

MINUTES

SARATOGA CITY COUNCIL MEETING SEPTEMBER 16, 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 – Existing Litigation (1 case) Government Code Section 54956.9 (a):

Singer vs. Saratoga et al (Santa Clara County Superior Court Case No. 1-08-CV-113570)

CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation: Significant exposure to litigation pursuant to Government Code Section 54956.9 (b) (2 potential cases)

CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Gov't Code Section 54956.8): (2 cases)

Property: APN No. 503-48-014 and 517-32-001

Property: APN No. 389-29-008

MAYOR'S REPORT ON CLOSED SESSION

Mayor Page stated there was no reportable information

City Council held a Joint Meeting with members of the West Valley College Board of Trustees 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
John Cherbone, Public Works Director
John Livingstone, Community Development Director
Claudia Cauthorn, Interim Recreation Director

Kim Saxton-Heinrichs, Senior Recreation Supervisor
Crystal Morrow, Administrative Analyst
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 September 16, 2009, was properly posted on September 11, 2009.

ORAL COMMUNICATIONS

The following people requested to speak:

Sam McBane Mulford, Chair of Library Commission, thanked Barbara Powell for her support as staff liaison to the commission and Thomas Scott for completing the library maintenance checklist associated with the construction of the library. She expressed her gratitude that the Book Mobile from the Santa Clara County Library was taken to the *Taste of Saratoga*. She noted students have on-line homework help from 1:00 p.m. to 10:00 p.m. via Brain Fuse and that it is a free service. In addition, she noted the commission members completed a half day board and commission effectiveness training sponsored by California Association of Library Trustees and Commissioners.

Emily Lo thanked the council and staff for participating in the *Taste of Saratoga* event noting that it was a great success with more activity occurring later in the afternoon. She noted there would be a meeting next Tuesday regarding the evaluation of the *Taste of Saratoga* event and invited comments. In addition, she stated the City recently agreed to reimburse the Chamber of Commerce for CUP fees associated with their relocation if completed in 6 months and that the time frame expires Friday, September 18th. She stated the Chamber is currently under contractual negotiations, which is about 80% complete and will require approval from the Chamber Board. She asked council to consider extending the time frame until they can complete the negotiations. She also announced a new Chinese festival activity that would be a part of the October 3rd Lantern Walk, which is scheduled from 4 to 6 PM on Big Basin Way.

Councilmember Nagpal asked how much extra time the Chamber would need to complete the contract negotiations.

Ms. Lo replied about another week or two, however if this contract negotiation fails they would need additional time to search for a new site.

Councilmember Hunter asked if the Chamber is reaching out to schools regarding the Lantern Walk.

Ms. Lo noted they are doing that as well as reaching out to the Saratoga Library.

Citizen Ray stated there are more dead pine trees in the public right-of-way on Highway 9. He also noted there would be a meeting Thursday at 6:30 p.m. in the Quinlan Center in Cupertino regarding the Lehigh Cement Plant and invited people to attend it.

Kathleen Casey thanked Council and the Chamber for the *Taste of Saratoga* in the Village; she also stated she heard there is a meeting scheduled for 5:30 on September 22nd regarding the Buy and Save redevelopment plans and noted it should be on the City's website.

DIRECTION TO STAFF

Vice Mayor King inquired if the Chamber's request for additional time to complete contract negotiations should be agendized.

City Manager Dave Anderson stated it could be agendized on the next council agenda as a consent item.

Council directed staff to agendize this item on the October 7, 2009 meeting.

COMMUNICATIONS FROM BOARDS AND COMMISSIONS

Jack Lucas, President of the West Valley College Board of Trustees, (WVC) addressed the council regarding the 6:00 p.m. joint meeting noting they appreciate the ongoing great relationship with the city and the opportunity to sit down and discuss issues that involve both entities. He added they enjoy working with the city and look forward to possible partnerships with the city and the college.

DIRECTION TO STAFF

None

ANNOUNCEMENTS

Councilmember Hunter noted the Historical Foundation will be having a BBQ and silent auction at Garrod's Stable on September 27 starting at 4PM; tickets are \$40 for foundation members and \$50 for non-members. She invited everyone to attend and added one of the silent auction prizes would be lunch with Mayor Page.

CEREMONIAL ITEMS

1. RECOGNITION OF SARATOGA LITTLE LEAGUE TEAMS

STAFF RECOMMENDATION:

Present certificates.

Many members of the teams were unable to attend tonight's meeting; therefore the Mayor will present the certificates to the members at a later date.

