

**MINUTES
SARATOGA CITY COUNCIL
MARCH 16, 2005**

The City Council of the City of Saratoga held a Study Session to discuss Planning Commission issues in the Administrative Conference Room, 13777 Fruitvale Avenue, at 5:30 p.m.

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

ROLL CALL

PRESENT: Councilmembers Nick Streit, Ann Waltonsmith,
Vice Mayor Norman Kline, Mayor Kathleen King
ABSENT: Councilmember Aileen Kao
ALSO Dave Anderson, City Manager
PRESENT: Richard Taylor, City Attorney
Lorie Tinfow, Assistant City Manager
Cathleen Boyer, City Clerk
John Livingstone, Interim Community Development Director
John Cherbone, Public Works Director

REPORT OF CITY CLERK ON POSTING OF AGENDA FOR MARCH 16, 2005

Cathleen Boyer, City Clerk, reported that pursuant to Government Code Section 54954.2, the agenda for the meeting of March 16, 2005 was properly posted on March 10, 2005.

ORAL COMMUNICATIONS ON NON-AGENDIZED ITEMS

None

COMMUNICATIONS FROM COMMISSIONS & PUBLIC

None

COUNCIL DIRECTION TO STAFF

None

ANNOUNCEMENTS

None

CEREMONIAL ITEMS

- 1A. **APPOINTMENT OF PLANNING COMMISSION MEMBERS AND OATH OF OFFICE**

STAFF RECOMMENDATION:

Adopt resolution and administer Oath of Office.

RESOLUTION: 05-014

WALTONSMITH/KLINE MOVED TO APPOINT MANNY CAPPELLO, JILL HUNTER, AND ROBERT KUNTZ TO THE PLANNING COMMISSION, EFFECTIVE APRIL 1, 2005. MOTION PASSED 4-0-1 WITH KAO ABSENT.

City Clerk Boyer administered the Oath of Office to the new Commissioners.

1B. PROCLAMATION DECLARING MARCH 20, 2005 “ASSYRIAN DAY”

STAFF RECOMMENDATION:

Acknowledge proclamation.

Mayor King acknowledged the proclamation.

1C. PROCLAMATION DECLARING MARCH 26, 2005 “GREEK INDEPENDENCE DAY”

STAFF RECOMMENDATION:

Acknowledge proclamation.

Mayor King acknowledged the proclamation.

1D. PROCLAMATION DECLARING APRIL 5, 2005 “TARTAN DAY”

STAFF RECOMMENDATION:

Acknowledge proclamation.

Mayor King acknowledged the proclamation.

SPECIAL PRESENTATIONS

**2. CARL GUARDINO, PRESIDENT AND CEO/SILICON VALLEY LEADERSHIP GROUP
SANTA CLARA COUNTY TRAFFIC RELIEF LEGISLATION – SB 680**

STAFF RECOMMENDATION:

Adopt resolution.

Carl Guardino, CEO of the Silicon Valley Leadership Group, (formerly known as the Silicon Valley Manufacturing Group) addressed the Council. Mr. Guardino requested the City’s support of the adoption of SB 680, the Santa Clara County Traffic Relief bill. This proposed bill would apply a \$5 vehicle registration surcharge for eight years and would generate \$280K in revenue for Saratoga. The generated funds would be applied to three local uses: one third for Saratoga transportation improvements, one third for a competitive pool of funds for multi-city use, and one third for Tier 1A County Expressway improvements.

RESOLUTION: 05-017

WALTONSMITH/KLINE MOVED TO **ADOPT RESOLUTION TO SUPPORT SB 680**. MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

CONSENT CALENDAR

3A. APPROVAL OF CITY COUNCIL MINUTES – JANUARY 19, 2005

STAFF RECOMMENDATION:

Approve minutes.

STREIT/WALTONSMITH MOVED TO **APPROVE CITY COUNCIL MINUTES FROM JANUARY 19, 2005**. MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

3B. APPROVAL OF CITY COUNCIL MINUTES – FEBRUARY 2, 2005

STAFF RECOMMENDATION:

Approve minutes.

