

MINUTES

SARATOGA CITY COUNCIL MARCH 18, 2009

Mayor Page called the Regular City Council meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

ROLL CALL

PRESENT: Councilmembers Susie Nagpal, Howard Miller, Jill Hunter, Vice Mayor Kathleen King, Mayor Chuck Page

ABSENT: None

ALSO Dave Anderson, City Manager
PRESENT: Richard Taylor, City Attorney
Ann Sullivan, City Clerk
Barbara Powell, Assistant City Manager
John Cherbone, Public Works Director
John Livingstone, Community Development Director
Cindy McCormick, Assistant Planner
Crystal Morrow, Administrative Analyst

REPORT OF CITY CLERK ON POSTING OF AGENDA

Ann Sullivan, City Clerk, reported that pursuant to Government Code 54954.2, the agenda for the meeting of March 18, 2009 was properly posted on March 13, 2009.

ORAL COMMUNICATIONS

Citizen Ray expressed appreciation for the Highway 9 project; noted dead pines on Mendelsohn; dead pines at Brookwood and Highway 9, and a dead pine hanging over crosswalk at Vista Verde.

DIRECTION TO STAFF

Councilmember Miller asked staff to look into the dead pine issue if the pines are on city property.

Councilmember Hunter noted the pines aren't on city property and the property owners are conscientious about removing dead pines.

COMMUNICATIONS FROM BOARDS AND COMMISSIONS

Mayor Page reported Council met in a Joint meeting with Liz Kniss, President of the Santa Clara County Board of Supervisors, prior to the Regular meeting. He noted they discussed various issues, including the State of the Economy and budget and updates on

several County related items. Mayor Page and Council Members expressed their appreciation to Ms. Kniss and the County for the recent approval of a fourth Sheriff's Detective to serve the City of Saratoga. In addition, he noted the West Valley Substation has the highest crime-related closure rate of all the substations served by the Santa Clara County Sheriff's Department and commended Ms. Kniss for the excellent deputies employed by the Sheriff's Department.

DIRECTION TO STAFF

None

ANNOUNCEMENTS

Councilmember Hunter announced:

- The Historical Foundation Museum will feature another John Brown event this Sunday and invited people to attend; the next show is about the Civil War.
- KSAR displaying pictures daily of children who were at the St Paddy's Day party. The pictures will be displayed at 7:30, 11:30 and 4:30 through March 29th.
- Wine and Wisteria at Hakone Gardens on April 19th – tickets are available.

Mayor Page announced several vacancies on Library, Planning and Youth Commissions. He noted one of the vacancies on the Library Commission must be filled by a Monte Sereno resident and invited people to consider serving as a volunteer on one of these commissions.

CEREMONIAL ITEMS

1. COMMENDATION HONORING LIZ KNISS – PRESIDENT OF SANTA CLARA COUNTY BOARD OF SUPERVISORS

STAFF RECOMMENDATION:

Present commendation.

Mayor Page noted the commendation was presented to Liz Kniss at the Joint Meeting earlier in the evening.

2. PROCLAMATION DECLARING THE MONTH OF MARCH 2009 AS "COLON CANCER AWARENESS MONTH" AND DECLARING THE CITY OF SARATOGA AS A "COLON CANCER FREE ZONE"

STAFF RECOMMENDATION:

Present proclamation.

Jim Smaha and Syd Faulkner were present to receive the proclamations.

3. DISASTER SERVICE WORKER WEEK PROCLAMATION

STAFF RECOMMENDATION:

Present proclamation.

Ray and Betty Froess and Shamvi Setlur (CERT volunteers) were present to receive the proclamation.

SPECIAL PRESENTATIONS

4. PRESENTATION BY JAMIE MCLEOD, CHAIR, SANTA CLARA COUNTY RECYCLING AND WASTE REDUCTION COMMISSION, ON ISSUES RELATED TO SINGLE USE, CARRYOUT BAGS

STAFF RECOMMENDATION:

Accept presentation by Jamie McLeod, Chair, Santa Clara County Recycling and Waste Reduction Commission (SCRWRC), and City of Santa Clara Council member.

