

MINUTES

SARATOGA CITY COUNCIL JULY 15, 2009

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

ANNOUNCEMENT OF CLOSED SESSION

Conference with Legal Counsel – Initiation of Litigation: Government Code 54956.9 (c)
(2 potential cases)

Conference with Legal Counsel – Anticipated Litigation: Government Code 54956.9 (b)
(1 potential case)

Public Employee Performance Evaluation – Government Code 54957) Title: City Attorney

MAYOR'S REPORT ON CLOSED SESSION

Mayor Page stated there was no reportable information

City Council held a Joint Meeting with members of the Saratoga Area Senior Center Council in the Administrative Conference Room at 6:00 p.m.

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 PRESENT: Dave Anderson, City Manager
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
Jana Rinaldi, Code Enforcement Official
Rinah Shah, Intern Planner
Curtis Boone, Records Management Intern

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 July 15, 2009, was properly posted on July 9, 2009.

ORAL COMMUNICATIONS

Pat Wolfram, Chief Operating Officer at El Camino Hospital, provided the Council with a short purview of the new El Camino Hospital noting the new features and services. She stated El Camino Hospital is a not-for-profit hospital; all monies go back into the hospital for growth and improvement of services; there are over 500 beds; there is a Community Health Library on the campus; and volunteers are always welcome to join the auxiliary.

Citizen Ray addressed the Council regarding the operating budget for Los Gatos versus the City of Saratoga. He also expressed his appreciation for the removal of dead pines on Mendelson and Highway 9; and noted officials at the Lehigh Cement Plant in Cupertino are addressing the air quality concerns voiced by neighbors of the cement plant.

DIRECTION TO STAFF

Vice Mayor King suggested Pat Wolfram submit the El Camino Hospital data to the Saratoga News.

Mayor Page thanked Ms. Wolfram for coming and for presenting the update on the new hospital.

COMMUNICATIONS FROM BOARDS AND COMMISSIONS

The Council held a Joint Meeting in the Administrative Conference Room at 6:00PM with members of the Saratoga Area Senior Center Council (SASCC).

SASCC Director Susan Huff introduced the new president – Dick Angus and proceeded to provide a short report on the joint meeting noting that they are increasing all programs and encouraged Saratoga area people to become members. Director Huff announced that SASCC has introduced ball room dancing, line dancing, and health workshops. On August 12th they will be starting Bingo each Wednesday at 1:45 in the Saunders Room; the cost will be \$1.00 per card or \$10.00 for seven cards. She also announced SASCC will be holding a “parking lot sale” in the SASCC parking lot on August 8, 2009, in conjunction with the city-wide garage sale. She concluded by noting staff and members are working on the annual High Tea event, which may be held in August.

DIRECTION TO STAFF

None

ANNOUNCEMENTS

Councilmember Hunter announced the July 18 “Saratoga Swings” dance from 5:00 p.m. to 8:00 p.m. in the Bank of America parking lot; and the “Saratoga Swings Bolleywood” dance in the Village on August 1st.

Councilmember Miller noted the grand re-opening of Kevin Moran Park will begin with a ribbon cutting ceremony on Friday, July 17 and the Saratoga Chamber of Commerce is planning the *Taste of Saratoga*, which is scheduled on September 12th from noon to 8:00PM in the Village. Emergency Preparedness officer Jim Yoke is putting together a medical reserve core to assist the community in the event of a disaster in Saratoga. He suggested calling Mr. Yoke at 408-868-1294 or himself if anyone is interested in becoming involved in this project.

Vice Mayor King announced the water feature is now working at Wildwood Park.

Mayor Page noted that the Kevin Moran Park refurbishing was a 30 year process and invited everyone to come for the 4PM grand opening and invited Saratoga residents to stay for the neighborhood picnic immediately following the City's ribbon cutting. He stated the Governor is close to approving a budget and noted it is not good news as the state is planning to take funding from cities, including over a million dollars from the City of Saratoga.

CEREMONIAL ITEMS

None

SPECIAL PRESENTATIONS

None

CONSENT CALENDAR

1. CITY COUNCIL MINUTES – JULY 1, 2009

STAFF RECOMMENDATION:

Approve minutes.

