

MINUTES

SARATOGA CITY COUNCIL MEETING NOVEMBER 18, 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 – Exposure to Litigation: Significant exposure to litigation pursuant to Government Code Section 54956.9 (b) (1 potential case)

CONFERENCE WITH LEGAL COUNSEL – Threatened Litigation: Significant exposure to litigation pursuant to Government Code Section 54956.9 (b) (1 potential case)

MAYOR’S REPORT ON CLOSED SESSION

Mayor Page stated there was no reportable information.

City Council held a Joint Meeting with members of the Hakone Foundation 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 Dave Anderson, City Manager

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

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 18, 2009, was properly posted on November 12, 2009.

ORAL COMMUNICATIONS

The following people requested to speak:

Citizen Ray addressed the Council and thanked Mayor Page for the letter he sent to the Air Quality Board regarding the voiced concerns from the public about the pollution from the Cupertino Cement Plant.

Elaine Clabeaux invited the community to a Saratoga Lions Club holiday dinner dance on Friday, December 11, 2009 at the Fellowship Hall at North Campus from 6PM to 10PM.

Ann Walton Smith addressed the Council regarding the upcoming Manuel Romero Holiday Performance hosted by the Senior Center Board on Friday, December 18, 2009 from 6:30 to 8:30PM.

DIRECTION TO STAFF

None

COMMUNICATIONS FROM BOARDS AND COMMISSIONS

Lon Saavedra, Executive Director of Hakone Gardens presented a brief report on the 6:00 p.m. Joint Meeting with Council. He noted improvements were made recently to the Tea Garden and steps were added to one of the ponds. Mr. Saavedra added all Saratoga residents are invited to attend Hakone Gardens on the first Tuesday in January, April, July and October for free admission. He noted Hakone would be celebrating their second Lunar New Year Celebration on February 20, 2010 and on May 16, 2010 they will be celebrating their eleventh Annual Hakone Festival. Mr. Saavedra concluded by saying Hakone Gardens is open every day of the year, excluding Christmas Day and invited the public to visit their website at www.hakone.com.

DIRECTION TO STAFF

None

ANNOUNCEMENTS

Vice Mayor King reminded everyone of the Turkey Trot in downtown San Jose on the morning of Thanksgiving Day – Thursday, November 26th.

Councilmember Hunter added that Saratoga is the second medium sized city with points accumulation that will be participating in the Turkey Trot on Thanksgiving Day. She also reminded everyone of the annual Tree Lighting and Village Open House at 5:30 p.m. the day after Thanksgiving and encouraged everyone to attend.

Mayor Page noted that Jon Nakamatsu will be performing at Sacred Heart on Friday, November 19th at 7:30 p.m.

CEREMONIAL ITEMS

None

SPECIAL PRESENTATIONS

None

CONSENT CALENDAR

1. MINUTES – COST RECOVERY STUDY SESSION – OCTOBER 13, 2009

STAFF RECOMMENDATION:

Approve minutes.

MILLER/NAGPAL MOVED TO **APPROVE MINUTES – COST RECOVERY STUDY SESSION – OCTOBER 13, 2009.** MOTION PASSED 5-0-0.

2. CITY COUNCIL MEETING MINUTES – OCTOBER 21, 2009

STAFF RECOMMENDATION:

Approve minutes.

MILLER/NAGPAL MOVED TO **APPROVE MINUTES – CITY COUNCIL MEETING – OCTOBER 21, 2009.** MOTION PASSED 5-0-0.

3. MINUTES – SIEMENS ENERGY/WATER EFFICIENCY & BUDGET POLICIES REVIEW STUDY SESSION – OCTOBER 26, 2009

STAFF RECOMMENDATION:

Approve minutes.

MILLER/NAGPAL MOVED TO **APPROVE MINUTES – SIEMENS ENERGY/WATER EFFICIENCY & BUDGET POLICIES REVIEW STUDY SESSION.** MOTION PASSED 5-0-0.

4. CITY COUNCIL MINUTES – NOVEMBER 4, 2009

STAFF RECOMMENDATION:

Approve minutes.

Councilmember Hunter removed this item for clarification.

