

MINUTES

SARATOGA REGULAR CITY COUNCIL MEETING JULY 21, 2010

The City Council met in Closed Session in the Administrative Conference Room, 13777 Fruitvale Avenue at 5:30 p.m.

ANNOUNCEMENT OF CLOSED SESSION

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

Property Described as APN #503-78-036 – Trail Easement

Agency negotiator: City Manager Dave Anderson and Public Works Director John Cherbone

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

Property Described as APN #503-48-014 and #517-32-001

Agency Negotiator: City Manager Dave Anderson and Public Works Director John Cherbone

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

CONFERENCE WITH LEGAL COUNSEL – Existing Litigation – Government Code Section 54956.9 (a): (1 Case)

City of Saratoga v. Sumit Dutta and Jaya Dutta, Santa Clara County Superior Court Case No. 1-10-CV-172734

MAYOR'S REPORT ON CLOSED SESSION

Mayor King announced that Council was unable to address all the items scheduled for Closed Session during the 5:30 to 6PM meeting and Closed Session would be continued in the Administrative Conference Room after the conclusion of the 7PM Regular Meeting.

Mayor King called the Regular City Council meeting to order at 7:10 p.m. and led the Pledge of Allegiance.

ROLL CALL

PRESENT: Councilmembers Manny Cappello, Chuck Page, Howard Miller,
Vice Mayor Jill Hunter and Mayor Kathleen King

ABSENT: None

ALSO PRESENT: Dave Anderson, City Manager
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

REPORT OF CITY CLERK ON POSTING OF AGENDA

City Clerk Ann Sullivan reported that pursuant to Government Code Section 54954.2, the agenda for the meeting of July 21, 2010 was properly posted on July 16, 2010.

COMMUNICATIONS FROM BOARDS AND COMMISSIONS

None

COUNCIL DIRECTION TO STAFF

None

ORAL COMMUNICATIONS ON NON-AGENDIZED ITEMS

The following people requested to speak at tonight’s meeting:

Laurel Perusa addressed the Council regarding the decline in retail shops in the Village and noted this decline has reached a critical point and needs to be addressed. She suggested Council establish a committee to find ways to resolve the decline in retail shops in the Village and find ways for them to succeed.

Keith Fox addressed the Council regarding a traffic safety study on Big Basin Way that was initiated by the Department of Transportation (DOT) about a year ago. He added that his neighbors recently learned of an enhancement project planned for Big Basin Way and expressed concerns that neither he, nor his neighbors were contacted about this project. In addition, he voiced a concern about the speeding problem of vehicles coming down the hill on Big Basin Way and asked Council to address this issue with traffic enforcement.

COUNCIL DIRECTION TO STAFF

Vice Mayor Hunter clarified that CalTrans is involved in a portion of the Big Basin Way project and suggested Mr. Fox contact Public Works Director John Cherbone for more information regarding the enhancement project on Big Basin Way in the Village.

City Manager Dave Anderson noted that Captain Calderone, Santa Clara County Sheriff’s Office – Westside Sub-station, is aware of the speeding and will address this issue as well as traffic enforcement.

ANNOUNCEMENTS

Councilmember Cappello reminded everyone that this weekend is the American Cancer Society “Relay for Life” at St. Andrews Church. He noted there were teams honoring Joan Pisani, Michael Taylor and Susie Nagpal. In addition, he invited everyone to the Classic Car Show being held in the Buy-N-Save parking lot in the Village.

Vice Mayor Hunter noted that on August 8th there is a “Breast Cancer Awareness” event at Wildwood Park, sponsored by one of her neighbors. She noted there will be a lot of fun things to do – including dancing to music from five different bands. She also noted the third Annual “Bollywood” event will be held on August 21st from 6Pm to 9PM on Big Basin Way.

Councilmember Page reminded everyone about the annual city-wide Garage Sale on Saturday, July 31.

CEREMONIAL ITEMS

1. APPOINTMENT OF ONE (1) PLANNING COMMISSIONER AND OATH OF OFFICE

STAFF RECOMMENDATION:

Adopt resolution appointing one new commissioner to the Planning Commission to fill the unexpired term of Manny Cappello and direct the City Clerk to administer Oath of Office to newly appointed commissioner.