STREIT/WALTONSMITH MOVED TO **APPROVE CITY COUNCIL MINUTES FROM FEBRUARY 2, 2005**. MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

3C. APPROVAL OF CITY COUNCIL MINUTES STUDY SESSION – MARCH 2, 2005

STAFF RECOMMENDATION:

Approve minutes.

STREIT/WALTONSMITH MOVED TO **APPROVE CITY COUNCIL MINUTES FROM STUDY SESSION-MARCH 2, 2005**. MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

3D. REVIEW OF CHECK REGISTER

STAFF RECOMMENDATION:

Accept check register.

STREIT/WALTONSMITH MOVED TO **ACCEPT CHECK REGISTER**. MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

3E. TREASURER’S REPORT FOR THE MONTH ENDED FEBRUARY 2005

STAFF RECOMMENDATION:

Accept and file report.

STREIT/WALTONSMITH MOVED TO **ACCEPT TREASURER’S REPORT FOR MONTH ENDED FEBRUARY 2005**. MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

3F. **CIVIC THEATER SOUND SYSTEM PROJECT – AWARD OF CONSTRUCTION CONTRACT**

STAFF RECOMMENDATION:

Award construction contract to Lloyd F. McKinney Associates, Inc. in the amount of \$37,936 and authorize City Manager to execute the same.

STREIT/WALTONSMITH MOVED TO AWARD CONSTRUCTION CONTRACT TO LLOYD F. MCKINNEY ASSOCIATES, INC. IN THE AMOUNT OF \$37,936 AND AUTHORIZE CITY MANAGER TO EXECUTE THE SAME. MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

PUBLIC HEARINGS

4. **FY 2005/2006 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING**

STAFF RECOMMENDATION:

Conduct the public hearing; adopt resolution.

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

Interim Director Livingstone explained the distribution of the FY 2005-2006, \$156K CDBG funds.

Council inquired whether or not the SHARP Program funds could be used for accessibility upgrades to public buildings – such as the McWilliams House.

City Manager Anderson clarified that these funds are only available for qualified low income home owners wishing to improve their homes – thereby improving the neighborhood. Mr. Anderson added the hearing process would allow suggestions for public buildings.

Mayor King opened the Public Hearing for comment.

The following person requested to speak on this item:

Genie Dee, Director of the Senior Center, expressed her appreciation for past funds and asked that Council consider sending a letter to Congress requesting the continuation of future funding.

No one else requested to speak on this item.

Mayor King closed the Public Hearing.

Councilmember Waltonsmith commented on the need to develop the McWilliams House; specifically to upgrade the bathrooms and to make the facility more accessible and rentable. She asked that Council consider using the \$23,810K from the SHARP Program for providing ADA access to the Historical building.

Councilmember Streit concurred with Councilmember Waltonsmith, adding that the \$23,810K should be moved into the “Historical Park” to include the McWilliams House and/or the Book-Go-Around. He concluded by saying that staff could bring a proposal back to Council regarding ADA access in that area.

RESOLUTION: 05-015

WALTONSMITH/STREIT MOVED TO ADOPT RESOLUTION AUTHORIZING STAFF TO SUBMIT CDBG GRANT FUNDING ALLOCATIONS FOR FY 2005/2006 TOTALING \$156,491 AS AMENDED; ALLOCATING \$23,810K FROM THE SHARP PROGRAM TO BE USED FOR ADA ACCESS TO THE HISTORICAL PARK AREA. MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

5. ORDINANCE AMENDING PROCEDURES FOR HIRING AND REMOVING DEPARTMENT DIRECTORS

STAFF RECOMMENDATION:

Open the public meeting; Introduce and waive first reading of the ordinance; Direct staff to place the second reading and adoption of the ordinance on the consent calendar for the next regular Council meeting.

Richard Taylor, City Attorney, presented the staff report.