2. COMMENDATION HONORING CITIZEN RAY DAVIS

STAFF RECOMMENDATION:

Present commendation.

Mayor Page read and presented the commendation to Citizen Ray Davis. Family members were present to share the recognition with him.

SPECIAL PRESENTATIONS

3. LAUNCH OF NEW CITY WEBSITE

STAFF RECOMMENDATION:

Presentation only, no action is necessary.

Administrative Analyst Crystal Morrow provided a short presentation on the new Saratoga City Website.

Councilmembers provided Ms. Morrow with additional recommendations that would make it easier for the general public to browse the new website.

Council thanked everyone that participated in this project.

CONSENT CALENDAR

4. CITY COUNCIL MINUTES – SEPTEMBER 2, 2009

STAFF RECOMMENDATION:

Approve minutes.

KING/NAGPAL MOVED TO **APPROVE CITY COUNCIL MINUTES – SEPTEMBER 2, 2009.** MOTION PASSED 5-0-0.

5. TREASURER’S REPORT FOR THE MONTH ENDED JUNE 30, 2009

STAFF RECOMMENDATION:

That the City Council accepts Treasurer’s Report for the Month Ended June 30, 2009

KING/NAGPAL MOVED TO **ACCEPT TREASURER’S REPORT FOR THE MONTH ENDED JUNE 30, 2009.** MOTION PASSED 5-0-0.

6. REVIEW OF ACCOUNTS PAYABLE REGISTERS

STAFF RECOMMENDATION:

That the City Council accepts the Check Registers for Accounts Payable cycles:

August 27, 2009

September 03, 2009

KING/NAGPAL MOVED TO **ACCEPT CHECK REGISTERS FOR ACCOUNTS PAYABLE CYCLES; AUGUST 27, 2009 AND SEPTEMBER 03, 2009.** MOTION PASSED 5-0-0.

7. ADOPT ORDINANCE AMENDING VARIOUS SECTIONS OF THE CITY CODE PERTAINING TO LAND USE. THE AMENDMENTS WOULD CLARIFY EXISTING PROVISIONS REGARDING HEALTH AND SANITATION, SUBDIVISIONS, ZONING REGULATIONS, AND BUILDING

REGULATIONS AND WOULD ADOPT NEW PROVISIONS REQUIRING STORY POLES AND SETTING GREEN BUILDING STANDARDS.

STAFF RECOMMENDATION:

Waive the second reading and adopt the proposed ordinance.

Citizen Meg Giberson removed this item for comments and provided a handout.

ORDINANCE NO. 272

HUNTER/KING MOVED TO **ADOPT ORDINANCE AMENDING VARIOUS SECTIONS OF THE CITY CODE PERTAINING TO LAND USE AND CLARIFYING EXISTING PROVISIONS REGARDING HEALTH AND SANITATION, SUBDIVISIONS, ZONING REGULATIONS, AND BUILDING REGULATIONS AND ADOPTING NEW PROVISIONS REQUIRING STORY POLES AND SETTING GREEN BUILDING STANDARDS.** MOTION PASSED 5-0-0.

8. SARATOGA AVENUE OVERLAY AND REHABILITATION PROJECT ESPL-5332(014) – AWARD OF CONSTRUCTION CONTRACT.

STAFF RECOMMENDATION:

1. Move to declare O’ Grady Paving, Inc. of Mountain View to be the lowest responsible bidder on the project.
2. Move to award a construction contract to O’ Grady Paving, Inc. in the amount of \$701,767.50
3. Move to authorize staff to execute change orders to the contract up to \$50,000.

KING/NAGPAL MOVED TO **1) DECLARE O’GRADY PAVING, INC. OF MOUNTAIN VIEW TO BE THE LOWEST RESPONSIBLE BIDDER ON THE PROJECT; 2) AWARD A CONSTRUCTION CONTRACT TO O’GRADY PAVING, INC. IN THE AMOUNT OF \$701,767.50; 3) AUTHORIZE STAFF TO EXECUTE CHANGE ORDERS TO THE CONTRACT UP TO \$50,000.** MOTION PASSED 5-0-0.

9. ADOPTION OF ORDINANCE AMENDING THE ZONING REGULATIONS RELATED TO CITY CODE ARTICLE 15-65 (NON-CONFORMING USES AND STRUCTURES) AND CITY CODE SECTIONS 15-19.060, 15-12.090 AND 15-17.080

STAFF RECOMMENDATION:

Staff recommends the Council waive the Second Reading and adopt the Ordinance amending the Zoning Regulations related to City Code Article 15-65 (Non-Conforming Uses and Structures) and City Code Sections 15-19.060, 15-12.090 and 15-17.080.