Jamie McLeod provided a presentation regarding the negative impact single-use bags have on the environment, which include: polluting streams, destruction of wildlife, and depletion of environmental resources. Ms. McLeod asked Council to consider a regional approach by working with other cities and the County to collectively find a workable solution to a universal concern. She concluded by stating the Recycling and Waste Reduction Commission (RWRC) of Santa Clara County proposes a “Three-Phased Approach”; 1) Education, outreach, recycling and enforcement; 2) Being developed (behavioral change, small fee; 3) Ban or fee.

Council thanked Ms. McLeod for her presentation.

5. PRESENTATION BY MANNY DIAZ, CONSULTANT FOR THE AMERICAN CHEMISTRY COUNCIL, ON ISSUES RELATED TO SINGLE USE, CARRYOUT BAGS

STAFF RECOMMENDATION:

Accept presentation by Manny Diaz, Consultant for the American Chemistry Council.

Mr. Diaz reported that plastic bag litter represents less than one-half of one percent of all the litter on the streets and in waterways. He noted many stores have already implemented recycling bins in their stores and noted that even though the City of San Francisco implemented a ban on single-use plastic bags, the amount of plastic bag litter did not decrease. Mr. Diaz also noted the American Chemistry Council is supportive of educating people about the importance of recycling.

Vice Mayor King asked Mr. Diaz if he would provide the Council with articles indicating that the use of plastic bags increased after the City of San Francisco implemented a ban on single-use plastic bags.

Mr. Dias noted he would.

Council thanked Mr. Diaz for his presentation.

6. CALIFORNIA STORMWATER QUALITY ASSOCIATION (CASQA) PRESENTATION OF AWARDS

STAFF RECOMMENDATION:

Listen to a short presentation from Kelly Carroll, Manager of West Valley Clean Water Program and receive awards.

Kelly Carroll, Manager of West Valley Clean Water Program, provided a short presentation on CASQA and presented the City with two awards. One award was for the “Trash Toolbox” – a program that addresses litter which can end up in our local creeks and ultimately into the Pacific Ocean. The second award was for the “Green Gardener” program. This program provides training for gardeners on how to implement landscaping practices which reduce harmful runoff into our water systems.

Mayor Page accepted the awards on behalf of the City.

CONSENT CALENDAR

7. CITY COUNCIL MINUTES - MARCH 4, 2009

STAFF RECOMMENDATION:

Approve minutes.

Mayor Page removed Item 7 to make a small correction to the minutes.

KING/HUNTER MOVED TO **APPROVE CITY COUNCIL MINUTES – MARCH 4, 2009 AS AMENDED.** MOTION PASSED 5-0-0.

8. CUP STUDY SESSION MINUTES - MARCH 3, 2009

STAFF RECOMMENDATION:

Approve minutes.

KING/HUNTER MOVED TO **APPROVE CITY COUNCIL MINUTES – MARCH 3, 2009.** MOTION PASSED 5-0-0.

9. CITY COUNCIL MINUTES – MAY 3, 2006

STAFF RECOMMENDATION:

Approve minutes.

KING/HUNTER MOVED TO **APPROVE CITY COUNCIL MINUTES – MAY 3, 2006.** MOTION PASSED 5-0-0.

10. REVIEW OF ACCOUNTS PAYABLE REGISTERS

STAFF RECOMMENDATION:

That the City Council accepts the Check Registers for Accounts Payable cycles:
February 26, 2009
March 05, 2009

KING/HUNTER MOVED TO **ACCEPT CHECK REGISTERS FOR ACCOUNTS PAYABLE CYCLES: FEBRUARY 26, 2009 AND MARCH 05, 2009.** MOTION PASSED 5-0-0.

11. AMENDMENT TO DELTA MICROIMAGING CONTRACT

STAFF RECOMMENDATION:

Accept report and approve amendment to the existing contract with Delta MicroImaging and authorize the City Manager to execute the contract amendment.