City Attorney Taylor explained that earlier this year Council had approved a Memorandum of Understanding with the Saratoga Manager’s Organization (SMO), noting that there is a contradiction in the existing City Code regarding hiring and removing Department Managers. He noted one area of the Code states that Department Managers serve at the pleasure of the City Manager and another section of the Code states that Department Managers serve at the pleasure of the City Manager subject to Council’s confirmation of all hiring and firing decisions. In order to maintain the Manager’s status of at will employees as noted in the Employment Agreement, the City Code needs to be amended to remove the Council’s authority for the approval of those hiring and firing decisions; adding that this would be consistent with the standard form of City Manager government where Council sets policy and City Manager does hiring and firing and day-to-day administration of the City.

Councilmember Waltonsmith expressed concerns as to the procedure in the absence of the City Manager

City Attorney Taylor noted the Assistant City Manager serves as the Acting City Manager in the absence of the City Manager.

Councilmember Streit inquired about the process and recourse if the Council wasn’t in agreement with the hiring and firing decisions of the City Manager.

City Attorney Taylor responded that the Council hires and fires the City Manager and if Council feels the City Manager isn’t making responsible decisions regarding this matter it can be addressed in his/her annual employment review. He added,

since Council sets policy, Council could provide their input regarding hiring and firing policies.

Mayor King asked when this would become effective if Council approved this Ordinance amendment.

City Attorney Taylor noted it would become effective 30 days after the second reading, which would be held on the first Council meeting in April.

STREIT/KLINE MOVED TO WAIVE THE FIRST READING OF THE ORDINANCE AND DIRECTED STAFF TO PLACE THE SECOND READING AND ADOPTION OF THE ORDINANCE ON THE CONSENT CALENDAR FOR THE NEXT REGULAR COUNCIL MEETING.
MOTION PASSED 4-0-1 WITH COUNCILMEMBER KAO ABSENT.

OLD BUSINESS

6. SALE OF NORTH CAMPUS - PROCESS

STAFF RECOMMENDATION:

Accept report and direct staff accordingly.

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

Director Cherbone stated that at the February 16th City Council meeting, Council approved moving forward with the sale of the North Campus. Staff identified three options for the sale/development of the North Campus:

1. Sell property as is
2. Sell property as is with an approved Tentative Map
3. Sell property via individual lots by subdividing the land and constructing infrastructure improvements.

City Council chose option two. Director Cherbone stated that the North Campus was purchased in 2002 at a cost of \$4.5 million and at the same time it was appraised at \$6.3 million. It can be assumed that the property would sell for more than the purchase price. Staff recommended that the City perform as much work in-house as possible to control costs:

- The Public Works Department will act as the lead in the process and will utilize Engineering Staff and the City Surveyor to generate the Tentative Map.
- The Planning Department Staff and the City Attorney will work on the General Plan Amendment and Environmental Study.
- The City Traffic Engineer and City Geologist will prepare reports in their respective areas.
- The City Attorney will act as the selling agent and provide legal expertise regarding the sale.

Director Cherbone outlined the process and timeline. He stated the costs will not exceed \$100K, adding that most of it would be going towards environmental work.

Mayor King opened the Public Hearing for comment.

The following person requested to speak on this item:

Jack Mallory addressed the Council and asked that they delay plans to move ahead with the sale of the North Campus and allow the Citizen's Committee 90 days to raise funds to purchase the property for community use.

No one else requested to speak on this item.

Mayor King closed the Public Hearing.

Council discussed the costs involved if they delay moving forward with the process and grant the Citizen's Committee the 90 days to raise funds.

Council also asked if staff could continue to move forward with some of the in-house work in order to remain within the proposed timeline.

City Attorney Taylor noted staff would want to hold off on the appraisal until after the Tentative Map is prepared so that the appraiser would know exactly what the conditions would be on the development of the property. He added that it would be prudent to continue moving forward with the Environmental Study. Attorney Taylor noted the other option would be that the property be sold as is without the Tentative Map.

Mayor King inquired about funding for the various aspects of moving forward with the project.

Public Works Director John Cherbone noted that staff would be bringing a budget resolution to the next meeting for Council's consideration to fund the process.