HUNTER/NAGPAL MOVED TO **APPROVE MINUTES – CITY COUNCIL MEETING – NOVEMBER 4, 2009.** MOTION PASSED 5-0-0.

5. REVIEW OF ACCOUNTS PAYABLE REGISTERS

STAFF RECOMMENDATION:

That the City Council accepts the Check Registers for Accounts Payable cycles:
October 29, 2009
November 05, 2009

MILLER/NAGPAL MOVED TO APPROVE CHECK REGISTERS FOR ACCOUNTS PAYABLE CYCLES: OCTOBER 29, 2009 AND NOVEMBER 05, 2009. MOTION PASSED 5-0-0.

6. **ON-GOING DESIGNATION OF CITY ENGINEER**

STAFF RECOMMENDATION:

Approve Resolution Confirming the On-going Designation Regarding the City Engineer

RESOLUTION NO. 09-059

MILLER/NAGPAL MOVED TO APPROVE RESOLUTION CONFIRMING THE ON-GOING DESIGNATION REGARDING THE CITY ENGINEER. MOTION PASSED 5-0-0.

7. **CITYWIDE SIGNAL UPGRADE PROJECT – AGREEMENT FOR PROFESSIONAL DESIGN SERVICES**

STAFF RECOMMENDATION:

1. Approve Independent Contractor Agreement with Mark Thomas & Company Inc.
2. Authorize the City Manager to execute the same.
3. Authorize the Public Works Director to issues change orders for up to 25% of the Agreement amount.

MILLER/NAGPAL MOVED TO 1) APPROVE INDEPENDENT CONTRACTOR AGREEMENT WITH MARK THOMAS & COMPANY, INC.; 2) AUTHORIZE THE CITY MANAGER TO EXECUTE THE SAME; 3) AUTHORIZE THE PUBLIC WORKS DIRECTOR TO ISSUE CHANGE ORDERS FOR UP TO 25% OF THE AGREEMENT AMOUNT. MOTION PASSED 5-0-0.

8. **COUNCIL LIAISON TO SARATOGA MINISTERIAL ASSOCIATION**

STAFF RECOMMENDATION:

Adopt the attached Resolution amending Resolution No. 08-082 appointing Council representatives to Committees, Agencies and AdHoc Committees to include a new agency – Saratoga Ministerial Association.

RESOLUTION NO. 09-060

MILLER/NAGPAL MOVED TO ADOPT RESOLUTION AMENDING RESOLUTION NO. 08-082 APPOINTING COUNCIL REPRESENTATIVES TO COMMITTEES, AGENCIES AND ADHOC COMMITTEES TO INCLUDE A NEW AGENCY – SARATOGA MINISTERIAL ASSOCIATION. MOTION PASSED 5-0-0.

PUBLIC HEARINGS

9. **APPEAL OF CONDITIONAL USE PERMIT APPLICATION NO. CUP 09-0004: 20398 BLAUER DRIVE, WHICH WAS DENIED BY THE PLANNING COMMISSION, TO OPERATE A NEW DAY CARE FACILITY IN THE PROFESSIONAL ADMINISTRATIVE ZONING DISTRICT.**

STAFF RECOMMENDATION:

Deny the appeal for a Conditional Use Permit, thus affirming the Planning Commission denial issued on October 14, 2009.

Assistant Planner Cynthia McCormick presented the staff report.

Mayor Page opened the public hearing.

Appellant Julia Hashemieh addressed the Council noting she was not present to speak on behalf of her project; instead she wanted to voice her concerns regarding the application process.

Mayor Page invited public comment.

The following people spoke in support of denial of appeal:

Douglas Sullivan
Margaret Towns
Lakhinder Walia
Gutta Jacobs
Lisa Traxler
Jan Stewart
Chris Hawks
Tina Walia

No one else requested to speak on this item.

Appellant Julia Hashemieh re-addressed the Council again on behalf of her Conditional Use Permit.

Mayor Page closed the public hearing.

