

## **MINUTES**

### **SARATOGA REGULAR CITY COUNCIL MEETING MAY 19, 2010**

The City Council held a Joint Meeting with the Los Gatos-Saratoga Union High School District and Saratoga Union Elementary District in the Administrative Conference Room at 5:30 p.m.

The City Council met in Closed Session in the Administrative Conference Room, 13777 Fruitvale Avenue, at 6:30 p.m.

#### **ANNOUNCEMENT OF CLOSED SESSION**

Conference with Legal Counsel – Existing Litigation: Government Code Section 54956.9 (a): (1 case) City of Saratoga v. PG&E et al., (Santa Clara County Superior Court Case No.1-08-CV-124267)

#### **MAYOR'S REPORT ON CLOSED SESSION**

Mayor King stated there was no reportable information from the Closed Session held prior to the Regular Council meeting.

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 Chuck Page, Howard Miller, Vice Mayor Jill Hunter and Mayor Kathleen King

**ABSENT:** Vacant (Susie Nagpal)

**ALSO** Dave Anderson, City Manager

**PRESENT:** 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  
Crystal Morrow, Administrative Analyst II

#### **REPORT OF CITY CLERK ON POSTING OF AGENDA**

Mayor Kathleen King reported that pursuant to Government Code Section 54954.2, the agenda for the meeting of May 19, 2010 was properly posted on May 13, 2010.

**COMMUNICATIONS FROM BOARDS AND COMMISSIONS**

Mayor King noted the representatives from the Los Gatos-Saratoga Union High School District and Saratoga Union Elementary District would provide a report of their 5:30 p.m. joint meeting with the City Council at a later meeting in June.

**COUNCIL DIRECTION TO STAFF**

None at this time.

**ORAL COMMUNICATIONS ON NON-AGENDIZED ITEMS**

None

**COUNCIL DIRECTION TO STAFF**

None

With the concurrence of the Council, Mayor King moved on to the Ceremonial Items.

After the Ceremonial Items was completed, Mayor King moved on to the Announcement section of the agenda.

**ANNOUNCEMENTS**

Vice Mayor Hunter noted the Memorial Service in memory of Susie Ngpal will be held on May 31<sup>st</sup> at Villa Montalvo from 4PM to 6PM.

Councilmember Page noted that due to limited parking at Villa Montalvo, a shuttle service would be available at West Valley College to Villa Montalvo. He added that a Blood Drive in honor of Councilmember Susie Nagpal was scheduled for June 8, 2010, from 12:00PM to 6:00PM at Saratoga Federated Church and appointments are required to donate blood. Appointments can be made online at [www.redcrossblood.org](http://www.redcrossblood.org) or by calling the American Red Cross at 1-800-GIVE-LIFE.

Councilmember Page also noted his wife's birthday was today and wished his wife a happy birthday.

Mayor King noted that City Councils from many of the Santa Clara County cities have been reaching out to the Saratoga community conveying their condolences to the family of Councilmember Susie Nagpal. In addition, many of the cities are asking for a moment of silence at their respective council meetings and/or sending letters of condolences.

**CEREMONIAL ITEMS**

1. **COMMENDATION HONORING DEBI SNYDER – SARATOGA AREA SENIOR COORDINATING COUNCIL (SASCC) EMPLOYEE**

**STAFF RECOMMENDATION:**

Read and present commendation.

Mayor King read and presented the commendation to Debbie Snyder.

**2. PROCLAMATION HONORING “NATIONAL FOSTER CARE – MONTH OF MAY 2010”**

**STAFF RECOMMENDATION:**

Read and present proclamation.

Mayor King read and presented the proclamation to Lisa Traxler, a Saratoga foster parent. Ms. Traxler was accompanied by her foster child, Jamie.

**SPECIAL PRESENTATIONS**

**3. VTA GOVERNANCE PRESENTATION**

**STAFF RECOMMENDATION:**

Listen to a short presentation by Chris Moylan, Vice Mayor, City of Sunnyvale, on Valley Transportation Authority (VTA) Governance.