DIRECTION TO STAFF:

Council directed Staff to continue moving forward with the process; allow the Citizen's Committee to continue with their fund raising efforts and the Committee must provide status updates to the Council for the next 30 to 45 days.

7. **COMMISSION ADHOC COMMITTEE RECOMMENDATION**

STAFF RECOMMENDATION:

Accept recommendation from AdHoc and provide direction to staff regarding resources allocated to support Commissions.

Lorie Tinfow, Assistant City Manager, presented the staff report.

Ms Tinfow noted that while it was understood that it was a large time commitment for staff to be part of the current Commissions, the Commission chairs voiced concerns about abandoning the commission structure due to budget concerns and asked to be allowed to provide input to the process.

Ms. Tinfow noted that Mayor King and Vice Mayor Kline offered to serve as an Adhoc Committee to collect input from the Commissions. She added that

subsequently, the Commission chairs met with staff and provided some plausible suggestions on how to reduce staff resources. Based on those suggestions and additional discussion, the Adhoc Committee came up with the recommendation that in order to maintain status quo for both the Planning Commission and Heritage Preservation Commission (HPC) – including changing the HPC’s focus to “policy” – they recommended:

- Changing the Finance Commission to meet on an Adhoc basic as needed and to focus only on policy areas as defined by Council;
- Public Safety Commission to be converted to “Traffic Safety Commission” – with a reduced scope; and
- Library Commission and the new Traffic Safety Commission to meet only five (5) times per year, i.e., every other month and cancelling the meetings during the summer months; and focusing only on policy issues as defined by Council or other responsibilities that Council would assign;
- Fund the Youth Commission as directed by Council at last week’s Study Session;
- Suspend for one (1) year, and evaluate resources the following year, the Arts Commission and Parks and Recreation Commission;
- Distribute meeting agendas electronically rather than via the U.S. Mail;
- Reduce the number of non-regulatory (Finance, Traffic and Library) commissioners by attrition from seven to five;
- Fix meeting start and end times;
- Assign responsibility for minutes preparation to a commissioner on the Finance, Public Safety and Library Commissions

Ms. Tinfow concluded by noting that Council could:

- Choose to maintain Commission support at current levels with finance reductions made at other levels next year;
- Adopt another configuration of supporting the Commissions; or
- Suspend all Commissions

Discussion took place regarding the possibility of suspending the Library Commission temporarily and relying on the Friends of the Library to provide recommendations as needed to the Council.

Vice Mayor Kline noted the functions of the Library Commission are quite different than the functions of the Friends of the Library, which is a revenue-generating entity, not a policy generating body; and there could be a number of legal issues if the City relied on the Friends of the Library for policy advice.

Councilmember Streit inquired about having the Library and Public Safety Commission meet quarterly rather than five (5) times a year in order to reduce staff time.

Mayor King responded that the Adhoc Committee felt that since the meetings are cancelled during the summer months it would be reasonable to meet every other month during the rest of the year.

Councilmember Streit noted that it seems like staff would be more impacted with meetings every other month versus quarterly.

Councilmember Waltonsmith noted she did not favor suspending the Arts Commission.

Mayor King opened the Public Hearing for comment.

The following people requested to speak on this item:

Lee Murray spoke in favor of retaining the Arts Commission and voiced his concerns regarding the “art wall” in the Library and who would provide art to the Library if the Arts Commission is no longer responsible for it.

Elaine Clabeaux spoke in favor of retaining the Parks and Recreation.

Ruth Gipstein spoke in favor of retaining the Library Commission.

Mayor King closed the Public Hearing.

Council discussed various options regarding the “art wall” in the Library and how it could be continued in the absence of the Arts Commission. Some suggestions were to have the Library Commission be responsible for the art or have members of the Art Commission volunteer to provide art for the “art wall”.

Assistant City Manager Lorie Tinfow asked that Council allow staff some time to determine what could be done about the “art wall”.