KING/HUNTER MOVED TO APPROVE AMENDMENT TO THE EXISTING CONTRACT WITH DELTA MICROIMAGING AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE CONTRACT AMENDMENT.

MOTION PASSED 5-0-0.

PUBLIC HEARINGS

12. PUBLIC HEARING ON RESOLUTION ORDERING THE ABATEMENT OF A PUBLIC NUISANCE BY REMOVAL OF HAZARDOUS VEGETATION (WEEDS)

STAFF RECOMMENDATION:

Open public hearing; listen to public testimony; and close public hearing. Consider any objections to proposed Order for Abatement of Hazardous Vegetation and sustain or overrule any objections as to specific properties. Adopt proposed Resolution Ordering Abatement (Attachment A) as to properties listed (with modification(s) if any objections are sustained.

City Clerk Ann Sullivan presented the staff report.

In addition, she noted that the Clerk's Office had received a significant number of telephone calls and visitors from property owners that were on the abatement list voicing concerns about the letter sent by the City and the implication that they were required to attend this evening's public hearing regarding the weed abatement issue.

Moe Kumre, representative from the County Agriculture Department was present to address any questions Council may have.

Vice Mayor King had questions regarding a required third notice and asked when that would be mailed to affected property owners.

Moe Kumre explained that the third notice had just gone out in the mail the day before the Council meeting.

Councilmember Miller asked the City Clerk if there was a specific issue or concern voiced by the property owners when they contacted the Clerk's office.

The City Clerk responded that the majority of the calls and visitors stated that the letter from the City created confusion and that they felt they were obligated to be present at this evening's public hearing.

Vice Mayor King noted that it has always been a practice for the past five years to send three notices to property owners that were on the abatement list and asked if this was the first year that one of the three notices came from the City and previously all three notices came from the County.

Mr. Kumre responded to Councilmember King's question noting that the change to the program this year (which also includes the fee for inspections if the property fails

the inspection after the April 15th deadline to abate) did remove one notice from the County. Therefore, an additional notice was required (the second notification) which was sent by the City. The third notice was mailed by the County yesterday – for a total of three notices that the City requires.

He noted the next notice, which is the 15-day courtesy notice that is sent to non-compliant property owners after the April 15th deadline to abate, states the property owner has 15 days to abate or the County will do the abatement for them. Property owners that receive this notice will incur a \$298.00 inspection fee. If they abate within the 15 day requirement or by the agreed-upon abatement date they will not incur any additional fees. However, if they don't abate by the agreed-upon date, they will be charged all abatement costs for the County to come in and abate their property, plus a 150% administrative fee.

Mr. Kumre noted Council could streamline the notification process by having just three abatement notices mailed from the County to affected property owners.

Mayor Page opened the public hearing.

The following people requested to speak:

Charles Heger asked to be removed from the list and suggested having until July 15th as the deadline to abate hazardous vegetation. He also noted the letter from the City was a little harsh.

Mr. Kumre apologized for the harsh tone of the letter, but stated that the wording is legally required by law.

Charles Luke stated he didn't feel he should be on the list and requested to be removed from the list. Mr. Luke also noted the letter from the City could be toned down.

Bruce Shafer noted he received two letters from the County indicating two different deadline dates – April 1st and April 15, the letter from the City indicating April 15th deadline, and a letter from Fire Commissioner Gene Zambetti indicating June 1st as the deadline to abate. He noted this is confusing and the program needs to be refined. He also stated the letter from the City was a little harsh and that the assessment fees are quite excessive.

Mayor Page clarified that the fees are established by the County, not the City and invited Mr. Kumre to respond to Mr. Shafer's concerns regarding the inspection dates and the fees.

Mr. Kumre stated the fees are charged only if a property is not in compliance after the April 15th deadline inspection. He also noted that he has arranged to meet with Mr. Shafer at his home to determine the appropriate time for the inspection after April 15th. He also noted that he is aware of the fact that hillside properties take longer to dry out after rains before they can be abated. In addition, he stated he will be working with Mr. Heger regarding his property abatement schedule.