Vice Mayor King removed this item for clarification regarding a recommendation she made during the City Council Items portion of the meeting.

KING/NAGPAL MOVED TO APPROVE MINUTES OF JULY 1, 2009 AS AMENDED. MOTION PASSED 5-0-0.

2. CITY COUNCIL MINUTES – SEPTEMBER 21, 2005

STAFF RECOMMENDATION:

Approve minutes.

Councilmember Hunter removed this item for discussion. She recommended that comments from speakers regarding the Kevin Moran Park (KMP) issue be included in the minutes noting if the speaker was supportive or non-supportive of the issue.

Vice Mayor King noted that it is sometimes difficult for another person to decide if someone is for or against an issue.

Councilmember Miller stated the video tape is always available for people to refer to regarding the exact comments and that many of the people that spoke at the September 21, 2005 Council meeting had also spoken at the other meetings that involved KMP discussion; adding that we are now looking forward to the KMP grand opening on July 17, 2009.

Councilmember Nagpal inquired about how long meeting video tapes are retained.

Records Management Intern Curtis Boone was present and noted that currently the Retention Schedule indicates *Current Year plus 3Months*, adding that this item is something that could be revised.

Discussion took place regarding the retention length of video tapes and audio recordings for meetings and the minute format – verbatim, summary or action format.

Mayor Page stated he was impartial on this particular meeting and noted that it would be consistent with other meetings where KMP was discussed to have the pro or con opinion noted in these minutes also. However, he did agree the video was available for anyone to watch and decide if the speaker was supportive or non-supportive of the KMP development.

Vice Mayor King asked to agendaize: 1) the retention policy for DVD video and audio tapes of Council meetings; and 2) minute format.

KING/NAGPAL MOVED TO ACCEPT MINUTES OF SEPTEMBER 21, 2005 AS PRESENTED. MOTION PASSED 4-1-0 WITH HUNTER OPPOSING.

3. REVIEW OF ACCOUNTS PAYABLE CHECK REGISTERS

STAFF RECOMMENDATION:

That the City Council accepts the Check Registers for Accounts Payable cycles:
June 25, 2009
July 02, 2009 (Period 13)
July 02, 2009 (Period 01)

MILLER/NAGPAL MOVED TO ACCEPT THE CHECK REGISTERS FOR ACCOUNTS PAYABLE CYCLES: JUNE 25, 2009, JULY 02, 2009 (PERIOD 13) AND JULY 02, 2009 (PERIOD 01). MOTION PASSED 5-0-0.

4. LANDSCAPE MAINTENANCE CONTRACT – GACHINA LANDSCAPE MANAGEMENT

STAFF RECOMMENDATION:

Approve a two-year contract with Gachina Landscape Management for monthly landscape maintenance services in the amount of \$75,756 per year and authorize City Manager to execute the same.

Councilmember Hunter removed this item for clarification.

HUNTER/NAGPAL MOVED TO APPROVE A TWO-YEAR CONTRACT WITH GACHINA LANDSCAPE MANAGEMENT FOR MONTHLY LANDSCAPE MAINTENANCE SERVICES IN THE AMOUNT OF \$75,756 PER YEAR AND AUTHORIZE CITY MANAGER TO EXECUTE THE SAME. MOTION PASSED 5-0-0.

5. LANDSCAPE MAINTENANCE CONTRACT – LORAL LANDSCAPING, INC.

STAFF RECOMMENDATION:

Approve a two-year contract with Loral Landscaping, Inc. for monthly landscape maintenance services in the amount of \$52,320 per year and authorize City Manager to execute the same.

Councilmember Hunter removed this item for clarification.

Mayor Page asked that residents not pull weeds in the median areas and recommended they call the City to report the location of weeds in median areas.

HUNTER/NAGPAL MOVED TO APPROVE A TWO-YEAR CONTRACT WITH LORAL LANDSCAPING, INC. FOR MONTHLY LANDSCAPE MAINTENANCE SERVICES IN THE AMOUNT OF \$52,320 PER YEAR AND AUTHORIZE CITY MANAGER TO EXECUTE THE SAME. MOTION PASSED 5-0-0.