Councilmember Waltonsmith noted that if the Arts Commission is going to be suspended we may have to accept the reality that art may no longer be available for the “art wall”. She also raised the question as to trail management if there is no Trail Sub-committee, which is part of the Parks and Recreation Commission.

Public Works Director Cherbone noted that since the trails are pedestrian related, there may be a possibility that the Trails Committee could be a Sub-committee of the new Traffic Commission as a pedestrian oriented body that looks at pedestrian issues. The Trails Committee provides a great service to the City by providing input to City staff and they don’t require a lot of staff time. They are a Sub-committee of the Parks and Recreation Commission and they couldn’t be a stand-alone committee; they would have to be attached to a body that they report to.

City Attorney Taylor added that if a group of residents are providing the services that Director Cherbone just noted, it is not considered “policy” advice, it is basically considered as a group of people serving as volunteers, collecting information and providing it to staff.

DIRECTION TO STAFF:

Council directed Staff to: 1) suspend the Arts and Parks & Recreation Commissions for one year; 2) staff to report back to Council regarding the Art Wall in the Saratoga Library; 3) staff to look into the possibility of the Trails Sub-committee moving to the Public Safety Commission; 4) Public Safety and Library Commissions will meet 4 times a year; 5) Finance Commission will meet as needed; and 6) Planning Commission and Heritage Preservation Commission

(HPC) will remain status quo with HPC's focus on "policy".

Mayor King declared a 10 minute break at 10:30pm.

Mayor King reconvened the Regular meeting at 10:40pm.

8. **DOG OFF- LEASH HOURS**

STAFF RECOMMENDATION:

Accept report and direct staff accordingly.

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

Director Cherbone noted that Council could provide direction regarding Option 1 – 3 as listed:

Option 1: Off-leash Dog Hours

Via Permit whereby any Saratoga resident who wishes to utilize a City Park for off-leash activities would be allowed to do so, but first must obtain a permit from the City.

Option 2: Enclosed Off-Leash Area

Find an area that is suitable to enclose with a fence system that allows dog owners to freely run their animals.

Option 3: Continue Current Ordinance

This option would continue the status quo regarding off-leash dogs.

Tom Soukup, Chair of the AdHoc Off Leash Task Force, addressed the Council and noted that no single off-leash option was favored unanimously by the Adhoc Task Force.

Mayor King invited public comment.

Citizen Marjorie spoke in favor of a dog off-leash hour's Ordinance.

Elaine Clabeaux spoke in support of Option 2; however she recommended that Council retain the existing ordinance.

Margaret Metcalf spoke in support of having a 3 month trial period to see what the results would be regarding the off-leash fenced-in area.

Citizen Stan suggested Council allow the Parks and Recreation Commission and staff to work out a trial basis in order to collect data so that a reasonable decision can be made.

Mayor King closed the public comment.

COUNCIL CONSENSUS AND DIRECTION:

Council determined that the City did not have sufficient funding to consider any

dog off-leash hour's option, and directed staff to maintain the current leash ordinance.

9. **REDEVELOPMENT AGENCY FEASIBILITY STUDY DETERMINATION**

STAFF RECOMMENDATION:

Accept report prepared by Rosenow Spevak Group and the study's conclusion that a Redevelopment Agency is not a viable option for Saratoga.

Lorie Tinfow, Assistant City Manager, presented the staff report.

COUNCIL CONSENSUS AND DIRECTION:

Consensus by the City Council was to accept report prepared by Rosenow Spevak Group and the study's conclusion that a Redevelopment Agency is not a viable option for Saratoga and redirect the account balance back into the CIP.

NEW BUSINESS

10. **REQUEST FROM LIBRARY COMMISSION TO INSTALL A MONUMENT SIGN ON FRUITVALE AVENUE**

STAFF RECOMMENDATION:

Accept recommendation and adopt budget resolution.

Cathleen Boyer, City Clerk, presented the staff report.

