

**MINUTES**  
**WEDNESDAY, NOVEMBER 5, 2014**  
**SARATOGA CITY COUNCIL SPECIAL MEETING**

At 6:00 p.m., the City Council held a Joint Meeting with the West Valley-Mission Community College District Board of Trustees in the Administrative Conference Room at City Hall at 13777 Fruitvale Avenue.

**SARATOGA CITY COUNCIL REGULAR MEETING**

Mayor Lo called the Regular Meeting to order at 7:05 p.m. in the Civic Theater at 13777 Fruitvale Avenue and led the Pledge of Allegiance.

**ROLL CALL**

PRESENT Mayor Emily Lo, Vice Mayor Howard Miller, Council Members  
Manny Cappello, Chuck Page, Jill Hunter

ABSENT: None

ALSO PRESENT: James Lindsay, City Manager  
Richard Taylor, City Attorney  
Crystal Bothelio, City Clerk  
John Cherbone, Public Works Director  
Mary Furey, Finance & Administrative Services Director  
Michael Taylor, Recreation and Facilities Director  
Brian Babcock, Administrative Analyst I  
Christopher Riordan, Senior Planner  
Cynthia McCormick, Planner  
Michael Fossati, Planner  
Mainini Cabute, Management Analyst II  
Iveta Harvancik, Senior Civil Engineer

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

City Clerk Crystal Bothelio reported that the agenda for this meeting was properly posted on October 31, 2014.

**COMMUNICATIONS FROM COMMISSIONS & PUBLIC**

**Oral Communications on Non-Agendized Items**

Ann Waltonsmith, President of the Hakone Board of Directors, provided a report on the Saratoga Sister City trip to Japan. She shared a copy of a speech, which she delivered as the City's representative.

Mayor Lo thanked Ann Waltonsmith for representing the City of Saratoga during the trip.

Peggy Lynne addressed the City Council about the current status of Hakone Garden's audit and requested that no City funds be allocated to Hakone until the City Council has reviewed the audit.

Dorothy Marian spoke about noise generated from events at Hakone Gardens, commented that noise regulations for the Garden have not been followed, and shared her opinion that Hakone does not have the infrastructure for an event center.

### **Oral Communications - Council Direction to Staff**

None

### **Communications from Boards and Commissions**

Jack Lucas, President of the West Valley-Mission Community College District Board of Trustees, provided an overview of the Council's Joint Meeting with the Board of Trustees and thanked the City Council for hosting the annual meeting.

### **Council Direction to Staff**

None

### **ANNOUNCEMENTS**

Council Member Page congratulated Emily Lo, Mary-Lynne Bernald, and Rishi Kumar on their election to the City Council.

Council Member Hunter announced the Holiday Tree Lighting and Wine Stroll on November 28, 2014 at 5:30 p.m. in Big Basin Way. The event will include lots of fun activities, including horse-drawn carriage rides, extended shopping hours, and caroling.

### **CEREMONIAL ITEMS**

1. Commendation Recognizing the 50th Anniversary of West Valley College

**Recommended action:**

Read and present commendation recognizing the 50th Anniversary of West Valley College to the Chancellor, President, and Board of Trustees.

Mayor Lo presented the commendation to West Valley College President Brad Davis.

2. Proclamation Declaring November as Pancreatic Cancer Awareness Month

**Recommended action:**

Read and present proclamation declaring November 2014 as Pancreatic Cancer Awareness Month in the City of Saratoga.

Mayor Lo presented the proclamation to representatives of the Pancreatic Cancer Awareness Network.

### **SPECIAL PRESENTATIONS**

3. Presentation from Valley Transit Authority on Status of State Route 85 Express Lane Project

**Recommended action:**

Receive presentation from representatives of the Santa Clara Valley Transit Authority (VTA) on the current status of the State Route 85 Express Lane Project.

John Ristow, Valley Transportation Authority Director of Planning and Program Development, delivered the presentation to the City Council.

Mayor Lo invited public comment on the item.