6. APPROVAL OF SECURITY LIGHTING IN PARKER RANCH OPEN SPACE

STAFF RECOMMENDATION:

Approve Resolution allowing Parker Ranch Homeowners Association to install Safety Lights in Private Open Space

Mayor Page removed this item noting that Drew Perkins, Board Member of the Parker Ranch Homeowners Association, was present to comment on this item.

Mr. Perkins noted there have been many problems on the Knoll for many years and voiced his concern regarding security in this area. He noted people are attracted to this area because of the beautiful views and the nearby trails and that some of the visitors are using private property for their activities – including unsafe activities such as firing BB guns, bringing in home-made bombs, drugs, alcohol, etc.

He stated the Homeowners Association would like motion-sensor lights installed on poles, adding the HOA Board approved this suggestion; however, the HOA needs City approval to install anything in open space.

Vice Mayor King noted that most of the problems the property owners are experiencing is due to vehicles entering the area and suggested the homeowners approach the City to research what it would entail changing Vista Arroyo Court Knoll

into a private road with a gate so that only the homeowners could access that road; adding that a gate would be more appealing than big lights on poles.

Mr. Perkins stated he and other neighbors have thought about doing that, however, they always felt that from a legal perspective they would never get City approval.

Mayor Page stated Mr. Perkins would have to look into the pros and cons of a gate.

Other concerns raised by Council included the appearance of bright lights in the hillsides and the fact that lights may even encourage more traffic into the area; data showing increased vandalism around schools when more lights were installed; and neighbor's reaction to the installation of bright lights in the semi rural areas.

Vice Mayor King suggested the Homeowners Association may want to consider a trial run regarding the installation of lights.

City Attorney Richard Taylor added the HOA could agree to a trial run period for three months.

Vice Mayor King suggested a 3 month trial run and that the HOA also look into the possibility of making Vista Arroyo Court Knoll a private road and installing a gate.

RESOLUTION NO. 09-040

KING/PAGE MOVED TO APPROVE RESOLUTION ALLOWING PARKER RANCH HOMEOWNERS ASSOCIATION TO INSTALL SAFETY LIGHTS IN PRIVATE OPEN SPACE WITH THE CONDITION THAT THE ITEM IS REVISITED THREE (3) MONTHS AFTER THE INSTALLATION OF THE LIGHTS. MOTION PASSED 5-0-0.

- 7. ADOPTION OF ZONING ORDINANCE AMENDMENT TO CREATE AN EXPEDITED ADMINISTRATIVE CONDITIONAL USE PERMIT PROCESS FOR COMMERCIAL USES OF 4,000 SQUARE FEET OR LESS AND GENERATORS.**

STAFF RECOMMENDATION:

Staff recommends the Council waive the Second Reading and adopt the Ordinance amending the Zoning Regulations related to Conditional Use Permits.

ORDINANCE NO. 270

MILLER/NAGPAL MOVED TO WAIVE THE SECOND READING AND ADOPT THE ORDINANCE AMENDING THE ZONING REGULATIONS RELATED TO CONDITIONAL USE PERMITS. MOTION PASSED 5-0-0.

PUBLIC HEARINGS

8. CONFIRMATION OF REPORT AND ASSESSMENT OF 2009 WEED/BRUSH ABATEMENT PROGRAM

STAFF RECOMMENDATION:

Open public hearing, close public hearing, and adopt resolution confirming report and assessment of hazardous vegetation abatement charges.

City Clerk Ann Sullivan presented the staff report.

Mayor Page opened the public hearing.

No one requested to speak on this item.

Mayor Page closed the public hearing.

RESOLUTION NO. 09-041

HUNTER/NAGPAL MOVED TO **ADOPT RESOLUTION CONFIRMING REPORT AND ASSESSMENT OF HAZARDOUS VEGETATION ABATEMENT CHARGES.** MOTION PASSED 5-0-0.

9. PROPOSED ORDINANCE AMENDING THE CITY CODE TO REVISE THE REQUIREMENTS FOR PARK DEDICATION AND FEES AND TECHNICAL AMENDMENTS TO THE CITY'S CODE PROVISIONS TO CONFORM WITH STATE LAW.