Mr. Kumre also stated there will be no charges to property owners if they are in compliance by the agreed upon inspection date. If those properties are still non-compliant after the agreed upon inspection date, they will be assessed charges.

Councilmember Hunter asked for clarification regarding the different abatement dates on the notices sent from the County.

Mr. Kumre explained that the properties in the unincorporated area of the County have an April 1st deadline to abate and apologized for that notice being sent to a property owner in Saratoga. He reiterated that no property in Saratoga would be inspected prior to April 15th.

Mr. Kumre also noted that the abatement date could change depending on the type of weather for that winter; if it is an exceptionally dry year the abatement deadline could be much earlier and a much later date if it was a very wet year.

Mr. Kumre addressed the concern regarding the letter from Saratoga Fire Commissioner Gene Zambetti and stated he does not know the abatement criteria for the Saratoga Fire.

Greg Green asked to be removed from the list and stated the April 15 deadline date is too early to abate.

Minold (no speaker slip) stated the April 15th deadline is too early. He suggested the notices reflect the fact that the abatement deadline may change based on the amount of rain that year.

Kwan (no speaker slip) stated he has been on the abatement list for the past several years and didn't feel the letter from the City was too harsh. He also noted that he grows a lot of vegetables on his property and these vegetables do grow to a significant height, which could cause the inspector to assume they are hazardous weeds.

Councilmember Hunter asked for clarification as to how a property is added or should be added to the abatement list.

Mr. Kumre responded that there are two ways to add a property to the abatement list; however, he noted the property has to be found non-compliant during the fire season which begins April 15th and goes through October.

He noted anyone can report a property to his department that appears non-compliant and may be a fire hazard. The property will be inspected, photos will be taken, and his department will send a letter to the property owner informing them that they are non-compliant. The second way a property is added to the list is that the County inspector sees a property that is non-compliant when they are inspecting other parcels that are non-compliant.

Vice Mayor King asked Mr. Kumre if he could determine why so many more property owners were present to speak at tonight's public hearing than in past years.

Mr. Kumre responded that the letter sent by the City created confusion. In addition, he noted that his office received a large number of phone calls from concerned property owners as well.

Mayor Page suggested that another reason more people are here is because the new county rules call for a fee to be charged just for inspecting the property, if the property doesn't meet the abatement code at that time. Those fees were never assessed before, and have caused concern.

Mayor Page closed the public hearing.

Council suggested that for next year's abatement program the County send the third letter rather than the City. In addition, Council noted they would work on improving the abatement notification process as well.

RESOLUTION NO. 09-013

MILLER/HUNTER MOVED TO **ADOPT PROPOSED RESOLUTION ORDERING ABATEMENT AS TO PROPERTIES LISTED (WITH MODIFICATION(S) IF ANY OBJECTIONS ARE SUSTAINED.** MOTION PASSED 5-0-0.

13. FY 2009/10 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING

STAFF RECOMMENDATION:

Conduct the Public Hearing and make a decision regarding recommendation of remaining Community Development Block Grant (CDBG) funds.

Cynthia McCormick presented the staff report noting that at the March 4, 2009 Council Meeting Council fully funded six of the applicants. On March 6, 2009, Mid Peninsula withdrew their application. Ms. McCormick noted that although the FY 2009/10 CDBG funding amounts have not yet been finalized, the City estimates approximately \$27,619 remains after the recommended allocations are filled. She noted the Public Works Department has requested funds for two projects that are already partially funded under the CDBG program with the remaining Community Development Block Grant funds; \$10,000 is requested for Phase II of the Saratoga Historical Museum ADA project and \$17,619 is requested for Phase III of the ADA-Accessible Signal project.

Mayor Page opened the public hearing.

No one requested to speak on this item.

Mayor Page closed the public hearing.

RESOLUTION NO. 09-014

RESOLUTION NO. 09-015

MILLER/NAGPAL MOVED TO **ALLOCATE THE REMAINING \$27,619 CDBG FUNDS TO THE PUBLIC WORKS DEPARTMENT PROJECTS AS REQUESTED.** MOTION PASSED 5-0-0.