ORDINANCE NO. 273

KING/NAGPAL MOVED TO WAIVE THE SECOND READING AND ADOPT THE ORDINANCE AMENDING THE ZONING REGULATIONS RELATED TO CITY CODE ARTICLE 15-65 (NON-CONFORMING USES AND STRUCTURES) AND CITY CODE SECTIONS 15-19.060, 15-12.090 AND 15-17.080. MOTION PASSED 5-0-0.

10. MOTOR VEHICLE (MV) RESOLUTION RESTRICTING U-TURNS ON FRUITVALE AVENUE

STAFF RECOMMENDATION:

Move to adopt MV Resolution restricting U-Turns on Fruitvale Avenue at the median opening in front of West Valley College.

Councilmember Miller removed this item for clarification.

MV RESOLUTION NO. 283

MILLER/KING MOVED TO ADOPT MV RESOLUTION RESTRICTING U-TURNS ON FRUITVALE AVENUE AT THE MEDIAN OPENING IN FRONT OF WEST VALLEY COLLEGE. MOTION PASSED 5-0-0.

11. DEDICATION OF WILDWOOD WAY UTILITY EASEMENTS

STAFF RECOMMENDATION:

Authorize dedication of utility easements on Wildwood Way to San Jose Water Company and West Valley Sanitation District.

KING/NAGPAL MOVED TO AUTHORIZE DEDICATION OF UTILITY EASEMENTS ON WILDWOOD WAY TO SAN JOSE WATER COMPANY AND WEST VALLEY SANITATION DISTRICT. MOTION PASSED 5-0-0.

PUBLIC HEARINGS

12. ZONING ORDINANCE AMENDMENT TO CREATE REGULATIONS FOR TOBACCO RETAILERS

STAFF RECOMMENDATION:

Conduct a public hearing regarding the attached ordinance establishing a use permit requirement for tobacco retailers, introduce and waive the first reading of the ordinance, and direct staff to place the ordinance on the consent calendar for adoption at the next regularly scheduled meeting of the City Council.

City Attorney Richard Taylor provided the staff report.

Attorney Taylor noted the Planning Commission recommended two changes to the tobacco use permit requirements that was submitted by the Council: 1) any tobacco retailer that is under 4,000 square feet should go through the Administrative Use Permit process; and 2) if specific location density findings for those uses and others cannot be made, such as being within 1,000 feet of a public park, allow the applicant to go before the Planning Commission.

Mayor Page opened the public hearing.

The following people requested to speak:

Victoria Bourdon, speaking on behalf of youth and the Santa Clara County Tobacco Free Coalition, stated she was supportive of the tobacco ordinance.

Lorna Sumaraga spoke in support of the proposed tobacco ordinance.

No one else requested to speak on this item.

Mayor Page closed the Public Hearing.

Council discussed the associated costs to the Community Development Department relative to this ordinance and recommended using the Council Discretionary Fund and not to exceed \$2,000.

MILLER/KING MOVED TO AUTHORIZE STAFF TO ALLOCATE FUNDING FROM COUNCIL DISCRETIONARY FUND NOT TO EXCEED \$2,000 TO COVER ASSOCIATED COSTS FOR EXISTING TOBACCO ESTABLISHMENTS TO OBTAIN AN ADMINISTRATIVE CONDITIONAL USE PERMIT AND TO REVISIT THESE DEPARTMENTAL COSTS AT THE COMMUNITY DEVELOPMENT AND RECREATION DEPARTMENT COST RECOVERY STUDY SESSION. MOTION PASSED 5-0-0.

NAGPAL/ MOVED TO PLACE THE ZONING ORDINANCE AMENDMENT TO CREATE REGULATIONS FOR TOBACCO RETAILERS ON THE OCTOBER 7, 2009 CONSENT CALENDAR FOR ADOPTION. MOTION PASSED 5-0-0.

Mayor Page declared a five minute break at 8:25 p.m.

Mayor Page reconvened the regular meeting at 8:30 p.m.

OLD BUSINESS

13. RECORDS MANAGEMENT PROGRAM: AUTHORIZATION TO PROCEED WITH DESTRUCTION OF CERTAIN CITY RECORDS

STAFF RECOMMENDATION:

Direct staff to proceed with the destruction of records listed in Exhibit A to Resolution 09-043 that was adopted by Council on July 15, 2009.