The following people requested to speak:

Jeff Schwartz

Mary Robertson

Milton Wheeler

Jim Sutton

Lee Pennington

Donna Poppenhagen

Pierre LaForge

Paul Krug

No one else requested to speak.

Vice Mayor Miller and Council Member Page requested information about the difference in methodology for the City's noise analysis and the VTA noise study.

John Ristow indicated he would have to provide that information in the future.

#### **CONSENT CALENDAR**

4. City Council Meeting Minutes

**Recommended action:**

Approve the City Council minutes for the Special and Regular City Council Meeting on October 15, 2014.

CAPPELLO/MILLER MOVED TO **APPROVE THE CITY COUNCIL MINUTES FOR THE SPECIAL AND REGULAR CITY COUNCIL MEETING ON OCTOBER 15, 2014. MOTION PASSED.** MOTION PASSED. AYES: LO, MILLER, CAPPELLO, PAGE, HUNTER. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

5. Review of Accounts Payable Check Registers

**Recommended action:**

Review and accept check registers for the following accounts payable payment cycles:

10/14/2014	Period 4
10/21/2014	Period 4
10/28/2014	Period 4

CAPPELLO/MILLER MOVED TO **ACCEPT CHECK REGISTERS FOR THE FOLLOWING ACCOUNTS PAYABLE PAYMENT CYCLES: 10/14/2014 PERIOD 4; 10/21/2014 PERIOD 4; AND 10/28/2014 PERIOD 4.** MOTION PASSED. AYES: LO, MILLER, CAPPELLO, PAGE, HUNTER. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

6. Second Reading of a Zoning Amendment to apply a Planned-Combined (P-C) Residential Zoning Designation to the Three Adjoining Parcels Located at 20400 Saratoga-Los Gatos Road (APN #s 517-10-015, 517-10-009, 517-10-034)

**Recommended action:**

Waive the second reading and adopt the attached ordinance to add the Planned-Combined Zoning District (P-C) to the three adjoining parcels at 20400 Saratoga-Los Gatos Road.

**ORDINANCE NO. 319**

CAPPELLO/MILLER MOVED TO **WAIVE THE SECOND READING AND ADOPT THE ATTACHED ORDINANCE TO ADD THE PLANNED-COMBINED ZONING DISTRICT (P-C) TO THE THREE ADJOINING PARCELS AT 20400 SARATOGA-LOS GATOS ROAD.** MOTION PASSED. AYES: LO, MILLER, CAPPELLO, PAGE, HUNTER. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

7. Second Reading Annual Code Update (Application ZOA14-0003)

**Recommended action:**

Waive the second reading and adopt the proposed ordinance.

Council Member Page removed the item from the Consent Calendar to request a change to the section of the ordinance on false alarm penalties.

City Manager James Lindsay indicated that staff included changes to the penalties for false alarms in City Council Agenda Item 14.

**ORDINANCE NO. 320**

PAGE/CAPPELLO MOVED TO **WAIVE THE SECOND READING AND ADOPT THE PROPOSED ORDINANCE.** MOTION PASSED. AYES: LO, MILLER, CAPPELLO, PAGE, HUNTER. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

8. Amendment to Agreement with West Valley College and West Valley Homeowners Association

**Recommended action:**

Authorize the City Manager to execute an amendment to the agreement to permit West Valley College to construct a permanent bathroom serving the West Valley College baseball field.

Vice Mayor Miller requested that this item be removed from the Consent Calendar. He expressed his support for the item.

Mayor Lo invited public comment on the item.

The following person requested to speak:

Jeff Schwartz

No one else requested to speak.

MILLER/CAPPELLO MOVED TO **AUTHORIZE THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE AGREEMENT TO PERMIT WEST VALLEY COLLEGE TO CONSTRUCT A PERMANENT BATHROOM SERVING THE WEST VALLEY COLLEGE BASEBALL FIELD.** MOTION PASSED. AYES: LO, MILLER, CAPPELLO, PAGE, HUNTER. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

9. Resolution Approving Application for Santa Clara Valley Water District Grant Funds

**Recommended action:**

Adopt resolution supporting The Safe, Clean Water and Natural Flood Protection Program Grant Application.