STAFF RECOMMENDATION:

- (1) Open the public hearing and consider all testimony received;
- (2) Introduce and waive the first reading of the attached ordinance; and
- (3) Direct staff to place the attached ordinance and resolution on the consent calendar for adoption at the September 2, 2009 City Council meeting.

City Attorney Richard Taylor presented the staff report.

Councilmember Miller asked if parks, open space and trails fall into park land.

City Attorney Taylor responded that those areas do fall into park land as recreational opportunities.

Mayor Page opened the public hearing.

No one requested to speak on this item.

Mayor Page closed the public hearing.

NAGPAL/KING MOVED TO **WAIVE THE FIRST READING OF THE ORDINANCE AND PLACE ON THE CONSENT CALENDAR FOR ADOPTION AT THE SEPTEMBER 2, 2009 CITY COUNCIL MEETING.** MOTION PASSED 5-0-0.

OLD BUSINESS

10. RECORDS MANAGEMENT PROGRAM: RESOLUTIONS AMENDING THE CITY'S RECORDS RETENTION SCHEDULE AND AUTHORIZING DESTRUCTION OF CERTAIN CITY RECORDS

STAFF RECOMMENDATION:

1. Adopt Resolution Amending City's Records Retention Schedule.
2. Adopt Resolution Authorizing Destruction of Certain City Records.

Records Management Intern Curtis Boone presented the staff report.

Mayor Page invited public comment.

No one requested to speak on this item.

Mayor Page closed the public comment.

RESOLUTION NO. 09-042

RESOLUTION NO. 09-043

MILLER/HUNTER MOVED TO **1) ADOPT RESOLUTION AMENDING CITY'S RECORDS RETENTION SCHEDULE WITH CAVEAT THAT COUNCIL AGENDIZE FOR DISCUSSION AT A FUTURE COUNCIL MEETING THE RETENTION POLICY FOR DVD/VIDEO AND AUDIO RECORDINGS; AND 2) TO ADOPT RESOLUTION AUTHORIZING DESTRUCTION OF CERTAIN CITY RECORDS.** MOTION PASSED 5-0-0.

NEW BUSINESS

11. PARKING VIOLATION PENALTY INCREASE

STAFF RECOMMENDATION:

Adopt resolution approving a ten-dollar increase in the fine amount for parking violations.

Code Enforcement Official Jana Rinaldi presented the staff report.

Mayor Page invited public comment.

No one requested to speak on this item.

RESOLUTION NO. 09-044

MILLER/KING MOVED TO **ADOPT RESOLUTION APPROVING A TEN-DOLLAR INCREASE IN THE FINE AMOUNT FOR PARKING VIOLATIONS.** MOTION PASSED 5-0-0.

12. ZONING ORDINANCE AMENDMENT TO CREATE REGULATIONS FOR TOBACCO RETAILERS

STAFF RECOMMENDATION:

Review the draft ordinance and provide direction to staff.

City Attorney Richard Taylor presented the staff report.

Questions raised by Council included whether or not Council could ban the sale of tobacco products in the city; prevent tobacco establishments from being located within a certain distance from schools; concerns about existing tobacco establishments near schools; and options to allow this use to go before the Planning Commission or through the Administrative Review process.

Attorney Richard Taylor noted there are complicated state laws that determine what you can and cannot do, adding that this proposed ordinance is based on a “model” that already exists and because it is a model you avoid risks as opposed to something that isn’t a model. He added Council could declare this type of establishment as a noxious use requiring high scrutiny.

Attorney Taylor also noted that existing establishments would be allowed to continue under this ordinance; however, Council could assume a more aggressive approach and allow existing establishments to conform within a designated time frame, such as 180 days, or Council could designate them non-conforming and subject to the new non-conforming proposed rules. Council could also determine uses that would require those establishments to be phased out after a specified period.

Councilmember Nagpal raised the question whether or not stores would be considered legal non-conforming if they currently sell tobacco products.

Attorney Taylor responded that a current establishment selling tobacco products would be guaranteed a use permit if they signed a statement of principal saying they agree that these are the rules under which they will sell tobacco. If they agree to that, they would be issued the equivalent of a use permit and would not be considered non-conforming.