Mayor King announced that Chris Moylan, Vice Mayor of the City of Sunnyvale, notified the City Clerk earlier on this day noting that he was cancelling his presentation.

Mayor King moved on to the Consent Calendar section on the agenda.

**CONSENT CALENDAR**

No one requested to speak on any items on the Consent Calendar.

**4. CITY COUNCIL MEETING MINUTES – MAY 5, 2010**

**STAFF RECOMMENDATION:**

Approve minutes.

PAGE/MILLER MOVED TO **APPROVE CITY COUNCIL MEETING MINUTES – MAY 5, 2010.** MOTION APPROVED 4-0-Vacant.

**5. REVIEW OF ACCOUNTS PAYABLE CHECK REGISTERS**

**STAFF RECOMMENDATION:**

That the City Council review and accept the Check Registers for the following Accounts Payable payment cycles:

April 29, 2010

May 06, 2010

PAGE/MILLER MOVED TO ACCEPT THE CHECK REGISTERS FOR THE FOLLOWING ACCOUNTS PAYABLE PAYMENT CYCLES: APRIL 29, 2010. MOTION PASSED 4-0-Vacant.

6. **ADOPTION OF ORDINANCE AMENDMENT TO CITY CODE ARTICLE 4-5 MASSAGE ESTABLISHMENTS AND MASSAGE PRACTITIONERS**

**STAFF RECOMMENDATION:**

Staff recommends the Council waive the Second Reading and adopt the Ordinance amending the Massage Establishments and Massage Practitioners Ordinance related to City Code Article 4-55.

**ORDINANCE NO. 278**

PAGE/MILLER MOVED TO WAIVE THE SECOND READING AND ADOPT THE ORDINANCE AMENDING THE MASSAGE ESTABLISHMENTS AND MASSAGE PRACTITIONERS ORDINANCE RELATED TO CITY CODE ARTICLE 4-55. MOTION PASSED 4-0-Vacant.

7. **ADOPTION OF ORDINANCE AMENDING THE ZONING REGULATIONS RELATED TO CITY CODE ARTICLE 15-47 -WATER EFFICIENT LANDSCAPE ORDINANCE**

**STAFF RECOMMENDATION:**

Waive the Second Reading and adopt the Ordinance amending the Zoning Regulations related to City Code Article 15-47 - Water Efficient Landscape Ordinance.

**ORDINANCE NO. 279**

PAGE/MILLER MOVED TO WAIVE THE SECOND READING AND ADOPT THE ORDINANCE AMENDING THE ZONING REGULATIONS RELATED TO CITY CODE ARTICLE 15-47 - WATER EFFICIENT LANDSCAPE ORDINANCE. MOTION PASSED 4-0-Vacant.

8. **HISTORICAL PARK LANDSCAPE IMPROVEMENT PROJECT – BUDGET AMENDMENT**

**STAFF RECOMMENDATION:**

Approve Budget Resolution.

**RESOLUTION NO. 10-024**

PAGE/MILLER MOVED TO APPROVE BUDGET RESOLUTION. MOTION PASSED 4-0-Vacant.

9. **CITYWIDE SIGNAL UPGRADE PROJECT PHASE I– AWARD OF CONSTRUCTION CONTRACT**

**STAFF RECOMMENDATION:**

1. Move to declare Guerra Construction of San Jose to be the lowest responsible bidder on the project
2. Move to award a construction contract to Guerra Construction in the amount of \$188,305 and authorize the City Manager to execute the same.
3. Move to authorize the staff to issues change orders to the contract up to \$23,000.

PAGE/MILLER MOVED TO 1.) **DECLARE GUERRA CONSTRUCTION OF SAN JOSE TO BE THE LOWEST RESPONSIBLE BIDDER ON THE PROJECT; 2.) MOVE TO AWARD A CONSTRUCTION CONTRACT TO GUERRA CONSTRUCTION IN THE AMOUNT OF \$188,305 AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE SAME; AND 3.) AUTHORIZE THE STAFF TO ISSUES CHANGE ORDERS TO THE CONTRACT UP TO \$23,000.** MOTION PASSED 4-0-Vacant.