Council Member Hunter removed this item from the Consent Calendar to request additional information.

Public Works Director John Cherbone addressed questions from Council Member Hunter.

Mayor Lo invited public comment on the item.

No one requested to speak.

**RESOLUTION NO. 14-062**

HUNTER/CAPPELLO MOVED TO **ADOPT RESOLUTION SUPPORTING THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM GRANT APPLICATION.** MOTION PASSED. AYES: LO, MILLER, CAPPELLO, PAGE, HUNTER. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

10. Subdivision Improvement Agreement Extension – Saratoga Creek Drive

**Recommended action:**

1. Approve Amendment to the Subdivision Improvement Agreement between Warren A. Sturla and the City of Saratoga.
2. Authorize the City Manager to execute the Subdivision Improvement Agreement Amendment.

Council Member Hunter removed this item from the Consent Calendar to request additional information.

Public Works Director John Cherbone answered questions regarding the item.

HUNTER/PAGE MOVED TO: **1) APPROVE AMENDMENT TO THE SUBDIVISION IMPROVEMENT AGREEMENT BETWEEN WARREN A. STURLA AND THE CITY OF SARATOGA; AND 2) AUTHORIZE THE CITY MANAGER TO EXECUTE THE SUBDIVISION IMPROVEMENT AGREEMENT AMENDMENT.** MOTION PASSED. AYES: LO, MILLER, CAPPELLO, PAGE, HUNTER. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

11. Summary Vacation of Easement for Light and Air at 14835 Baranga Lane

**Recommended action:**

Move to adopt the resolution vacating the easement for Light and Air on Lot 4 of Tract 1206.

Council Member Page removed this item from the Consent Calendar to request corrections to setback in the memorandum attached to the report.

**RESOLUTION NO. 14-063**

PAGE/MILLER MOVED TO **ADOPT THE RESOLUTION VACATING THE EASEMENT FOR LIGHT AND AIR ON LOT 4 OF TRACT 1206 AND DIRECT STAFF TO CORRECT THE MEMORANDUM ATTACHED TO THE REPORT.** MOTION PASSED. AYES: LO, MILLER, CAPPELLO, PAGE, HUNTER. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

**PUBLIC HEARINGS**

12. Landscaping & Lighting Assessment District LLA-1 - Public Hearing for Proposition 218 Protest Election for the Annexation of a New Zone 37 (Covina) and Confirmation of Assessments for FY 15-16

**Recommended action:**

Move to adopt the Resolution Ordering the Improvements and Confirming the Diagram and Assessments for FY 15-16.

Public Works Director John Cherbone delivered the staff report on this item.

Mayor Lo invited public comment on the item.

The following person requested to speak:

Cathy Hartman

No one else requested to speak.

PAGE/MILLER MOVED TO **PROCEED TO ITEM 17 ON THE AGENDA.** MOTION PASSED. AYES: LO, MILLER, CAPPELLO, PAGE, HUNTER. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

The City Council continued to Item 17 – America in Bloom.

At 9:28 p.m., the City Council returned to Item 12.

Mayor Lo requested any additional public comments and ballots.

No one requested to speak.

Mayor Lo closed the public hearing.

Mayor Lo announced a short break.

The City Council returned to the item at 9:39 p.m. At that time, Mayor Lo indicated the Council would proceed to Item 13 while ballots were being counted.

At 12:08 a.m., the City Council returned to Item 12.

The City Clerk announced the vote on the assessment district: 72 votes in favor, 54 opposed, and 2 invalid.

#### **RESOLUTION NO. 14-064**

CAPPELLO/PAGE MOVED TO **ADOPT THE RESOLUTION ORDERING THE IMPROVEMENTS AND CONFIRMING THE DIAGRAM AND ASSESSMENTS FOR FY 15-16.** MOTION PASSED. AYES: LO, MILLER, CAPPELLO, PAGE, HUNTER. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

The City Council then heard Item 14.