Mayor Page suggested the word “exiting” in Section D be changed to “existing”.

Mayor Page invited public comment.

No one requested to speak on this item.

Mayor Page closed the public comment.

Councilmember Miller stated he supports this ordinance and recommended:

- Ease of compliance and reasonable costs for existing businesses that currently sell tobacco products as long as they file appropriate paper work within proposed specified time period of 180 days;
- More restrictive compliance process for new businesses wanting to sell tobacco products;

- Administrative Review Process for existing businesses such as grocery stores, drug stores and gas stations;
- Non-use of tobacco in “smoke shops”;
- Specific verbiage noting non-use of tobacco products within specific distances (1,000 feet) around youth oriented services such as schools;
- May want to pursue non-tobacco usage in City parks.

City Attorney Richard Taylor noted Council would want to be very clear regarding the “scope of youth-oriented services”, adding the Public Health Institute has a model ordinance regarding use of tobacco in public parks.

Councilmember Nagpal stated she supports:

- Administrative Review for existing tobacco retailers, such as grocery stores, drug stores, and gas stations with required paperwork to be filed in specified time of 180 days;
- Planning Commission process for new tobacco retail businesses.

Vice Mayor King noted she concurs with Councilmember Nagpals’ recommendations.

Councilmember Hunter noted she also concurs with Councilmember Nagpals’ recommendations.

Mayor Page concurred with Councilmember Nagpals’ recommendations, with the exception that there be no fee for existing businesses that file within the designated time period of 180 days; and to include language stating the sale of tobacco products can only occur in commercial districts.

DIRECTION TO STAFF:

- Conditional Use Permit decisions to be made by Planning Commission for new tobacco retailers;
- Administrative Permit with no fee for existing tobacco retailers providing they file required paperwork within 180 days;
- Code Enforcement regarding violations of smoking sales of tobacco products provision will go to Hearing Office – not the Planning Commission;
- New tobacco retail shops cannot be located within 500 feet of existing tobacco retailers;
- New tobacco retail shops cannot be located within 1,000 feet of private or public elementary, middle, or high school areas;
- Designate the Planning Commission to determine banning new tobacco retail shops within a 500 or 1,000 foot radius of recreational areas and city parks;

City Attorney Taylor noted the Public Health Institute model includes a provision that creates a “private right of action”; meaning that if the City declines to do anything about a code violation, a private citizen could go to court stating a specific store is selling tobacco without a Use Permit or that the store is in violation of their Use Permit and could request the court to find them in violation of the law; and the City would not be involved in this action.

Council concurred they would not support this provision.

ADDITIONAL DIRECTION TO STAFF:

City Attorney will provide the Community Development Director with a revised draft tobacco ordinance for the Planning Commission incorporating Council’s direction stating: “Here is a zoning amendment being considered by the City Council requesting your review and comment as required by state law”.

The Planning Commission shall conduct a formally noticed Public Hearing and the Planning Commission shall note in the staff report to the Council why they are recommending specific changes, if any.

City Attorney Richard Taylor will attend the planning commission meeting where this item is agendized to address any questions.

Mayor Page declared a 5 minute break at 9:30 p.m.

Mayor Page reconvened the Regular meeting at 9:40 p.m.

13. PROPOSED MEMBERSHIP IN BAY AREA CLIMATE COLLABORATIVE/SIGNATORY TO BAY AREA CLIMATE CHANGE COMPACT

STAFF RECOMMENDATION:

Accept report and adopt Resolution authorizing the City of Saratoga to become a member of the Bay Area Climate Collaborative (BACC) and authorizing the Mayor to become a signatory of the Bay Area Climate Change Compact.

Assistant City Manager Barbara Powell presented the staff report.

Mayor Page noted that this paves the way for the City of Saratoga to be in a leadership position to do something “green” in the Bay Area and to make some positive impact to our environment.

Mayor Page invited public comment.

No one requested to speak on this item.

Mayor Page closed the public comment.