RESOLUTION NO. 10-042

PAGE/MILLER MOVED TO **ADOPT RESOLUTION APPOINTING TINA WALIA TO THE PLANNING COMMISSION TO FILL UNEXPIRED TERM OF MANNY CAPPELLO.** MOTION PASSED 5-0-0.

City Clerk Ann Sullivan administered the Oath of Office to newly appointed Planning Commissioner, Tina Walia.

2. COMMENDATION HONORING DAVE ANDERSON, CITY MANAGER

STAFF RECOMMENDATION:

Read and present commendation.

SPECIAL PRESENTATIONS

Mayor King invited Nita Anderson, Dave’s wife, to join them on the stage for the presentation. A short video highlighting special events in Dave’s life over the past years was shown and that was followed by Mayor King reading and presenting the commendation honoring Dave Anderson for ten years of service as the Saratoga City Manager. Mr. Anderson thanked everyone for their support over the past ten years and acknowledged other city employees that were present and have ten or more years of service with the City.

At approximately 7:30 p.m. Mayor King announced there would be a fifteen minute recess and invited everyone into the theater lobby for a coffee and cake reception in honor of Dave Anderson.

Mayor King reconvened the meeting at 7:45 p.m. and suggested moving to Item 10 – Public Hearing on the 2010 Weed/Brush Abatement Program. Council concurred.

CONSENT CALENDAR

3. CITY COUNCIL STUDY SESSION MINUTES – JUNE 24, 2010

STAFF RECOMMENDATION:

Approve minutes.

Councilmember Page removed this item for correction and clarification.

Councilmember Page requested staff refine some wording in the minutes and offered to work with staff to clarify wording in the minutes. Council concurred with this recommendation and directed staff to bring the minutes back at the next scheduled Regular Council Meeting for Council approval.

4. CITY COUNCIL MEETING MINUTES – JULY 7, 2010

STAFF RECOMMENDATION:

Approve minutes.

MILLER/PAGE MOVED TO APPROVE CITY COUNCIL MEETING MINUTES – JULY 7, 2010. MOTION PASSED 5-0-0.

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:

June 30, 2010

July 01, 2010 (Period 12)

July 08, 2010 (Period 13 & Period 1)

MILLER/PAGE MOVED TO ACCEPT THE CHECK REGISTERS FOR THE FOLLOWING ACCOUNTS PAYABLE PAYMENT CYCLES; JUNE 30, 2010, JULY 01, 2010 (PERIOD 12) AND JULY 08, 2010 (PERIOD 13 AND PERIOD 1). MOTION PASSED 5-0-0.

6. RESOLUTION IN SUPPORT OF CONGRESSIONAL ACTION REGARDING PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAMS

STAFF RECOMMENDATION:

Accept report, approve the resolution in support of congressional action regarding PACE programs, and authorize the Mayor to sign a letter on behalf of the City Council in support of congressional action on PACE programs.

RESOLUTION NO. 10-043

MILLER/PAGE MOVED TO APPROVE RESOLUTION IN SUPPORT OF CONGRESSIONAL ACTION REGARDING PACE PROGRAMS, AND AUTHORIZE THE MAYOR TO SIGN A LETTER ON BEHALF OF THE CITY COUNCIL IN SUPPORT OF CONGRESSIONAL ACTION ON PACE PROGRAMS. MOTION PASSED 5-0-0.

7. RESOLUTION SUPPORTING PROPOSITION 21

STAFF RECOMMENDATION:

Accept report and decide whether or not to approve the attached resolution supporting Proposition 21, which would establish the State Parks and Wildlife Conservation Trust Fund.

Councilmember Page removed this item for clarification.

He stated he doesn't feel Council is ready to take a stand on this issue at this time and recommended continuing the item to a future Council meeting for additional discussion.

Vice Mayor Hunter indicated that this is an important issue and appreciates the fact that Saratoga may be one of the first cities supporting this issue.