Mayor King suggested moving to Item 14 at this time. Council concurred.

### **PUBLIC HEARINGS**

#### **10. FISCAL YEAR 2010/11 PROPOSED OPERATING & CAPITAL BUDGET PUBLIC HEARING**

##### **STAFF RECOMMENDATION:**

Conduct a public hearing on the proposed FY 2010/11 Operating & Capital Budget, and provide direction to staff for budget adoption on June 2, 2010.

Mary Furey, Administrative Services Director, presented the staff report.

Director Furey proceeded to provide a report on the proposed FY 2010/11 Operating Budget. She then continued to provide a report on the proposed Capital Improvements of the FY 2010/11 Budget and asked if Council had any specific questions regarding the proposed Capital Improvements.

At this time, Mayor King announced she would recuse herself from Council discussion on the Canyon View storm drain item due to the fact that she lived within 500 feet of that item. Mayor King stated she would turn this portion of the meeting over to Vice Mayor Hunter for this specific item. Mayor King left the Dias and chambers at 9:06 p.m.

Vice Mayor Hunter opened the public hearing for comment on the Canyon View Project in the Capital Improvement portion of the public hearing.

No one requested to speak on this item.

Vice Mayor Hunter closed the public hearing comment on this specific item.

MILLER/PAGE MOVED TO **APPROVE THE CANYON VIEW PROJECT ON THE PROPOSED FY 2010/11 OPERATING & CAPITAL BUDGET.** MOTION PASSED 3-0-1 WITH MAYOR KING RECUSED and Vacant.

Mayor King returned to the Dias to continue discussion on the remainder of the proposed FY 2010/11 Budget and Capital Improvements.

Mayor King opened the public hearing and invited public comment on the remainder of the budget public hearing.

The following people requested to speak on the remainder of the FY 2010/11 Budget and Capital Improvements:

Ann Waltonsmith addressed the Council regarding the financial difficulties facing the Saratoga Area Senior Citizens Council (SASCC) and asked Council to consider a challenge grant in the amount of \$50,000 to assist with SASCC's financial needs. She noted that SASCC has prepared a letter to send to all Saratoga households asking for monetary support to help sustain SASCC's programs, adding that any funds the Council could provide would be used to urge citizens to match the granted funds. She concluded by thanking Council for their consideration of this request.

Kathleen Casey requested to speak on this item.

City Manager Dave Anderson responded to Ms. Casey's comments regarding the purchase a Mid Peninsula parcel of land.

City Manager Dave Anderson responded to Ms. Casey's comments regarding Hakone Gardens.

No one else requested to speak on this item.

Mayor King closed the public comment period.

Councilmember Miller thanked the staff for all their voluntary reductions in salary and work hours in order to present a balanced budget to the Council and noted he would support the proposed budget.

Councilmember Page also thanked staff for their efforts to help present a balanced budget and noted he supported the proposed budget.

Vice Mayor Hunter thanked the staff for all their efforts and appreciates the personal cuts staff has taken in order to present a balanced budget and noted she supports the proposed budget.

Mayor King commended staff for all their voluntary reductions in hours and salary and noted she supports the proposed budget.

Mayor King also commented on the \$50,000 challenge grant request to support SASCC's programs and suggested that Council consider this request with the allocation of some funding from the undesignated funds in order to help SASCC raise additional funding through there challenge grant letter.

Vice Mayor Hunter stated that \$50,000 is a large monetary request and feels there should be a specific reason noted in the SASCC letter for what this money would be used for.

Councilmember Page also felt a tangible reason should be noted as to what the requested funds would be used for.

Councilmember Miller stated that he supported providing funding assistance to help SASCC maintain their services to the community; however, he felt that SASCC should provide a presentation at a future council meeting outlining their future plans in a more detailed manner.

Councilmember Page recommended allocating \$25,000 from Council's discretionary unallocated fund and another \$5,000 from other funds for a total of \$30,000.

