

**MINUTES
SARATOGA CITY COUNCIL
SPECIAL MEETING**

JULY 30, 2009

Mayor Page called the Special Meeting to order at 4:30PM.

ROLL CALL

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

ABSENT: Vice Mayor Kathleen King

ALSO Dave Anderson, City Manager
PRESENT: Ann Sullivan, City Clerk
John Cherbone, Public Works Director
Rick Torres, Streets Supervisor
Macedonio Nunez, Associate Engineer
Crystal Morrow, Administrative Analyst

REPORT OF CITY CLERK ON POSTING OF AGENDA FOR MAY 5, 2009

Ann Sullivan, City Clerk, reported that pursuant to Government Code Section 54954.2, the agenda for the meeting of July 30, 2009, was properly posted on July 27, 2009.

COMMUNICATIONS FROM PUBLIC

The following people requested to speak:

Jan Van der Linde – stated that a neighbor's tree fell into Saratoga Creek in the 60's and asked the City for assistance in removing this tree from the creek or notify the SCC Water District for assistance.

Stan Bogosian – referred to the recently submitted Public Records Request to view the records slated for destruction under the Records Retention Policy and requested the Council to reconsider their July 15, 2009 decision authorizing the destruction of old documents as outlined in the Records Retention Policy. He suggested more publicity noticing in the Saratoga News and on KSAR regarding planned destruction of city records and asked council to place a moratorium on the slated destruction of items, pending reconsideration.

DIRECTION TO STAFF

Council directed Public Works Director John Cherbone to follow up with Mr. Van der Linde regarding the downed tree in Saratoga Creek.

Council comments regarding Stan Bogosian's concern regarding destruction of old records:

Councilmember Hunter: Reiterated Mr. Bogosian's request to reconsider the records destruction policy; noted she has confidence in the current staff retaining historical documents, however, as staff changes in the future they may not be concerned about retaining historical documents.

Councilmember Miller noted there may be some confusion about the records destruction policy. He stated he read the entire list of records slated to be destroyed and didn't find anything compelling regarding the destruction of any historical documents. He added that the retention issue of video and audio recordings is scheduled for the September 16, 2009 meeting.

Mayor Page stated there was nothing of historical documentation in the boxes slated for destruction. He also noted the City has had a Records Retention Policy since 1986 and that the records destruction hasn't been followed in a timely manner. He added that the City has a very thorough records retention policy and that any time records are slated for destruction it will always be brought to Council for approval.

Councilmember Nagpal stated she is also concerned about the preservation of historical records and land use documents and noted she also read the entire list of records to be destroyed, and it appeared that the list consisted mostly of accounts payable and receivable records. She asked for clarification on the land use documents.

City Manager Dave Anderson stated that land use documents are permanent records. He added staff is refining the records retention policy regarding the issue of the video recordings to designate them as permanent records in order to justify "Action" format minutes; noting the true transcript of the meeting will actually be the video. In addition, he added that many times he has heard that citizens request that submitted items be made a permanent part of the meeting record. He stated that these submittals by the citizens are scanned and laserfiched into a file for that particular meeting, along with the agenda, staff reports, and minutes, and are a part of the permanent historical record of council decisions. He stated rather than Council reconsidering their July 15, 2009 motion, Council may want to schedule another round of revisions to the Records Retention Policy and provide an opportunity for the public to provide their ideas as to the types of revisions for Council's consideration at the September 16, 2009 Council meeting.

City Manager Anderson added that in preparation of the citizen's viewing of all the requested documents staff, along with his supervision, is in the process of looking at every document in approximately 185 boxes for long-term historical significance to the City, and for social security numbers and credit card numbers; and will have spent over 200 hours looking for and redacting personal confidential information before it can be viewed.

Council confirmed with staff that the Records Retention Policy item would be agendaized on the September 16, 2009 Council meeting.

1. ARRA AWARD OF BID (STIMULUS PLAN)

STAFF RECOMMENDATION:

- a. Move to declare the lowest responsible bidder on the Saratoga Avenue Overlay and rehabilitation Project.