RESOLUTION NO. 09-061

NAGPAL/MILLER MOVED TO **DENY THE APPEAL FOR A CONDITIONAL USE PERMIT, THUS AFFIRMING THE PLANNING COMMISSION DENIAL ISSUED ON OCTOBER 14, 2009.** MOTION PASSED 5-0-0.

OLD BUSINESS

10. **WEBSITE POLICY**

STAFF RECOMMENDATION:

Accept report and adopt resolution establishing a policy for the City of Saratoga website.

Crystal Morrow, Administrative Analyst II, presented the staff report.

Mayor Page invited public comment.

No one requested to speak on this item.

RESOLUTION NO. 09-062

MILLER/NAGPAL MOVED TO **ADOPT RESOLUTION ESTABLISHING A POLICY FOR THE CITY OF SARATOGA WEBSITE.** MOTION PASSED 5-0-0.

11. COMMISSION QUALIFICATIONS AND EXPIRING TERMS

STAFF RECOMMENDATION:

Accept the staff report and list of Commission qualifications and Commissioner terms that will be expiring in the next calendar year and provide staff with additional direction if needed.

City Clerk Ann Sullivan presented the staff report.

NAGPAL/MILLER MOVED TO **ACCEPT LIST OF COMMISSION QUALIFICATIONS AND COMMISSION TERMS THAT WILL BE EXPIRING IN THE NEXT CALENDAR YEAR WITH NO FURTHER DIRECTION TO STAFF.** MOTION PASSED 5-0-0.

NEW BUSINESS

12. URGENCY ORDINANCE FOR MEDICAL MARIJUANA DISPENSARIES

STAFF RECOMMENDATION:

Adopt the proposed interim urgency ordinance placing a 45 day moratorium on the establishment of medical marijuana dispensaries in order to provide the City of Saratoga with time to determine whether to adopt an ordinance regulating the location or operation of medical marijuana dispensaries.

John Livingstone, Community Development Director, presented the staff report.

Captain Terry Calderone, Santa Clara County Sheriff's Office Westside Substation, addressed the Council noting that other jurisdictions that have permitted medical marijuana dispensaries have encountered an increase in crimes such as loitering, illegal drug activity, burglaries, robberies and other criminal activity within and around dispensaries. He added Council should evaluate and develop rules and regulations that would be applicable prior to the implementation of any medical marijuana dispensary in the City of Saratoga.

Mayor Page invited public comment.

The following people requested to speak on this item:

Robert, from the City of Santa Cruz, spoke against medical marijuana dispensaries.

Nick Saltier noted he supported having a marijuana dispensary in Saratoga.

Jennifer Clark spoke in support of a medical marijuana dispensary in Saratoga.

Riley addressed the Council and asked about potential sites for medical marijuana dispensaries in Saratoga.

No one else requested to speak on this item.

Mayor Page closed the public comment period.

ORDINANCE NO. 275

MILLER/HUNTER MOVED TO **ADOPT THE PROPOSED INTERIM URGENCY ORDINANCE PLACING A 45-DAY MORITORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES IN ORDER TO PROVIDE THE CITY OF SARATOGA WITH TIME TO DETERMINE WHETHER TO ADOPT AN ORDINANCE REGULATING THE LOCATION OR OPERATION OF MEDICAL MARIJUANA DISPENSARIES.** MOTION PASSED 5-0-0.

Mayor Page called for a ten minute break at 8:50PM.

Mayor Page reconvened the meeting at 9PM.

13. REVIEW OF FACILITY RENTAL FEES AND CRITERIA FOR NON-PROFIT ORGANIZATIONS

STAFF RECOMMENDATION:

Review and comment on the existing Facility Rental policies and rental fees for non-profit group use.

Claudia Cauthorn, Interim Recreation and Facilities Director, presented the staff report.

City Manager Dave Anderson noted that last minute rental requests for off-peak space at a reduced rental fee should be revisited during the next fee schedule update.

Mayor Page invited public comment.

The following person requested to speak on this item:

Elaine Clabeaux addressed the Council noting that any non-profit group in Saratoga that wanted to rent a facility should be granted a reduced rental rate if the proceeds are going back into Saratoga.

No one else requested to speak on this item.

Mayor Page closed the public comment.