#### 13. Appeal of Mixed-Use Projects at 14521 & 14523 Big Basin Way

##### **Recommended action:**

Conduct a public hearing and adopt a resolution denying the appeal.

Mayor Lo introduced the item and explained procedures for appeal hearings.

Michael Fossati, Planner, provided the staff report on the item.

Mayor Lo invited the appellant, Kwan Lee, to give opening remarks and explained that he would have 10 minutes to do so.

Mark Hudak, attorney for Kwan Lee, delivered opening remarks on the appellant's behalf.

Mayor Lo invited the applicant, Mitchell Cutler, to give opening remarks and noted he would have 10 minutes for his comments.

Mitchell Cutler, the applicant, provided his opening remarks.

Mayor Lo invited public comment on the item.

The following people requested to speak:

John Crawford spoke in favor of denying the appeal.

Tom Sloan

Paul Hernandez

Josh Weeks spoke in favor of denying the appeal.

Victoria Wildman spoke in favor of upholding the appeal.

John Reese spoke in favor of upholding the appeal.

Mayor Lo closed the public comment period and invited the applicant, Mitchell Cutler, to give closing remarks for up to 5 minutes.

Mitchell Cutler, the applicant, provided closing remarks.

Mayor Lo invited the appellant, Kwan Lee, to give closing remarks for up to 5 minutes.

Mark Hudak, attorney for Kwan Lee, gave closing remarks on behalf of Kwan Lee.

Mayor Lo closed the public hearing.

**RESOLUTION NO. 14-065**

CAPPELLO/HUNTER MOVED TO **ADOPT A RESOLUTION DENYING THE APPEAL**. MOTION PASSED. AYES: LO, MILLER, CAPPELLO, PAGE, HUNTER. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

Mayor Lo announced a 5-minute break at 11:11 p.m.

The City Council returned from the break at 11:17 p.m. and moved on to Item 16.

14. Updates to Chapters 2, 4, and 6 of the City Code

**Recommended action:**

1. Conduct a public hearing.
2. Introduce and waive the first reading of the attached ordinance amending various sections of the City Code and direct staff to place the ordinance on the consent calendar for adoption at the next regular meeting of the City Council.

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

Richard Taylor, City Attorney, noted that the text of section 6-10.120 in the draft ordinance had been revised by the Annual Code Update adopted earlier in the evening and that this ordinance would be updated to include the correct text when presented to the Council for adoption.

Mayor Lo invited public comment on the item.

No one requested to speak.

Council Member Page requested that the section on false alarm penalties be revised to omit specific penalty amounts and instead provide that penalties for violations be set by resolution of the City Council.

Mayor Lo invited public comment on the item.

No one requested to speak.

PAGE/MILLER MOVED TO WAIVE THE FIRST READING OF THE ORDINANCE AMENDING VARIOUS SECTIONS OF THE CITY CODE, WITH THE REVISION TO THE SECTION ON FALSE ALARM PENALTIES TO INCLUDE UPDATES ADOPTED THROUGH ANNUAL CODE UPDATES (ORDINANCE NO. 320) AND REPLACING REFERENCES TO SPECIFIC PENALTY AMOUNTS FOR VIOLATIONS WITH REFERENCE TO PENALTY AMOUNTS SET BY RESOLUTION OF THE CITY COUNCIL, AND DIRECT STAFF TO PLACE THE ORDINANCE ON THE CONSENT CALENDAR FOR ADOPTION AT THE NEXT REGULAR MEETING OF THE CITY COUNCIL. MOTION PASSED. AYES: LO, MILLER, CAPPELLO, PAGE, HUNTER. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

15. Update to Article 7-20 Animals and Fowl

**Recommended action:**

Conduct public hearing; introduce and waive the first reading of the attached ordinance updating Article 7-20 Animals and Fowl; and direct staff to place the ordinance on the Consent Calendar for adoption at the next regular City Council meeting.