- b. Award a construction contract for the Saratoga Avenue Overlay and Rehabilitation Project and authorize the City Manager to execute the same.
- c. Authorize staff to execute change orders to the construction contract.

Public Works Director John Cherbone presented staff report.

Director Cherbone noted staff opened bids on Tuesday, July 27, 2009 for the Saratoga Overlay Project, which is funded by Stimulus Funds and stated there was a total of six bids. He noted three of the bidders didn't submit all the required paperwork and/or correct type of documentation as specified in the Bidders Check List. As a result, staff had to determine those bids as "non-responsive", adding that the low bidder and second to last low bidder did not submit the required documentation; and the third lowest bidder did submit the required documentation, resulting in the determination that they were "responsive" to the bidding process.

Councilmember Hunter asked if the number of bidders was lower than expected.

Director Cherbone noted the City would have received more bidders if this was a normal process; adding that federally funded projects aren't usually bid on by smaller local contractors due to the extra tedious work involved in filling out contract paperwork funded by the Federal Government.

Mayor Page invited public comment.

The following person requested to speak on this item:

Paul Cinnciarulo, with Pavex Construction Company (division of Granite Rock Construction) stated he submitted the lowest responsible bid for this project. He added that the reason the other three bidders didn't turn in the required paperwork is due to contradictory information dispensed by the city. He noted that on page 81 of the standard specifications it does require the UDBE Form to be submitted with the bid, however, based on page 96 of the Standard Specifications it states the bidder has up to four days to submit the required EDBE information. He added that staff contacted him after the bids were opened and asked him to provide the EDBE form as soon as possible; he submitted the form two hours later. He then noted that city staff contacted his office again and stated that they (staff) had contacted CalTrans regarding the EDBE form and CalTrans informed city staff that if the bidder hadn't submitted the EDBE form as city staff had requested, then the bidder is in default of submitting the required documents. He added that this was basically a minor bid irregularity and that the City is potentially awarding a project to the third lowest bidder, will spend approximately an additional \$38K of federal monies and receive nothing extra in the end result. He concluded by asking council to reconsider the bid to the third bidder.

No one else requested to speak on this item.

Mayor Page closed the public comment.

Council discussed the bidding process, the required bid submittal documents, and the issue regarding the UDBE language on page 96 of the Standard Specifications indicating the bidder has an additional four days to submit the completed UDBE Form.

Director Cherbone noted that staff made a conscious decision to make the UDBE form a requirement with the submittal of the bids because staff didn't have the additional four days to wait for the UDBE form as staff would be awarding the contract two days after the bid results, as per Council's direction. He added the language in the Bidders Checklist is the boiler plate language used by CalTrans and staff did not manipulate the language that CalTrans recommended be stated in the contract; staff's requirement was for the UDBE form to be submitted with the bid. Director Cherbone noted that because staff consciously specified this requirement in the Bidders Check List, this would take precedence over any other standard specification's check list. He added that staff is trying to be as fair as possible by awarding the bid to the successful bidder that did abide by the specified requirements and did include the UDBE form in the submitted bid.

Director Cherbone stated his office also received a Public Records Request asking for documentation that the City was following the rules that they had established by submitting the bid to the lowest bidder that followed the requirements and submitted the required documents.

Councilmembers Hunter, Miller and Nagpal supported rejecting all bids and rebidding the project.

Mayor Page supported moving forward with the ARRA Award of Bid.

MILLER/HUNTER MOVED TO **REMOVE THE LANGUAGE AMBIGUITY AND REJECT ALL BIDS, GO BACK OUT FOR A RE-BID, AND AGENDIZE ON THE SEPTEMBER 2, 2009 COUNCIL AGENDA FOR ARRA AWARD OF BID (STIMULUS PLAN).** MOTION PASSED 3-1-1 WITH PAGE OPPOSING AND KING ABSENT.

2. FELLOWSHIP HALL – NOTICE OF COMPLETION.

STAFF RECOMMENDATION:

Authorize the City Manager to sign the Notice of Completion during City Council summer break upon completion of minor items of remaining work and satisfactory final inspections.