**KING/MILLER MOVED TO SUPPORT A CHALLENGE GRANT OF \$30,000 ALLOCATING \$25,000 FROM THE CONTINGENCY FUND AND AN ADDITIONAL \$5,000 FROM UNDESIGNATED FUNDS FOR A TOTAL OF \$30,000 – A ONE DOLLAR FOR ONE DOLLAR CHALLENGE GRANT TO BE NOTED IN THE SASCC LETTER AND THAT THE LETTER BE WRITTEN IN A LARGER FONT.** MOTION PASSED 4-0-Vacant.

**COUNCIL DIRECTION:**

Staff should bring this item back for adoption at the next regular council meeting and agendize a presentation from SASCC at the July 21, 2010 Joint Meeting describing in more detail how the funds would be used.

**11. HEARING TO CONSIDER ADOPTION OF A RESOLUTION OF NECESSITY (EMINENT DOMAIN) FOR ACQUISITION OF AN ADDITIONAL EASEMENT IN PACIFIC GAS & ELECTRIC RIGHT OF WAY FOR JOE'S TRAIL AT SARATOGA DE ANZA**

**STAFF RECOMMENDATION:**

Adopt a Resolution of Necessity making the appropriate findings and authorizing an amendment to the complaint in eminent domain proceedings for Joe's Trail at Saratoga De Anza (the "Project") to acquire an Additional Easement necessary for the Project.

Heather Minner, attorney representing the City Attorney's Office of Shute, Mihaly, and Weinberger, presented the staff report.

Mayor King opened the public hearing for comment.

Kathleen Casey requested to speak on this item.

No one else requested to speak on this item.

Mayor King closed the public hearing comment period.

**RESOLUTION NO. 10-025**

PAGE/MILLER MOVED TO **ADOPT A RESOLUTION OF NECESSITY MAKING THE APPROPRIATE FINDINGS AND AUTHORIZING AN AMENDMENT TO THE COMPLAINT IN EMINENT DOMAIN PROCEEDINGS FOR JOE’S TRAIL AT SARATOGA DE ANZA (THE “PROJECT”) TO ACQUIRE AN ADDITIONAL EASEMENT NECESSARY FOR THE PROJECT.** MOTION PASSED 4-0-Vacant.

**OLD BUSINESS**

**12. CITY COUNCIL AND COMMISSIONS’ ELECTRONIC COMMUNICATIONS POLICY**

**STAFF RECOMMENDATION:**

Adopt a resolution establishing a City Council and Commissions’ Electronic Communications Policy.

Richard Taylor, City Attorney, presented the staff report.

Mayor King invited public comment.

Kathleen Casey requested to speak on this item.

No one else requested to comment on this item.

Mayor King closed the public comment.

**RESOLUTION NO. 10-026**

PAGE/MILLER MOVED TO **ADOPT RESOLUTION ESTABLISHING A CITY COUNCIL AND COMMISSIONS’ ELECTRONIC COMMUNICATIONS POLICY.** MOTION PASSED 4-0-Vacant.

**13. 2010 FALL ISSUE OF THE SARATOGAN**

**STAFF RECOMMENDATION:**

Accept report and direct staff accordingly.

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

Mayor King invited public comment.

No one requested to speak on this item.

**COUNCIL DIRECTION:**

Council provided suggestions for articles in the Fall Saratogan.

**NEW BUSINESS**

#### 14. REMEMBRANCE FOR COUNCILMEMBER SUSIE NAGPAL

##### **STAFF RECOMMENDATION:**

Accept report and direct staff accordingly.

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

Ms. Morrow noted that Mayor King and Vice Mayor Hunter proposed a memorial garden, in honor of Councilmember Nagpal, at the corner of Fruitvale and Allendale Avenue at the City Hall campus. She added that in the past, the City has planted memorial trees with a plaque to honor council members who have passed away.

Vice Mayor Hunter noted that Councilmember Nagpal was very supportive of the Village Gardeners and frequently commented on the fact that Mr. Nagpal loved gardening; therefore, she felt a floral garden around the *City of Saratoga* signage at the Fruitvale/Allendale intersection, along with a monument plaque, would be a great location to honor Councilmember Susie Nagpal.