City Clerk Boyer explained that a large wooden sign that read "Saratoga Library" was positioned in the orchard near the corner of Saratoga Avenue and Fruitvale Avenue prior to the orchard improvements implemented during the library construction activities. She noted that during a joint meeting with the City Council in 2004, the Friends of the Saratoga Libraries requested that a replacement sign similar to the one placed near the driveway entrance to the Saratoga Library be installed in roughly the same place as the previous one. The City Council directed the Friends of the Saratoga Libraries to take the request to the Library Commission. The Library Commission discussed the request and agreed to explore the options. A Library Signage Subcommittee was formed to work with the contractor who designed the existing sign at the Library.

In January 2005, the Subcommittee met with the City's orchard maintenance contractor, Matt Novakovich, who approved the location of the sign. The Heritage Preservation Commission also approved the location. At the February 23, 2005, Library Commission meeting, staff presented two sign options – one that included the City and County Library's logos and one without the logos. The Commission unanimously voted to support the sign option that included the logos. The cost of either option is \$8,500; this cost does not include installation.

Public Works Director John Cherbone indicated that his staff could install the sign.

Council discussed this item and concurred that the staff report did not provide sufficient data and financial information for them to make a knowledgeable

decision. Council also concurred that the Library Commission would need to absorb more of the financial responsibilities.

DIRECTION TO STAFF:

Council deferred this item to the next scheduled Council meeting and asked that staff provide a detailed financial spread sheet noting fund balance, projected maintenance costs, and where the funds are coming from to cover the cost of the Library sign.

ADHOC & AGENCY ASSIGNMENT REPORTS

Mayor Kathleen King – reported:

Santa Clara County Cities Association – the Association voted on several items: SCVWD legislation SB680 and AB211 legislation. *City Manager Dave Anderson explained AB211 – Radio Interoperability Project and noted that this bill would open up the Public Safety Communications market; whereby the vendors would utilize a more open system in order to integrate the different communications systems.*

Mayor King added that there is an Emergency Preparedness meeting scheduled for April 7th and asked if Vice Mayor Kline could attend in her place.

West Valley Mayors and Managers Association – there was discussion on annexation issues at the last meeting and they are hoping to have a LAFCO representative speak at the next scheduled meeting.

Vice Mayor Norman Kline – reported:

County Cities Association Legislative Task Force – he was unable to attend the meeting.

Library Joint Powers Association – the JPA discussed the ballot measure supporting a tax increase to fund additional library hours which would help keep the library open on Mondays.

Valley Transportation Authority PAC – there is a workshop April 1st and he will be giving a presentation on “How to Prioritize Measure A Funds”.

Village AdHoc – they are looking at Village improvements that would not be costly to the City – such as “parking”.

Design Review AdHoc – ongoing efforts to improve efficiency and consistency.

Councilmember Nick Streit – reported:

West Valley Solid Waste Joint Powers Association – they have a tentative agreement with Waste Management.

Councilmember Ann WaltonSmith – reported:

KSAR Community Access TV Board – they are experiencing funding issues and they are moving towards a non-profit status.

Saratoga Historic Foundation – Calendar items: Membership Meeting and Pot Luck on March 21, 6:30pm; Walking tours begin at Saratoga Museum on April 3; Spring Cleanup Day at the museum April 9; Saratoga Garden tours May 7.

Sister City Liaison – Potluck on March 18 at 6p.m. at the Senior Center.

CITY COUNCIL ITEMS

Mayor King noted there is a new shop in the Village – Bella Mia Bridal and a new Italian restaurant opening up and encouraged fellow Council members to visit these establishments and welcome them to the Village.

CITY MANAGER’S REPORT

None

There being no further business, Mayor King announced Council would proceed to the Administrative Conference Room for Closed Session.

ANNOUNCEMENT OF CLOSED SESSION ITEMS

Conference with Legal Counsel – Threatened Litigation: Significant exposure to litigation pursuant to Government Code section 54956.9(b): (1 potential case)

The Regular meeting adjourned at 11:20p.m. Council proceeded to the Administrative Conference Room for Closed Session.

Respectfully submitted for Cathleen Boyer,

Ann Sullivan, CMC
City Clerk