City Clerk Ann Sullivan presented the staff report.

Mayor Page invited public comment.

Kathleen Casey requested to speak on this item and spoke in opposition to the destruction of the records slated for destruction on Exhibit A to Resolution No. 09-043.

No one else requested to speak on this item.

Mayor Page closed the public comment.

MILLER/KING MOVED TO **IMPLEMENT A POLICY AUTHORIZING STAFF TO DESTROY RECORDS THIRTY (30) DAYS AFTER COUNCIL HAS AUTHORIZED THE RECORD DESTRUCTION BASED ON THE ADOPTED RECORDS RETENTION POLICY AND TO PROCEED WITH THE DESTRUCTION OF RECORDS LISTED IN EXHIBIT A TO RESOLUTION 09-043 THAT WAS ADOPTED BY COUNCIL ON JULY 15, 2009, THIRTY (30) DAYS AFTER TONIGHT'S MEETING.** MOTION PASSED 5-0-0.

14. REVISIONS TO RECORDS RETENTION POLICY

STAFF RECOMMENDATION:

Adopt Resolution amending City's Records Retention Schedule.

Records Management Intern Curtis Boone presented the staff report.

Mayor Page invited public comment.

Stan Bogosian spoke in support of scanning all documents and opposes a records retention/destruction program.

Kathleen Casey spoke in support of scanning all documents and opposes a records retention/destruction program.

No one else requested to speak on this item.

Mayor Page closed the public comment.

RESOLUTION NO. 09-051

MILLER/PAGE MOVED TO **ADOPT RESOLUTION AMENDING CITY'S RECORDS RETENTION SCHEDULE AS NOTED IN EXHIBIT A; AND TO TREAT "AUDIO RECORDINGS" AS A WORKING FILE TO CREATE OFFICIAL MINUTES AND TO BE DISCARDED AFTER THE OFFICIAL MINUTES HAVE BEEN APPROVED BY COUNCIL.** MOTION PASSED 4-1-0 WITH KING OPPOSING.

In the interest of accommodating members of the public Mayor Page moved to Item 17 at 9:50 P.M.

15. 2009 FALL ISSUE OF THE SARATOGAN

STAFF RECOMMENDATION:

Accept report and direct staff accordingly.

Administrative Analyst Crystal Morrow presented the staff report.

Mayor Page invited public comment.

No one requested to speak on this item.

Council provided recommendations for a theme and topics for the fall issue of *The Saratogan*.

NEW BUSINESS

16. ADVERTISING POLICY AND AD GUIDELINES WITH CONTRACT

STAFF RECOMMENDATION:

Approve Advertising Policy and Advertising Guidelines with Contract.

Senior Recreation Supervisor Kim Saxton-Heinrich presented the staff report.

Mayor Page invited public comment.

No one requested to speak on this item

MILLER/NAGPAL MOVED TO **APPROVE THE ADVERTISING POLICY AND ADVERTISING GUIDELINES WITH CONTRACT.** MOTION PASSED 5-0-0.

17. PREPARATION OF AN ORDINANCE ESTABLISHING THE CITY'S ABILITY TO ISSUE ADMINISTRATIVE CITATIONS FOR VIOLATIONS OF THE SARATOGA CITY CODE.

STAFF RECOMMENDATION:

Direct staff to prepare an ordinance comparable to the sample attached to this staff report that would establish the City's ability to issue administrative citations for violations of the Saratoga City Code.

Community Development Director John Livingstone presented the staff report.

Mayor Page invited public comment.

Adam Montgomery, representative of Silicon Valley Association of Realtors, spoke in opposition of assessed administrative fines prior to a hearing before the City's hearing officer.

No one else requested to speak on this item.

Mayor Page closed the public comment.

NAGPAL/KING MOVED THAT STAFF PREPARE AN ORDINANCE COMPARABLE TO THE SAMPLE PROVIDED IN THE STAFF REPORT THAT WOULD ESTABLISH THE CITY'S ABILITY TO ISSUE ADMINISTRATIVE CITATIONS FOR VIOLATIONS OF THE SARATOGA CODE. MOTION PASSED 4-1-0 WITH MILLER OPPOSING.

18. VILLAGE FACADE IMPROVEMENT PROGRAM AMENDMENTS

STAFF RECOMMENDATION:

Accept report and approve the proposed Village Facade Improvement Program amendments.

Administrative Analyst Crystal Morrow presented the staff report.

Mayor Page invited public comment.

No one requested to speak on this item.

Mayor Page closed the public comment.