Public Works Director John Cherbone presented the staff report.

Mayor Page invited public comment.

No one requested to speak on this item.

MILLER/HUNTER MOVED TO **AUTHORIZE THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION DURING CITY COUNCIL SUMMER BREAK UPON COMPLETION OF MINOR ITEMS OF REMAINING WORK AND SATISFACTORY FINAL INSPECTIONS.** MOTION PASSED 4-0-1 WITH KING ABSENT.

3. EASEMENT AGREEMENT – INN AT SARATOGA

STAFF RECOMMENDATION:

Authorize

Director Chebone presented the staff report.

Mayor Page invited public comment.

No one requested to speak on this item.

HUNTER/NAGPAL MOVED TO **AUTHORIZE ACCEPTANCE OF STORM DRAIN EASEMENT AGREEMENT WITH THE INN AT SARATOGA.** MOTION PASSED 4-0-1 WITH KING ABSENT.

4. **KEVIN MORAN PARK – NOTICE OF COMPLETION**

STAFF RECOMMENDATION:

- a. Move to accept the Kevin Moran Park Improvement Project as complete and authorize staff to record the Notice of Completion for the construction contract.
- b. Move to adopt Budget Resolution.
- c. Amend Construction Contract with B&B Landscape Contractors, Inc. in the amount of \$27,050.

Director Cherbone presented the staff report.

Mayor Page invited public comment.

No one requested to speak on this item.

Councilmember Miller noted he was appreciative of the great community park created by the Public Works Department.

RESOLUTION NO. 09-046

MILLER/HUNTER MOVED TO **a.) ACCEPT THE KEVIN MORAN PARK IMPROVEMENT PROJECT AS COMPLETE AND AUTHORIZE STAFF TO RECORD THE NOTICE OF COMPLETION FOR THE CONSTRUCTION CONTRACT; b.) TO ADOPT BUDGET RESOLUTION; c.) AMEND CONSTRUCTION CONTRACT WITH B&B LANDSCAPE CONTRACTRS, INC. IN THE AMOUNT OF \$27,050.** MOTION PASSED 4-0-1 WITH KING ABSENT.

5. **COUNCIL BOOTH AT TASTE OF SARATOGA FINE ART AND WINE FESTIVAL**

STAFF RECOMMENDATION:

Accept report and approve funding for a City Council exhibitor space at the Chamber of Commerce's *Taste of Saratoga Fine Art and Wine Festival*.

Administrative Analyst Crystal Morrow presented the staff report.

Ms. Morrow noted this event is a great opportunity for the Council to showcase various City projects and for Council outreach.

Mayor Page invited public comment.

The following person requested to speak on this item.

Chris Oaks noted the City would not have to pay the fee to have a booth at the *Taste of Saratoga* event.

Councilmember Miller thanked the Chamber for their offer to waive the booth fee and moved to accept Ms. Oak's offer to waive the booth fee.

Mayor Page suggested a friendly amendment and suggested Council pay the booth fee considering the Chamber's financial issues.

Councilmember Miller accepted the friendly amendment to pay the fee.

MILLER/NAGPAL MOVED TO ACCEPT REPORT AND APPROVE FUNDING FOR A CITY COUNCIL EXHIBITOR SPACE AT THE CHAMBER OF COMMERCE'S TASTE OF SARATOGA FINE ART AND WINE FESTIVAL.
MOTION PASSED 4-0-1 WITH KING ABSENT.

Council inquired about a schedule for working the booth.

Ms. Morrow noted she would provide Council with a schedule for them to indicate which shift they would be available.

Mayor Page asked if there was any additional business.

City Manager Anderson reminded Council he will be on vacation for the next two weeks, August 7 through August 23, 2009.

Mayor Page noted he will ask Vice Mayor King to be Acting Mayor August 12 – 15, 2009 as he will be in San Diego.

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

MILLER/NAGPAL MOVED TO ADJOURN THE SPECIAL MEETING AT 5:45.
MOTION PASSED 4-0-1 WITH KING ABSENT.

Respectfully submitted,

Ann Sullivan, CMC
City Clerk