DIRECTION TO STAFF:

Council directed staff to bring back options for Council consideration to amend the current Facility Use Policy, specifically for non-profit uses, at a future City Council meeting.

14. PARKS AND RECREATION COMMISSION NORTH CAMPUS NAME RECOMMENDATIONS

STAFF RECOMMENDATION:

Accept report and select one of the names recommended by the Parks and Recreation Commission for the North Campus.

Crystal Morrow, Administrative Analyst II, presented the staff report.

Denise Goldberg, Chair of Parks and Recreation Commission, explained the process and criteria that was used for determining the final names that were provided to Council for consideration.

Mayor Page invited public comment.

No one requested to speak on this item.

Mayor Page closed the public comment.

In order to determine the new name of the property on Prospect Avenue, currently known as the “North Campus”, each Council member agreed to select their top two choices from the final list that was recommended by the Parks and Recreation Commission. The following choices were recommended by the Council:

Vice Mayor King:	Saratoga Grace Campus Grace Center of Saratoga (submitted name – not on the top five recommendations)
Councilmember Nagpal:	Saratoga Prospect Campus Saratoga North Community Center
Councilmember Miller:	Saratoga Prospect Campus Saratoga Grace Campus
Councilmember Hunter:	Saratoga Prospect Campus Saratoga North Community Center
Mayor Page:	Saratoga Prospect Campus

Saratoga Prospect Fellowship Center (not listed on submitted name list)

After considerable discussion, Council determined that “Saratoga Prospect Center” or “Saratoga Prospect Community Center” were potential names for the North Campus site.

Council also suggested renaming the “Fellowship Hall” and the “Administrative Building” at this site. Suggested names included “Friendship Hall” to replace Fellowship Hall and “The Grace Building” to replace the Administrative Building.

MILLER/NAGPAL MOVED TO DIRECT STAFF TO BRING THE PROPOSED NAMES BACK FOR COUNCIL APPROVAL AS A CONSENT ITEM ON THE NEXT SCHEDULED COUNCIL MEETING. MOTION PASSED 5-0-0

15. CALIFORNIAFIRST LETTER OF COMMITMENT

STAFF RECOMMENDATION:

Accept report and approve CaliforniaFIRST letter of commitment.

Crystal Morrow, Administrative Analyst II presented the staff report.

Mayor Page invited public comment.

No one requested to speak on this item.

Mayor Page closed the public comment period.

MILLER/NAGPAL MOVED TO APPROVE LETTER OF COMMITMENT FOR CALIFORNIAFIRST PROGRAM. MOTION PASSED 5-0-0.

16. ENERGY EFFICIENCY PROJECTS – FUNDING RESOLUTION

STAFF RECOMMENDATION:

1. Accept Report and provide direction to staff.
2. Approve Budget Resolution.

RESOLUTION NO. 09-063

John Cherbone, Public Works Director, presented the staff report.

Mayor Page invited public comment.

No one requested to speak on this item.

Mayor Page closed the public comment period.

RESOLUTION NO. 09-063

MILLER/KING MOVED TO APPROVE THE RESOLUTION AMENDING THE ANNUAL BUDGET FOR FISCAL YEAR 2009/10 TO PROVIDE

FUNDING FOR HIGH EFFICIENCY HVAC SYSTEM PROJECT AND CITY HALL SOLAR PROJECT. MOTION PASSED 5-0-0.

In addition, Council directed staff to create an Adhoc to work with City staff to implement the most cost efficient energy savings program for the project.

MILLER/KING MOVED TO **CREATE AN ADHOC COMMITTEE COMPRISED OF MAYOR PAGE AND COUNCILMEMBER MILLER TO WORK WITH STAFF TO DEFINE THE ENERGY EFFICIENT PLAN FOR CITY HALL.** MOTION PASSED 5-0-0.

ADHOC & AGENCY ASSIGNMENT REPORTS

Mayor Chuck Page – reported:

Valley Transportation Authority PAC – met – worked on the work plan; they are all in support of the light rail line extension going towards Los Gatos on Winchester Avenue. He added that section carries more passengers per mile than anywhere else on that light rail line. Also, costs for any future improvements (sidewalks, etc.) on the County's expressways (Lawrence Expressway, San Tomas, etc.) will be shared by cities and be required to pay a third of the cost.