Councilmember Miller stated that he may support this issue as an individual; however, as a councilmember he has a different opinion and would like to have the item continued so that staff can gather additional information.

Councilmember Cappello stated he was prepared to vote on the item this evening.

Mayor King stated that the Proposition is a good thing and will vote to support it.

The following person/s requested to speak on this item:

Ann WaltonsSmith addressed the Council in support of Proposition 21 and noted this issue may affect the City later on.

PAGE/MILLER MOVED TO DEFER ACTION ON THIS ITEM AT THIS TIME AND ADDRESS THIS ISSUE AFTER ADDITIONAL DATA BECOMES AVAILABLE. MOTION FAILED 2-3-0 WITH COUNCIL MEMBERS KING, HUNTER AND CAPPELLO OPPOSING.

RESOLUTION NO. 10-044

HUNTER/CAPPELLO MOVED TO **ADOPT RESOLUTION SUPPORTING PROPOSITION 21, WHICH WOULD ESTABLISH THE STATE PARKS AND WILDLIFE CONSERVATION TRUST FUND.** MOTION PASSED 3-1-1 WITH MILLER ABSTAINING AND PAGE OPPOSING.

8. RESOLUTION AMENDING COUNCIL AGENCY AND ADHOC COMMITTEE LIAISON ASSIGNMENTS

STAFF RECOMMENDATION:

Adopt resolution amending Resolution 10-038 appointing Council representatives to Committees, Agencies and Ad hoc Committees.

RESOLUTION NO. 10-045

MILLER/PAGE MOVED **TO ADOPT RESOLUTION AMENDING RESOLUTION 10-038 APPOINTING COUNCIL REPRESENTATIVES TO COMMITTEES, AGENCIES, AND ADHOC COMMITTEES.** MOTION PASSED 5-0-0.

9. **TRAIL EASEMENT RELOCATION - 21789 VILLA OAKS TRAIL**

STAFF RECOMMENDATION:

1. Accept Offer to Dedicate Trail Easement being partially relocated on the property known as 21789 Villa Oaks Lane (APN 503-78-036).
2. Approve summary vacation/abandonment of a portion of the existing trail easement on the same property.
3. Adopt Resolution Accepting Offer to Dedicate Trail Easement and Vacating Portion of Existing Trail Easement.

Councilmember Page removed this item for clarification regarding the trail's existence in the future.

City Attorney Richard Taylor noted that there is an encumbrance on the property that could interfere with the City's easement in the long term and since this is a replacement easement for an easement that already exists, he recommends that Council approve this with a modification to the Resolution stating that the vacation of the original easement not be recorded until the City receives evidence that the new easement has priority over all other interests in the affected land and that the City agree not to use the original easement as long as the new easement is available; which will allow the property owners the flexibility to address the encumbrances on their property and when this has been resolved, they can provide that resolution to the City and the existing easement will evaporate.

RESOLUTION NO. 10-046

PAGE/MILLER MOVED TO **1) ACCEPT OFFER TO DEDICATE TRAIL EASEMENT BEING PARTIALLY RELOCATED ON THE PROPERTY KNOWN AS 21789 VILLA OAKS LANE (APN 503-78-036) ; 2) APPROVE SUMMARY VACATION/ABANDONMENT OF A PORTION OF THE EXISTING TRAIL EASEMENT ON THE SAME PROPERTY; AND 3) ADOPT RESOLUTION ACCEPTING OFFER TO DEDICATE TRAIL EASEMENT AND VACATING PORTION OF EXISTING TRAIL EASEMENT WITH THE MODIFICATION TO THE RESOLUTION STATING THE VACATION OF THE ORIGINAL EASEMENT NOT BE RECORDED UNTIL THE CITY RECEIVES EVIDENCE THAT THE NEW EASEMENT HAS PRIORITY OVER ALL OTHER INTERESTS IN THE AFFECTED LAND AND THAT THE CITY AGREE NOT TO USE THE ORIGINAL EASEMENT AS LONG AS THE NEW EASEMENT IS AVAILABLE.** MOTION PASSED 5-0-0.

[Council moved on to New Business – Item 12.]

