximately 8,150 square feet, located in the R-1-10,000 zoning district. Design Review approval is required pursuant to Saratoga City Code Section 15-45.060.

STAFF RECOMMENDATION:

Deny the appeal, thus affirming the Planning Commission Design Review Denial issued on October 8, 2008.

City Attorney Richard Taylor noted the Applicant and Appellant are one and the same.

Heather Bradley, Contract Planner, presented staff report.

Mayor Walton Smith opened the public hearing.

Applicant Mr. Tom Brennan addressed the Council.

Mayor Walton Smith invited public comment.

The following people spoke in support of upholding the denial:

Camille Luckadoo

Ned Mederosted

Amr Salahieh

Steve Allen

Mary Costanza

Forest Cob

Bernice Keeble

Deirdre Dunnion

Ali Salahieh

Jennifer Allen read a letter submitted by Ruchi and Sanjay Sadhu

The following people spoke in support of the appeal:

Judith Walls

Paul Summers

Howard Bennion

Neeraj Kochhar, MD

Mike Ryan

Mahmood Safa

Mayor Walton Smith declared a 5 minute break at 9:00 p.m.

Mayor Walton Smith reconvened the meeting at 9:05 p.m.

Mayor Walton Smith asked Planning Commissioner Chair Manny Cappello to address the Council regarding the design process and the various Planning Commission Study Sessions for this application.

Applicant Sheila Brennan addressed the Council on rebuttal.

Mayor Waltonsmith closed the public comment.

Vice Mayor Page noted that he felt a second story home was not conducive to the small lot; and he preferred the removal of the front yard tulip tree in order to expand the one-story. In addition, he felt the applicants had done a lot to accommodate the neighbors and would like to see the neighbors be more reasonable.

Councilmember King stated she didn't understand why two-story homes were allowed in some neighborhoods and why not in this neighborhood. She also stated she has always believed in single story overlays and that if no decision could be reached tonight she would recommend the Community Development Director hold additional study sessions to come up with a proposal that works for everyone.

Councilmember Hunter stated she supports the proposed design because of the numerous changes previously made by the Brennan's for the neighbors.

Mayor Waltonsmith stated she was in support of the proposed design with the exception that the applicant reconsider planting the two proposed oak trees in the backyard with some other trees because of the small backyard.

RESOLUTION NO. 08-073

KING/ HUNTER MOVED TO APPROVE THE PLANS SUBMITTED ON NOVEMBER 10, 2008 SUBJECT TO THE FINDINGS AND CONDITIONS THAT WERE BEFORE THE PLANNING COMMISSION AT THEIR MEETING OF OCTOBER 8, 2008 WITH THE MODIFICATION THAT TWO TREES PROPOSED TO BE PLANTED IN THE REAR YARD BE CONDUCIVE TO GROWING NEAR SWIMMING POOLS AND BE SUBJECT TO THE REVIEW AND APPROVAL OF THE COMMUNITY DEVELOPMENT DIRECTOR. MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

OLD BUSINESS

13. HERITAGE ORCHARD PRESERVATION – CURRENT STATUS AND ADDITIONAL OPTIONS

STAFF RECOMMENDATION:

Accept report and direct staff accordingly.

Richard Taylor presented staff report and answered questions presented by Council.

Mayor Waltonsmith invited public comment.

The following people addressed the Council on this item:

Jenny Taylor asked the Council to protect the Heritage Orchard.

Kathleen Casey Coakley stated she would like the Orchard preserved as it is by establishing an Irrevocable Trust.

Mayor Waltonsmith closed the public comment.

Councilmember King favored a vote of the people of the community to determine the future of the Heritage Orchard. In addition, she stated she would like this item placed on the 2009 Council Retreat for discussion.

Councilmember Hunter favors having programs in the Orchard to entice people to visit the Orchard. In addition, she would not support a vote by the people to determine the future of the Heritage Orchard.

Vice Mayor Page agreed to having a vote of the people regarding the future of the Orchard and also agreed with the suggestion to agendaize it on the 2009 Council Retreat.

Mayor Waltonsmith noted she would urge the Council to continue this discussion with the new Council with regard to an easement or a ballot initiative and that she supports the Orchard being saved in perpetuity; however, she is aware of the cost involved.

Council's decision was to accept the staff report as is.

Discussion continued regarding the oak tree in the Heritage Orchard that was designated to be gifted to West Valley College.