Council concurred to remove the wording pertaining to the 'City building codes' from the first criteria item listed under the category of "Program Criteria" and the 'first priority item listed under "Funds are available on a first-come-first serve basis" in the "How to Apply" section; and that the Village Adhoc Committee create a "Mission Statement".

MILLER/KING MOVED TO APPROVE THE PROPOSED VILLAGE FACADE IMPROVEMENT PROGRAM AMENDMENTS WITH THE TWO ADDITIONAL ITEMS REMOVED FROM THE "PROGRAM CRITERIA" AND "HOW TO APPLY" SECTIONS; AND A "MISSION STATEMENT" TO BE CREATED BY THE VILLAGE ADHOC COMMITTEE. MOTION PASSED 5-0-0.

19. LANDSCAPE MAINTENANCE AND BEAUTIFICATION OF AREAS NOT SERVED BY THE CITY'S LANDSCAPING & LIGHTING ASSESSMENT DISTRICT - LLA-1

STAFF RECOMMENDATION:

Accept Report and provide direction to staff.

Public Works Director John Cherbone presented the staff report.

Mayor Page invited public comment.

No one requested to speak on this item.

Mayor Page closed the public comment.

Councilmembers volunteered to work with residents of neighborhoods not served by the City's Landscape and Lighting Assessment District (LLAD) and encourage those neighborhoods to participate in the LLAD program.

20. ACTION MINUTES FORMAT

STAFF RECOMMENDATION:

Adopt Resolution establishing "Action Minutes" format for compiling legislative minutes for Saratoga City Council and Planning Commission meetings, and establishing the video recordings of such meetings part of the official record.

Mayor page invited public comment.

No one requested to speak on this item.

Mayor Page closed the public comment.

RESOLUTION NO. 09-052

MILLER/HUNTER MOVED TO **ADOPT RESOLUTION ESTABLISHING "ACTION MINUTES" FORMAT FOR COMPILING LEGISLATIVE MINUTES FOR SARATOGA CITY COUNCIL AND PLANNING COMMISSION MEETINGS AND ESTABLISHING THE VIDEO RECORDINGS OF SUCH MEETINGS PART OF THE OFFICIAL RECORD; AND "DETAIL SUMMARY" FORMAT FOR STUDY SESSIONS.** MOTION PASSED 5-0-0.

ADHOC & AGENCY ASSIGNMENT REPORTS

Mayor Chuck Page – reported:

Valley Transportation Authority PAC – met recently and they discussed reductions in bus line service and that service would be discontinued on lines that have the least amount of ridership; however, they will continue to accommodate specific needs of West Valley College students.

Vice Mayor Kathleen King – reported:

SSC Cities Association Executive Board – she attended the last meeting and discussion took place regarding retirement benefits and whether or not there would be enough funding to meet this obligation, and if a reduction in employees would have to be considered; they also discussed a two-tier benefit approach and a motion was made that cities look into this concern and evaluate it going forward. In addition, they discussed a position-at-large opening for next year.

Councilmember Jill Hunter – reported:

Historical Foundation – a friend recently joined the Historical Foundation and enjoys reading the Newsletter. She noted fund raising activities have been profitable and the Foundation is planning to hire an executive director. She stated they are moving forward with park landscaping.

Santa Clara County Valley Water District Commission – noted we need to be aware of how much water we are using.

Councilmember Howard Miller – had nothing to report.

Councilmember Susie Nagpal – reported:

County HCD Policy Committee - she attended the housing meeting and they received approval of American Recovery Act money related to affordable housing.

CITY COUNCIL ITEMS

Vice Mayor King asked to agendaize a presentation by Circle Farms (an organic farm). Mayor Page seconded this request.

Councilmember Hunter would like the Saratoga community to pledge to be a more “green” community by planting 2,000 trees by 2015 (including the new trees that have already been planted) and asked to agendaize this.
Councilmember Nagpal seconded this request.

Councilmember Miller asked to agendaize Council priorities and work plans – including all the extra ordinance requests, in order to determine where we stand with costs associated to these requests and the city attorney’s budget.
Councilmember Nagpal seconded this request.

CITY MANAGER’S REPORT

Dave Anderson noted that Rebecca Elliott has asked to schedule a special meeting regarding the retirement benefits issue for the second or third Thursday in October.

ADJOURNMENT

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

MILLER/KING MOVED TO **ADJOURN THE REGULAR MEETING AT 11:50PM.**
MOTION PASSED 5-0-0.

Respectfully submitted:

Ann Sullivan, CMC
City Clerk