PUBLIC HEARINGS

10. CONFIRMATION OF REPORT AND ASSESSMENT OF 2010 WEED/BRUSH ABATEMENT PROGRAM

STAFF RECOMMENDATION:

Open public hearing, close public hearing, and adopt resolution confirming report and assessment of hazardous vegetation abatement charges.

City Clerk Ann Sullivan presented the staff report.

Ray Moreno, Santa Clara County Inspector, was present to answer questions presented by Council.

Mayor King opened the public hearing for comment.

No one requested to speak on this item.

RESOLUTION NO. 10-047

PAGE/CAPPELLO MOVED TO **ADOPT RESOLUTION CONFIRMING REPORT AND ASSESSMENT OF HAZARDOUS VEGETATION ABATEMENT CHARGES.** MOTION PASSED 5-0-0.

[Council moved on to Old Business – Item 11.]

OLD BUSINESS

11. PROPOSED BALLOT MEASURE TO LIMIT STRUCTURES IN ALL COMMERCIAL AND PROFESSIONAL AND ADMINISTRATIVE OFFICE ZONING DISTRICTS TO TWO STORIES.

STAFF RECOMMENDATION:

Staff recommends that the City Council:

1. Adopt the attached resolution placing a measure on the November 2, 2010 ballot to limit structures in all Commercial and Professional and Administrative Office zoning districts to two stories, specifying the ballot question for the measure, and directing that the full text of the measure be made available at City Hall and elsewhere but not be included in the voter information pamphlet;
2. Determine whether the City Council wishes to authorize one or more members of the City Council to file arguments for or against the proposed measure; and
3. Adopt the attached resolution transferring funds to support the election costs associated with the ballot measure.

City Attorney Richard Taylor presented the staff report. He noted that the Adhoc Committee – Council members Page and Miller, continued to have meetings with members of the Initiative Steering Committee after the original staff report and proposed ballot measure text was distributed to Council and to the public. He stated that as a result of those meetings, staff prepared a revised staff report and a revised

ballot measure, which was provided to the Council on the Dais and in the theater lobby for public viewing. He added the measure was discussed with the Planning Commission during the Public Hearing held at 6PM earlier in the evening and at the conclusion of that meeting, the Planning Commission recommended that Council place the measure on the November 2nd ballot by a vote of 4 in favor, 1 abstention, 1 opposed, and 1 absence.

He added there are three policy issues before the Council this evening, which are:

- Do you want to place the measure on the November ballot?
- If Council does place measure on ballot, do you want to direct that one or more council members prepare arguments in support or in opposition to the measure?
- Do you want to adopt a Resolution appropriating funds of \$50,000 to defray election expenses if measure is placed on the ballot?

City Attorney Taylor noted there are four changes to the measure that was originally made available to the Council and to the public, which are:

1. The measure was revised to clarify that nothing in the measure would make it difficult for people to have vehicular access to a basement in a multi-story building.
2. Clarification of wording that was in the first measure referencing “Saratoga Creek side of Big Basin Way”, will now reference that as “Northwest side of Big Basin Way”. One additional story that can go up to 42 inches above grade on the Northwest side of Big Basin Way.
3. A change was made clarifying the sentence in the Findings describing the change to story limits in the Village.
4. There were inaccurate cross references in the measure and these were corrected.

Mayor King invited public comment.

The following people requested to speak on this item:

Jackie Welch stated the ballot measure text should not reference the CH1 and CH2 districts and should instead specify the exact locations that are affected in Village.

Cheriel Jensen thanked everyone for their efforts and feels the measure will pass.

Adam Montgomery commended the Council for their efforts in working through this process and noted he doesn't support the measure.

Paul Hernandez thanked the Council for their efforts to keep Saratoga the way many citizens would like it to be – a small town environment.

Shirley Cancellieri stated she does not support the measure.

Jennifer Cauble urged everyone to be clear about what the initiative means, what are the proposed changes, and the ballot text should not reference CH1 or CH2 districts as most residents don't understand that language.

J.J. Salehieh thanked everyone for their hard work and hopes the citizens will exercise their right to vote.