City Attorney Richard Taylor stated that this has already been voted on by the Council and that this item would have to go back to the Heritage Preservation Commission (HPC) and go through the formal process of having the tree removal permit issued since the HPC had determined that the Orchard is a historic landmark. He noted this process would also include the new Heritage Orchard sign specifying that both of these items have already been voted on by the Council.

NEW BUSINESS

None

ADHOC & AGENCY ASSIGNMENT REPORTS

Mayor Ann Waltonsmith – reported:

Santa Clara County Emergency Council – met and noted that there is a lot of activity occurring in areas not specific to cities – such as looking for grants for the upcoming year.

Comprehensive County Expressway Planning Study Advisory Board (PAB) – currently on hold and doesn't feel a councilmember needs to be assigned to this adhoc in the upcoming year.

Mayor Waltonsmith stated she attended the Northern Central Flood Control Zone Advisory Board meeting for Councilmember Kao on November 19th noting that the different watersheds have different needs and that the members recommended the board leave the meeting schedule as it is with four meetings per year or have two joint meetings and two regular meetings per year. She stated there may be some redesign and reassignments by the Board for 2009.

Vice Mayor Chuck Page – reported:

Chamber of Commerce – attended the last meeting and stated they are looking for a president elect.

West Valley Sanitation District – met and have recently celebrated their 60th anniversary.

Council Finance Committee – met on November 19th and there weren't any actions to report.

Valley Transportation Authority PAC – the monthly meeting was cancelled.

After School Youth Program – that the Youth Commission would be conducting a survey of the students that visit the Saratoga Library as well as meet with Redwood School to define the type of after school program and the needs of the students, rather than focusing on the venue.

Councilmember Kathleen King – reported:

Santa Clara County Cities Association – was thrilled with Assistant City Manager Barbara Powell's staff report on the disposable carryout bag use and all the other cities have asked for a copy of the City of Saratoga's resolution on the issue. She noted the State doesn't allow you to directly place a fee on plastic bags; however, if people request a plastic bag, a business could charge for it. She also hoped that the members could attend the holiday event in Gilroy.

Councilmember Jill Hunter – reported:

Historic Foundation – she attended the last meeting and at that meeting Ernie Kraule had been appointed to oversee the landscaping at the Historic Museum; however, the ramp at the Museum would have to be corrected before they proceed with the garden area design.

KSAR – she attended the last meeting and there continue to be monetary issues at KSAR. She also noted KSAR will be filming the Village Open House.

West Valley Solid Waste Joint Powers Association – she attended the monthly meeting; the participating cities would be imposing a monthly road use fee on waste management (garbage and recycling) trucks. She noted the use fee would be \$1.00; not the 26 cents that she had reported at the last meeting.

Councilmember Aileen Kao – was absent

CITY COUNCIL ITEMS

Councilmember King suggested agendizing the tree replacement at the Book-go-round. (*City Manager Dave Anderson stated he would have City Arborist Kate Bear provide an update in the weekly Council Newsletter*).

In addition, Councilmember King inquired about agendizing Council Retreat items. (*City Manager Dave Anderson recommended that Council provide Council Retreat items to the City Clerk as soon as possible*).

Councilmember King also stated she would like to agendize discussion on how to reduce agenda items. (*There was no second by another council member*)

Councilmember King also voiced her concern regarding the last CH-2 Adhoc Committee meeting and that it hasn't been agendized on a council agenda for discussion.

Mayor WaltonSmith noted this item was scheduled for discussion at the January Council Retreat.

Vice Mayor Page asked to agendize the perpetuity of the Heritage Orchard – such as a reaffirmation of the resolution that was adopted in 2000. Councilmember Hunter seconded the motion.

Mayor Waltonsmith stated she attended the 35th anniversary event at the Santa Clara County Sheriff's Office and noted that Sheriff Laurie Smith expressed her desire to meet the newly elected council members when they are seated.

CITY MANAGER'S REPORT

City Manager Dave Anderson thanked Mayor Waltonsmith for her long service on the City Council. He also noted he attended the annual Gonsalves City Manager meeting in Sacramento and that the Assistant Chair of the Senate Budget Committee spoke to the group and indicated that the committee felt that they were a “lame duck legislature” in the special session, that there was not sufficient time to develop broad structural changes for the state budget, and that they were viewing it as an educational process for themselves, the public and the governor and that more structural reform will occur in the 2009 session.

ADJOURNMENT

There being no further business Mayor Waltonsmith asked for a motion to adjourn the meeting.

PAGE/KING MOVED TO **ADJOURN THE REGULAR MEETING AT 11:15P.M.**
MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

Respectfully submitted,

Ann Sullivan, CMC
City Clerk