OLD BUSINESS

14. REQUEST FOR DISCRETIONARY FUNDS FOR FEES ASSOCIATED WITH A CONDITIONAL USE PERMIT (CUP)

STAFF RECOMMENDATION:

Direct Staff Accordingly.

Director John Livingstone presented the staff report.

Director Livingstone noted that on March 4, 2009, the Chamber of Commerce addressed the Council during Oral Communications regarding their impending relocation from their current street frontage location and asked the Council to consider assisting the Chamber with the costs involved with a Conditional Use Permit (CUP).

Councilmember Hunter voiced her concern about the Chamber not being open on Saturdays when so many people visit the Village and asked if that issue could be addressed in the Use Permit if Council does decide to waive the CUP fee.

City Attorney Richard Taylor noted Council does have a Memorandum of Understanding with the Chamber and that may be where the City addresses that issue.

City Manager Dave Anderson stated that it could also be addressed in the next Fee for Service Agreement at the end of the current agreement.

Vice Mayor King raised the question if the CUP could specify the Chamber to remain on Big Basin street frontage on the first floor.

Attorney Taylor noted the grant agreement could specify that the CUP fee is waived under certain conditions.

Mayor Page invited public comment.

The following people requested to speak on this item:

Vance Nelson stated the Chamber would like to remain in a visible location on Big Basin Way and asked Council to consider waiving the CUP fee. He also noted the Chamber would like to be open on Saturdays; however that would incur additional salary costs.

Councilmember Hunter noted that most of the Village shops are closed on Mondays and maybe the Chamber could do the same and have office hours on Saturdays.

Mayor Page also suggested the Chamber consider Saturday openings in order to serve the businesses and visitors to the Village.

The following people spoke in support of the Chamber's request to have Council waive the CUP fees:

Vicki Seelig
Marilyn White

Scott Anderson
Emily Lo
Chris Oaks

Michael Shekeras noted that he has purchased the building the Chamber currently occupies and would like to bring personal services into it.

Mayor Page closed the public comment.

Council discussed the funding options and the various restrictions placed on the CUP fee waiver.

NAGPAL/MILLER MOVED TO AUTHORIZE STAFF TO PROVIDE A ONE TIME ONLY CUP FEE WAIVER FOR THE CHAMBER OF COMMERCE TO RELOCATE TO A STREET FRONTAGE LOCATION ON BIG BASIN WAY; FEE WAIVER IS VALID FOR SIX MONTHS; AND THE \$4700 CUP FEES TO BE TRANSFERRED FROM COUNCIL DISCRETIONARY FUND TO THE COMMUNITY DEVELOPMENT BUDGET. MOTION PASSED 5-0-0.

15. REVIEW INCENTIVES RELATED TO CONDITIONAL USE PERMITS TO ENCOURAGE NEW BUSINESSES IN THE CITY

STAFF RECOMMENDATION:

Direct Staff Accordingly.

Director Livingstone presented the staff report.

Director Livingstone noted that on March 3, 2009, Council reviewed the fees associated with Conditional Use Permits and expressed an interest in reducing the cost, time, and uncertainty of obtaining a Conditional Use Permit. One of the ideas at that meeting was to create incentives for new businesses in the City.

Mayor Page invited public comment

The following person requested to speak on this item:

Adam Rockland noted the cost of the CUP is not the issue; it's the uncertainty and that it takes 90 days to process the permit application. He stated the process needs to be streamlined; he needs to know that he can come to Saratoga and get a quick turn-around. In addition, he stated it is the general feeling of the public that the City is only interested in bringing in retail.

Mayor Page closed the public comment.

Council discussed the various types of businesses they would like to see in the community; creating incentives to encourage businesses, creating a list of businesses that would expedite the CUP process, and ways to fund the CUP's.