Marcia Fariss noted the decision for Council this evening is whether or not to put the measure on the ballot and urged council to place it on the ballot.

Jeff Schwartz noted the two story limitation measure is only about returning to the two-story limit that existed six months ago. It will prevent high density / high rise buildings in commercial and professional zones, and has no impact on residential areas.

Gene Zambetti voiced a concern that noticing regarding the Two-Story Limit Public Hearing didn't include areas outside the City of Saratoga.

No one else requested to speak on this item.

Mayor King closed the public comment.

Motion regarding Staff Recommendation Number 1:

RESOLUTION NO. 10-048

MILLER/PAGE MOVED TO ADOPT RESOLUTION PLACING A MEASURE ON THE NOVEMBER 2, 2010 BALLOT TO: 1) SET A TWO-STORY LIMIT FOR ALL STRUCTURES IN THE PROFESSIONAL AND ADMINISTRATIVE OFFICE (PA) ZONING DISTRICT AND ALL COMMERCIAL ZONING DISTRICTS; 2) CREATE AN EXCEPTION FROM THE TWO-STORY LIMIT FOR THE EXISTING CH(RHD) ZONING DISTRICT AND PROPERTIES ON THE NORTHWEST SIDE OF BIG BASIN WAY WHERE BELOW GRADE STORIES MAY BE PERMITTED IF NO MORE THAN 42" ABOVE THE GRADE AT ANY POINT ON THE BUILDING FACADE ALONG BIG BASIN WAY; 3) PROVIDE THAT THE TWO-STORY LIMIT WILL APPLY TO ALL LANDS CURRENTLY IN THE PA AND C DISTRICTS EVEN IF THOSE LANDS ARE RE-ZONED IN THE FUTURE; 4) ADOPT A DEFINITION OF "STORY" TO APPLY IN ADMINISTERING THE TWO-STORY LIMIT IN THE PA AND C DISTRICTS (THE DEFINITION INCLUDES A PROVISION TO ENSURE THAT THE DEFINITION OF "STORY" DOES NOT PRECLUDE ACCESS TO UNDERGROUND PARKING; AND 5) REQUIRE VOTER APPROVAL FOR AMENDMENTS TO ANY OF THESE PROVISIONS THROUGH DECEMBER 31, 2039. MOTION PASSED 5-0-0.

Motion regarding Staff Recommendation Number 2:

PAGE/CAPPELLO MOVED THAT COUNCIL REMAIN NEUTRAL AND NOT FILE ARGUMENTS FOR OR AGAINST THE PROPOSED MEASURE. MOTION PASSED 5-0-0.

Motion regarding Staff Recommendation Number 3:

RESOLUTION NO. 10-049

MILLER/PAGE MOVED TO **AUTHORIZE STAFF TO TRANSFER \$50,000 FROM THE UNDESIGNATED FUNDS ACCOUNT TO SUPPORT THE ELECTION COSTS ASSOCIATED WITH THE BALLOT MEASURE AND DIRECTING THAT THE FULL TEXT OF THE MEASURE BE MADE AVAILABLE TO THE SARATOGA RESIDENTS VIA U.S. MAIL, AT THE CITY CLERK'S OFFICE WITHOUT CHARGE, THE CITY WEBSITE, THE SARATOGA LIBRARY; AND THAT ONLY A SUMMARY BE INCLUDED IN THE VOTER INFORMATION PAMPHLET.** MOTION PASSED 5-0-0.

Mayor King declared a five minute break at 10:30 p.m.

Mayor King reconvened the Regular Meeting at 10:40 p.m.

[Council moved to Consent Calendar – Items 3 through 9 after this item.]

NEW BUSINESS

12. CITY OF SARATOGA'S RESPONSE TO THE SANTA CLARA COUNTY'S (SCC) CIVIL GRAND JURY REPORT ON: "CITIES MUST REIN IN UNSUSTAINABLE EMPLOYEE COSTS"

STAFF RECOMMENDATION:

That the Council review and direct staff on the City of Saratoga's proposed response to the Santa Clara County Civil Grand Jury Report on "Cities Must Rein in Unsustainable Employee Costs".