City Clerk Crystal Bothelio presented the staff report.

Mayor Lo invited public comment on the item.

No one requested to speak.

PAGE/MILLER MOVED TO WAIVE THE FIRST READING OF THE ORDINANCE UPDATING ARTICLE 7-20 ANIMALS AND FOWL AND DIRECT STAFF TO PLACE THE ORDINANCE ON THE CONSENT CALENDAR FOR ADOPTION AT THE NEXT REGULAR CITY COUNCIL MEETING. MOTION PASSED. AYES: LO, MILLER, CAPPELLO, PAGE, HUNTER. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

**OLD BUSINESS**

None

**NEW BUSINESS**

16. Hakone Estate and Gardens Master Plan Project Consultant Selection

**Recommended action:**

1. Select The Portico Group as the consultant for Hakone Estate and Gardens Master Plan Development Project.
2. Authorize City Manager to enter into a Professional Service Agreement with The Portico Group in the amount of \$268,650.
3. Authorize City Manager to execute change orders up to \$31,350 for additional work on the project as needed.

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

Mayor Lo invited public comment on the item.

The following people requested to speak:

Dorothy Marian

Peggy Lynne

Ann Waltonsmith, President of the Hakone Board of Directors

No one else requested to speak.

PAGE/CAPPELLO MOVED TO: **1) SELECT THE PORTICO GROUP AS THE CONSULTANT FOR HAKONE ESTATE AND GARDENS MASTER PLAN DEVELOPMENT PROJECT; 2) AUTHORIZE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICE AGREEMENT WITH THE PORTICO GROUP IN THE AMOUNT OF \$268,650; AND 3) AUTHORIZE CITY MANAGER TO EXECUTE CHANGE ORDERS UP TO \$31,350 FOR ADDITIONAL WORK ON THE PROJECT AS NEEDED.** MOTION PASSED. AYES: LO, MILLER, CAPPELLO, PAGE. NOES: HUNTER. ABSTAIN: NONE. ABSENT: NONE.

17. America in Bloom

**Recommended action:**

Receive report and direct staff accordingly.

Brian Babcock, Administrative Analyst I, presented the staff report.

Mayor Lo invited public comment on the item.

The following person requested to speak:

Paula Cappello

No one else requested to speak.

PAGE/CAPPELLO MOVED TO **ALLOCATE \$1,099 FROM COUNCIL DISCRETIONARY FUND TO PAY FOR THE CITY OF SARATOGA TO ENTER THE AMERICA IN BLOOM AWARDS CONTEST.**

Council Member Miller requested an amendment to direct staff to optimize the appearance of the City's parks to ensure that they are attractive when America in Bloom judges are in Saratoga.

Council Members Page and Cappello accepted the amendment.

PAGE/CAPPELLO MOVED TO **ALLOCATE \$1,099 FROM COUNCIL DISCRETIONARY FUND TO PAY FOR THE CITY OF SARATOGA TO ENTER THE AMERICA IN BLOOM AWARDS CONTEST AND FURTHER DIRECTED STAFF TO PREPARE PARKS TO BE IN PEAK APPEARANCE WHEN AMERICA IN BLOOM JUDGES VISIT THE CITY OF SARATOGA.**

MOTION PASSED. AYES: LO, MILLER, CAPPELLO, PAGE, HUNTER. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

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

Mayor Emily Lo

No report

Vice Mayor Howard Miller

No report

Council Member Manny Cappello

No report

Council Member Chuck Page

No report

Council Member Jill Hunter

No report

### **CITY COUNCIL ITEMS**

Council Member Page requested that the City Council consider including e-cigarettes in its regulations on sales of tobacco products and where use of tobacco products are permitted.

Vice Mayor Miller supported the request.

### **CITY MANAGER'S REPORT**

No report

### **ADJOURNMENT**

Mayor Lo adjourned the meeting at 12:31 a.m.

Minutes respectfully submitted:

Crystal Bothelio, City Clerk  
City of Saratoga