Councilmember Miller noted he supported a memorial of planting both a tree and flowers in honor of Councilmember Susie Nagpal.

Mayor King invited public comment.

No one requested to speak on this item.

Mayor King closed the public comment period.

##### **COUNCIL DISCUSSION:**

Mayor King noted the possibility of a garden and bench memorial and suggested having a group of individuals to help plan the memorial.

Vice Mayor Hunter suggested having the community help plant the flowers in a specified memorial location or plant 1,000 daffodils bulbs throughout the community in the spring.

Councilmember Miller noted he would also like a tree planted in Councilmember Nagpal's honor so that a hundred years from now people could look at that tree and know that Susie Nagpal made a difference in this community.

Councilmember Page noted the suggestions were great ideas and felt that steps needed to be taken to assure long term maintenance of a garden. He supported planting a tree in Councilmember Nagpal's honor and suggested Council create an AdHoc Committee to work with Mr. Nagpal and city staff to begin the process.

##### **COUNCIL DIRECTION:**

Create an Adhoc Committee comprised of Vice Mayor Hunter and Councilmember Page to work with members of the Nagpal family. Those family members or family

friends that would like to work with the Adhoc Committee should contact the city clerk letting her know of their interest in working with the Adhoc Committee. Plans for the memorial would begin later in June or early July 2010.

At this time Council members and members on the Dias expressed their appreciation and remembrances of working with Councilmember Susie Nagpal.

Mayor King declared a break at 7:43 p.m.

Mayor King reconvened the meeting at 7:55 p.m. and proceeded to Item 15 on the agenda.

At this time Mayor King announced the Council would move to Item 10 – FISCAL YEAR 2010/11 PROPOSED OPERATING AND CAPITAL BUDGET PUBLIC HEARING on the agenda.

Mayor King then announced the Council would instead move to Item 15 – FILLING CITY COUNCIL VACANCY on the agenda and then return to the Proposed Operating and Capital Budget Public Hearing.

## 15. FILLING CITY COUNCIL VACANCY

### **STAFF RECOMMENDATION:**

Direct staff as to the Council's preferred course of action to fill the vacancy on the City Council.

Richard Taylor, City Attorney, presented the staff report.

City Attorney Richard Taylor noted that State law requires the City Council to act within 30 days of the vacancy occurring. He noted Council must decide by June 12, 2010, how they would like to fill this vacancy. He stated Council could fill the vacancy by appointment or by calling a special election and if Council chooses to call a Special Election, the election for this vacancy would be held at the same time as the Regular General Election in November of 2010. Attorney Richard Taylor added that the person appointed or elected to fill this vacancy would hold this office only for the remainder of Councilmember Nagpal's term, which ends in November 2012.

City Attorney Richard Taylor noted that if Council chooses to fill this vacancy by appointment, they should have discussion regarding how they would like to proceed with the application and interview process.

Mayor King invited public comment.

The following people requested to speak on this item:

Kathleen Casey addressed the Council and asked how this type of situation has been handled in the past and noted that if someone is appointed to fill this vacancy, it should be a previous Mayor or Councilmember.

Emma Wyckoff addressed the Council and stated she supported a special election to fill the vacated seat.

Ann Waltonsmith, previous Mayor and Councilmember, provided a brief report on the history of Councilmember Jim Shaw's passing while a member of the Saratoga Council and how she was appointed to fulfill his remaining term.

No one else requested to speak on this item.

Mayor King closed the public comment period.

**COUNCIL DISCUSSION:**

Vice Mayor Hunter noted she supports a special election to fill the vacancy.

Councilmember Page noted he supports an appointment to fill the vacancy.

Councilmember Miller noted he supports an appointment to fill the vacancy and added Council should agendaize the discussion of Mayoral rotation on a future agenda in order to address the rotation protocol under these conditions.

Mayor King noted she supports an appointment to fill the vacancy and added the interview and appointment process should be conducted in a public forum.

Mayor King called for a motion and a vote at this time.