Councilmember Miller noted the carbon dioxide emissions are a serious concern and the country, state and city should do all they can to reduce general carbon emissions, including the use of nuclear power; which is a non-carbon producing energy source. He added there should be more discussions regarding alternative energy-producing methods that leave no carbon footprints.

RESOLUTION NO. 09-045

PAGE/MILLER MOVED TO **ADOPT RESOLUTION AUTHORIZING THE CITY OF SARATOGA TO BECOME A MEMBER OF THE BAY AREA CLIMATE COLLABORATIVE (BACC) and AUTHORIZE THE MAYOR TO BECOME A SIGNATORY OF THE BAY AREA CLIMATE CHANGE COMPACT.** MOTION PASSED 5-0-0.

14. SARATOGA EMERGENCY OPERATIONS PLAN (EOP)

STAFF RECOMMENDATION:

Approve the new City of Saratoga Emergency Operations Plan (EOP)

Emergency Services Coordinator Jim Yoke presented the staff report.

Mr. Yoke recommended annual revisions to the Emergency Operations Plan and stated staff would be required to go through the required Emergency Operations training.

Mayor Page invited public comment.

No one requested to speak on this item.

Mayor Page closed the public comment.

MILLER/NAGPAL MOVED TO **APPROVE THE NEW CITY OF SARATOGA EMERGENCY OPERATIONS PLAN (EOP).** MOTION PASSED 5-0-0.

Council thanked Mr. Yoke for all the efforts put into creating the Emergency Plan for the City of Saratoga.

ADHOC & AGENCY ASSIGNMENT REPORTS

Mayor Chuck Page – had nothing to report:

Vice Mayor Kathleen King – had nothing to report:

Councilmember Jill Hunter – reported:

Historical Foundation – she missed the last meeting due to a change of date for the meeting.

Santa Clara County Valley Water District Commission – will meet next week.

Village AdHoc – the members are continuing to work on the Facade Program and what it will entail.

(She also noted she will be attending the SASCC meeting Thursday evening)

Councilmember Howard Miller – reported:

Chamber of Commerce – met and they discussed the upcoming *Taste of Saratoga*; they would like Council to have an information booth including conceptual drawings of Public Works projects such as the Big Basin project and the newly completed Kevin Moran Park. Chamber is still working on the relocation plans with the understanding that they have a CUP time limit; audit is in process, everything has been reviewed and the audit firm has issued a set of questions that the Chamber is currently addressing and the

Chamber is hoping to have everything completed by the first council meeting in September.

KSAR – he attended the last meeting; ten interns are working on video projects and one of the projects (suggested by Councilmember Miller) is called “Is it Recyclable?”; adding that if anyone had additional video ideas, they should send them to the KSAR station manager.

Council Finance Standing Committee – met and is still looking at financial reporting and noted the Investment Policy will be coming back to council soon; they had discussion on the Finance Commission, adding this item will be agendized on a future Council meeting.

Councilmember Susie Nagpal – reported:

Sister City Liaison – she attended the last meeting and the Sister City group has requested a formal letter of invitation from Mayor Page.

CITY COUNCIL ITEMS

Vice Mayor King – asked to agendize the Lighting and Landscaping Districts to discuss whether or not each council member would be interested in volunteering to work on a district each year.

Councilmember Nagpal seconded this.

Councilmember Miller – asked to agendize the Council booth at the *Taste of Saratoga* event and if Council would be willing to fund the \$300 booth fee; adding that he would ask the Chamber if they would consider waiving the fee.

[Council agreed to agendize this item on the Special Meeting agenda scheduled for July 30, 2009.]

Councilmember Miller added he would also like to agendize for discussion the possibility of an ordinance banning smoking in city parks.

CITY MANAGER’S REPORT

None

ADJOURNMENT

There being no further business, Mayor Page asked for a motion to adjourn the regular meeting.

PAGE/NAGPAL MOVED TO **ADJOURN THE REGULAR MEETING AT 10:10PM AND TO PROCEED TO THE ADMINISTRATIVE CONFERENCE ROOM TO DISCUSS CLOSED SESSION ITEMS.** MOTION PASSED 5-0-0.

Respectfully submitted,

Ann Sullivan, CMC
City Clerk