Council Consensus:

- Create an Adhoc Committee

- Adhoc Committee compiles a list of businesses that Council would like to see in the community (Bakery, Family-style restaurant with parameters, Martial Arts Studio, Baseball Hitting Cage, Petroglyph, high-end grocery market, Tai Kwon Do.
- Provide incentives of \$25,000 for the first five businesses that are interested in coming into the community.
- Possibly requiring new businesses to occupy locations that have been vacant for a significant amount of time.

Councilmember Nagpal and Councilmember Hunter volunteered to be on the Adhoc Committee. They will compile a list of businesses that the community is interested in and that the Council would like to provide incentives for, meet with City staff, and bring this list back for discussion at the next Council meeting or a future Council meeting.

16. SELECTION OF CONCEPTUAL WEBSITE HOMEPAGE DESIGN

STAFF RECOMMENDATION:

Accept report, select one of three conceptual website homepage designs, and offer input on the selected design so that it can be further refined.

Crystal Morrow presented the staff report.

Ms Morrow provided a slide show depicting the final three proposed designs for the website homepage designs.

Mark Kelly from Civica Software was present to address any questions Council had.

Council viewed the three proposed designs and provided input regarding:

- Font size
- Placement of Icons
- City Seal on website homepage
- Highlighting City activities
- Easy navigation

Council unanimously preferred Design Number 2.

NEW BUSINESS

None

ADHOC & AGENCY ASSIGNMENT REPORTS

Mayor Chuck Page - reported

SSC Cities Association Board – provided a presentation on fluoridation at the last meeting; very expensive project if cities are required to fluoridate water supply.

Valley Transportation Authority PAC – met, considering cutting transportation funds, decreasing routes, lengthening bus route times, and potential layoffs. Report was given on Express Lanes projects; Fast Past Lanes – which is available to single drivers for these lanes.

West Valley Sanitation District – had nothing urgent to report.

Vice Mayor Kathleen King – reported:

City School Ad-Hoc – issues regarding unauthorized use of back fields at Prospect High School.

Councilmember Jill Hunter – reported:

Historical Foundation – she attended the last meeting and noted former Mayor Ann Waltonsmith is now in charge of membership; KSAR featuring Historic Foundation and they are selling tickets for a big event in July; the winning ticket holder will be the recipient of a dinner for 10 by Paul Masson.

Councilmember Howard Miller – reported:

Chamber of Commerce – busy with impending move; working on changes to *Taste of Saratoga*

KSAR – continues to work out their budget issues; KSAR and Saratoga High school received media grant.

Councilmember Susie Nagpal – reported:

County HCD Policy Committee – meets Thursday, will be allocating CDBG funds.

CITY COUNCIL ITEMS

Vice Mayor King requested to agendize the single-use bag, look at options as well as legal feedback on options; would like Council discussion and a decision on item. Councilmember Hunter seconded this agenda request.

Councilmember Miller questioned the proposed single-use bag item for discussion and asked if this should be a Closed Session discussion first.

City Attorney Taylor noted that if Council is considering specific legislation, Council may want a Closed Session to discuss exposure to litigation.

Mayor Page noted the City received a letter from anti-tobacco people commending the City for their active role in the prevention of tobacco sales to minors. He stated the City has nothing in place to restrict the sale of tobacco to minors and would like to agendize this for discussion regarding the Conditional Use Permits for tobacco companies.

Mayor Page also requested agendizing the ability for a non-profit organization to have a one-day bingo event fund raiser in the City.

CITY MANAGER'S REPORT

None

ADJOURNMENT

There being no additional business Mayor Page asked for a motion to adjourn the Regular Meeting to Closed Session.

KING/MILLER MOVED TO **ADJOURN THE REGULAR MEETING TO CLOSED SESSION IN THE ADMINISTRATIVE CONFERENCE ROOM AT 11:16PM.**
MOTION PASSED 5-0-0.

Council proceeded to the Administrative Conference Room for Closed Session.

ANNOUNCEMENT OF CLOSED SESSION ITEMS

Conference with Legal Counsel – Anticipated Litigation: Significant exposure to litigation pursuant to Government Code 54956.9 (b) (1 Item)

Respectfully submitted,

Ann Sullivan, CMC
City Clerk