PAGE/MILLER MOVED TO **FILL THE VACANT COUNCIL SEAT AS SOON AS POSSIBLE BY APPOINTMENT TO COMPLETE COUNCIL MEMBER NAGPAL'S TERM (THAT TERM RUNS UNTIL THE COUNCIL REORGANIZATION FOLLOWING THE NOVEMBER 2012 ELECTION.** MOTION PASSED 3-1-Vacant WITH VICE MAYOR HUNTER OPPOSING.

**DISCUSSION OF APPOINTMENT PROCESS:**

Council suggested a Study Session on Monday, May 24, 2010 at 5:00PM to discuss the interview and appointment process.

Council suggested Friday, June 4, 2010, 12:00 noon – application submittal deadline.

Council suggested Monday, June 7, 2010, at 6:00 p.m. to conduct interviews of applicants that have submitted applications and other required documents expressing an interest in being appointed to fill the unexpired term of Councilmember Susie Nagpal, which runs until the Council reorganization following the November 2012 election.

PAGE/MILLER MOVED TO **DIRECT STAFF TO IMPLEMENT THE PROPOSED DATES OF 1) STUDY SESSION ON MONDAY, MAY 24, 2010 AT 5PM; 2) FRIDAY, JUNE 4, 2010, 12:00 NOON – APPLICATION SUBMITTAL DEADLINE; AND 3) MONDAY, JUNE 7, 2010, INTERVIEW APPLICANTS INTERESTED IN BEING APPOINTED TO FILL UNEXPIRED TERM OF COUNCILMEMBER SUSIE NAGPAL.** MOTION PASSED 4-0-Vacant.

### **ADHOC & AGENCY ASSIGNMENT REPORTS**

Mayor Kathleen King – reported:

*SCC Cities Association Selection Committee* – she attended the last meeting and Bonnie Broderick spoke about the “no sugar” beverage program in County facilities; diet drinks are permitted. Ms. Broderick also noted that they did receive \$7 million in Federal funding that was available to fight obesity and/or tobacco use, and they will use these funds to help fight tobacco use and must come up with a plan quite quickly showing how the funds will be spent over the two-year period.

[Councilmember Miller suggested the City should apply for a \$50,000 grant to move forward with the adoption of the no smoking in parks ordinance]

Vice Mayor Jill Hunter – reported:

*Hakone Foundation Board* – meets next week.

*SASCC* – meets next week.

*Historical Foundation* – met last week and they had a great discussion about the Erie Canal. The Foundation has a newsletter that will be going out shortly.

Councilmember Howard Miller – reported:

*KSAR* – has approved their operating budget for the next Fiscal Year and are continuing to look at their capital budget with regard to a PEG fee, which comes from the cable company and AT&T; discussion continues on intern planning.

*Santa Clara County Cities Association Board* – has addressed their next Fiscal year’s budget and they discussed plans for addressing the excess reserves the Association has amassed in the last five years. The excess reserves isn’t large, however, they would like to adjust the rate structure downward and hold the rate constant for a period of time in order to use up the reserves.

*West Valley Solid Waste Joint Powers Authority* – adopted next Fiscal Year budget; implemented statutory rate increases and franchise rate increase; and they approved commercial food scrap recycling beginning January 1, 2011, with direction to the hauler to do extensive outreach to key businesses and to the chamber of commerce’s representing the cities being served.

*West Valley Transportation Authority PAC* – the State has authorized up to a \$10 tax per vehicle and the VTA PAC Board will decide if they want to move forward with a ballot measure to get it passed.

Councilmember Chuck Page – reported:

*Saratoga Ministerial Association* – asked that staff provide information regarding the location of the meetings.

*West Valley Sanitation District* – he attended the last meeting and discussion took place regarding a Prop 218 question regarding a minimal rate increase over a three year period; the District’s long time attorney has retired and a new attorney has been hired to represent the District.

### **CITY COUNCIL ITEMS**

None

**CITY MANAGER'S REPORT**

None

**ADJOURNMENT**

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

MILLER/PAGE MOVED TO **ADJOURN THE REGULAR MEETING AT 10:30PM.**  
MOTION PASSED 4-0-Vacant.

Respectfully submitted,

Ann Sullivan, CMC  
City Clerk