Administrative Services Director Mary Furey presented the staff report.

Mayor King invited public comment.

No one requested to speak on this item.

Council directed staff to respond to the Santa Clara County Civil Grand Jury Report with the following changes:

FINDING NO. 1

Add bullet: With a statement that communicates there are many ways to ensure that our budget is balanced and we will look at all of them.

FINDING NO. 5.3

Add bullet: With a statement that communicates there are many ways to ensure that our budget is balanced and we will look at all of them.

PAGE/MILLER MOVED TO **DIRECT STAFF TO RESPOND TO THE SCC GRAND JURY REPORT WITH ONE AMENDMENT TO PROPOSED RESPONSE – ADD A THIRD BULLET TO ITEM 1 AND ITEM 3 THAT STATES "THERE ARE MANY WAYS TO ENSURE THAT OUR BUDGET IS BALANCED AND WE WILL LOOK AT ALL OF THEM".** MOTION PASSED 5-0-0.

13. DESIGNATION OF VOTING DELEGATE FOR LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE 2010

STAFF RECOMMENDATION:

Designate a voting delegate and alternate for the League's Annual Conference.

City Clerk Ann Sullivan presented the staff report.

MILLER/CAPPELLO MOVED TO **DESIGNATE COUNCILMEMBER CHUCK PAGE AS THE VOTING DELEGATE REPRESENTING THE CITY OF SARATOGA AT THE LEAGUE OF CALIFORNIA CITIES' CONFERENCE IN SEPTEMBER 2010.** MOTION PASSED 5-0-0.

ADHOC & AGENCY ASSIGNMENT REPORTS

Mayor Kathleen King – Had nothing to report.

Vice Mayor Jill Hunter – reported:

Historical Foundation – She attended the last meeting and noted members are applying for a permit to install a portable storage building in back of their property. Members of the Historical Foundation and Book-Go-Round are planning a special event sometime in October to celebrate their new Historic Park. City Arborist Kate Bear will be joining the group on Thursday to talk with members of the El Quito neighborhood.

Village AdHoc – Will be attending the August 4th meeting.

Councilmember Howard Miller – reported:

Highway 9 Adhoc – The next meeting will be towards the end of August.

Initiative Adhoc – the final report was provided to Council earlier this evening.

KSAR – Staff is examining station enhancement equipment with the possibility of expanding their broadcasting capability.

Councilmember Chuck Page – Had nothing to report.

Councilmember Manny Cappello – reported:

Chamber of Commerce – He attended the meeting last week. Annual Classic Car Show is on Saturday, July 31. They discussed plans for the two day Art and Wine Festival in September; some restaurant owners have voiced concerns about losing business during the hours that Big Basin Way will be closed off during the event. An agreement allowing access to parking districts and the restaurants via Oak Street to Third and Fourth Street has been reached and signed off by the various members.

CITY COUNCIL ITEMS

Councilmember Page asked to agendaize an item related to the creation of a Citizen Economic Development Committee. This committee could meet for a short period of time to come up with some development ideas for the Village.

Councilmember Miller seconded Councilmember Page's request and added the Chamber of Commerce should be instrumental as a member of this committee.

Mayor King concurred to schedule this item for the first meeting in October.

CITY MANAGER'S REPORT

City Manager Dave Anderson thanked everyone for the nice acknowledgement earlier this evening of his ten year anniversary with the City.

ADJOURNMENT

Mayor King announced there was no additional business for the Regular Meeting and stated Council, City Attorney Richard Taylor, and City Manager Dave Anderson would be proceeding to the Administrative Conference Room immediately after this meeting to discuss the remaining Closed Session items.

PAGE/HUNTER MOVED TO **ADJOURN THE REGULAR MEETING AT 11:35PM AND TO PROCEED TO THE ADMINISTRATIVE CONFERENCE ROOM TO CONTINUE DISCUSSION OF CLOSED SESSION ITEMS.** MOTION PASSED 5-0-0.

Respectfully submitted,

Ann Sullivan, CMC
City Clerk