West Valley Sanitation District – met earlier this evening. Saratoga project on Baylor Avenue was more costly than originally planned due to removing a sewer line that was embedded in cement.

Vice Mayor Kathleen King – reported:

West Valley Flood Control Zone & Watershed Advisory Committee – meets on Thursday.
SSC Cities Association Executive Board – reminded fellow Councilmembers to attend the holiday dinner on December 3rd.

SCC Cities Association – Joint Economic Development Policy Committee (JEDPC) – Ms. King noted Al Pinheiro was the LAFCO alternate and both he and Margaret Abe-Koga ran for the position on the LAFCO Board. There was a tie and Mr. Pinheiro conceded to Ms. Abe-Koga; the alternate position is still available. A representative from California Forward spoke at the last meeting and would be available to speak at a Saratoga Council meeting; they may be putting two initiatives on the 2010 ballot regarding the “budgeting” approach. Ms. King suggested having a California Forward representative speak at a future City Council meeting. Counties can apply for CDC grant monies worth \$363 million and only 40 grants will be available; the deadline for the county to apply is December 1, 2009. The grant money can only be used for specific programs – such as how to make your community more health oriented.

City School Ad-Hoc – there are some neighborhood concerns around Saratoga High School; POP Warner contract for Saratoga High School ends August 2010; Saratoga residents have expressed an interest in having KSAR video tape school board meetings. [City Manager Dave Anderson noted he would follow up with Superintendent Cary Matsuoka regarding videotaping school board meetings).

Councilmember Jill Hunter – reported:

Historical Foundation – attended the last meeting. She noted they are putting film on the windows of the Historical Museum and wanted to know if they needed to pay for this or

if the City would. [*Facilities Supervisor Thomas Scott indicated the Museum would be required to pay for the cost*]. Ms. Hunter asked if Museum staff should have personal liability insurance and it was recommended that anyone working at the Museum should obtain personal liability insurance.

Ms. Hunter noted she attended the Senior Citizen Housing meeting and learned that in the next twenty years citizens 65 years of age and older would be in the largest percentage of the population in Santa Clara County and that cities should be thinking “senior” when they plan parks and housing.

Councilmember Howard Miller – reported:

Chamber of Commerce – The Chamber has moved into their new office on Big Basin; plans are underway for the annual Crab Feed in February.

KSAR – conducted several projects with the grant funds that were provided by the City. They have expressed an interest in providing a presentation at a future City Council meeting to show how the students used the grant funds.

Santa Clara County Emergency Council – attended the last meeting and the topic of discussion revolved around the H1N1 flu and the availability of the vaccine. He noted people could go to the County Fair Grounds over the weekend to receive the vaccination. He noted the general severity of the H1N1 flu hasn’t been as bad as was previously predicted.

West Valley Solid Waste Joint Powers Association – Saratoga has the highest diversion rate of the membership, which is 65% and he encouraged everyone to continue their recycling efforts.

Councilmember Susie Nagpal – reported:

Ms. Nagpal thanked fellow Council members for attending committee and adhoc meetings in her place and asked them to convey to the committee members that she will be back soon.

CITY COUNCIL ITEMS

Councilmember Miller requested agendaizing KSAR on a future Council meeting so that they could give a short presentation on how the students used the grant funds provided by the City. Councilmember Hunter seconded the request.

CITY MANAGER’S REPORT

Dave Anderson reported he attended the Santa Clara County/City Manager’s Association meeting earlier today and Neelima Palacherla and her assistant addressed the members about the reinstated service reviews. He stated the service reviews would be starting up again after a five-year break and the first review would be the Fire Service Review. He added they appointed a South County representative to be the City Manager liaison on their Advisory Committee for Fire Service Review.

ADJOURNMENT

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

HUNTER/NAGPAL MOVED TO ADJOURN THE REGULAR CITY COUNCIL MEETING AT 10:45PM. MOTION PASSED 5-0-0.

Respectfully submitted,

Ann Sullivan, CMC
City Clerk