

MINUTES
WEDNESDAY, JULY 1, 2020
SARATOGA CITY COUNCIL REGULAR MEETING

The 5:00 p.m. Commission interviews were cancelled after the applicant withdrew their application.

At 5:30 p.m., the City Council held a virtual Closed Session via teleconferencing through Zoom.

At 6:45 p.m., Mayor Miller reported on Closed Session, announcing that there was nothing to report.

Mayor Miller called the virtual Regular Session to order at 7:03 p.m. via teleconferencing through Zoom.

Prior to Roll Call, the Mayor and City Clerk explained that the City Council meeting was conducted pursuant to provisions of the Brown Act and a recent Executive Order issued by the Governor to facilitate teleconferencing to reduce the risk of COVID-19 transmission at public meetings. Ordinarily the Brown Act sets strict rules for teleconferencing. The Governor's Executive Order has suspended those rules. The Executive Order does require that public agencies continue to notice meetings in advance and provide members of the public an opportunity to observe the meeting and offer public comment. The City Council met all of the applicable notice requirements and the public is welcome to participate in this meeting. Information on how the public can observe the meeting and provide public comment was also shared. Additionally, the Mayor explained that votes would be taken through roll call.

ROLL CALL

PRESENT: Mayor Howard A. Miller, Vice Mayor Mary-Lynne Bernald,
Council Members Manny Cappello, Yan Zhao, Rishi Kumar
(All Council Members appearing via teleconference)

ABSENT: None

ALSO PRESENT: James Lindsay, City Manager
Richard Taylor, City Attorney
Crystal Bothelio, Assistant City Manager
Debbie Bretschneider, City Clerk
Mary Fury, Administrative Services Director
John Cherbone, Public Works Director
Debbie Pedro, Community Development Director
Kayla Nakamoto, Administrative Analyst
Nicole Johnson, Senior Planner
Kate Bear, Senior Arborist
Victoria Banfield, Associate Planner
Mainini Cabute, Environmental Program Manager
(All staff members appearing via teleconference)

City Clerk Debbie Bretschneider confirmed all City Council members could hear the meeting proceedings and no doubts were expressed regarding the identities of the individuals representing themselves as City Council Members.

REPORT ON POSTING OF THE AGENDA

City Clerk Debbie Bretschneider reported that the agenda for this meeting was properly posted on June 26, 2020.

REPORT ON CLOSED SESSION

Mayor Miller reported on Closed Session, announcing that there was nothing to report.

ORAL COMMUNICATIONS ON NON-AGENDIZED ITEMS

Ana Jones spoke about racism in America.

Angela Ling spoke about community outreach for the General Plan update.

Lakhinda Walia requested reordering the agenda.

Jeffrey Schwartz questioned the legality of refunding the Mountain Winery for costs related to the annexation process and he requested reordering the agenda.

Ken Czworniak requested reordering the agenda and requested that all meetings be recorded.

ANNOUNCEMENTS

Mayor Miller shared information about the Governor's updates on COVID-19, the reopening of Saratoga High School outdoor amenities, Heritage Orchard fruit harvests that have been donated to area food banks, virtual July 4th event, Nuts About Saratoga event, Chalk Full of HeArt event, Commission vacancies, Youth in Government program, and Living Room Conversations.

1. CONSENT CALENDAR

1.1. City Council Meeting Minutes

Recommended Action:

Approve the City Council minutes for the Regular City Council Meeting on June 17, 2020.

BERNALD/ZHAO MOVED TO APPROVE THE CITY COUNCIL MINUTES FOR THE REGULAR CITY COUNCIL MEETING ON JUNE 17, 2020. MOTION PASSED BY VERBAL ROLL CALL. AYES: MILLER, BERNALD, ZHAO, CAPPELLO, KUMAR. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

1.2. Review of Accounts Payable Check Registers

Recommended Action:

Review and accept check registers for the following accounts payable payment cycles:
6/17/2020 Period 12; 6/24/2020 Period 12.

BERNALD/ZHAO MOVED TO **ACCEPT CHECK REGISTERS FOR THE FOLLOWING ACCOUNTS PAYABLE PAYMENT CYCLES: 6/17/2020 PERIOD 12; 6/24/2020 PERIOD 12.** MOTION PASSED BY VERBAL ROLL CALL. AYES: MILLER, BERNALD, ZHAO, CAPPELLO, KUMAR. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

1.3. Treasurer's Report for the Month Ended May 31, 2020

Recommended Action:

Review and accept the Treasurer's Report for the month ended May 31, 2020.

BERNALD/ZHAO MOVED TO **ACCEPT THE TREASURER'S REPORT FOR THE MONTH ENDED MAY 31, 2020.** MOTION PASSED BY VERBAL ROLL CALL. AYES: MILLER, BERNALD, ZHAO, CAPPELLO, KUMAR. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

1.4. Ordinance removing the Planned Combined (P-C) District overlay from 14434 and 14488 Oak Street

Recommended Action:

Waive the second reading and adopt the attached ordinance removing the Planned Combined (P-C) District overlay from the properties located at 14434 and 14488 Oak Street.

ORDINANCE 369

BERNALD/ZHAO MOVED TO **WAIVE THE SECOND READING AND ADOPT THE ORDINANCE REMOVING THE PLANNED COMBINED (P-C) DISTRICT OVERLAY FROM THE PROPERTIES LOCATED AT 14434 AND 14488 OAK STREET.** MOTION PASSED BY VERBAL ROLL CALL. AYES: MILLER, BERNALD, ZHAO, CAPPELLO, KUMAR. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

1.5. Resolution Authorizing Final Disposition of Certain City Records

Recommended Action:

Adopt resolution authorizing final disposition of certain city records.

RESOLUTION 20-045

BERNALD/ZHAO MOVED TO **ADOPT RESOLUTION AUTHORIZING FINAL DISPOSITION OF CERTAIN CITY RECORDS.** MOTION PASSED BY VERBAL ROLL CALL. AYES: MILLER, BERNALD, ZHAO, CAPPELLO, KUMAR. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

1.6. Second Reading for Ordinance Amending the Tree Regulations

Recommended Action:

Waive the second reading and adopt the attached ordinance amending Chapter 15 (Zoning Regulations) of the Saratoga Municipal Code amending Section 15-50.080 of the Tree Regulations to allow the removal of trees that would contribute to the increased risk and spread of wildfire.

ORDINANCE 370

BERNALD/ZHAO MOVED TO **WAIVE THE SECOND READING AND ADOPT THE ORDINANCE AMENDING CHAPTER 15 (ZONING REGULATIONS) OF THE SARATOGA MUNICIPAL CODE AMENDING SECTION 15-50.080 OF THE TREE REGULATIONS TO ALLOW THE REMOVAL OF TREES THAT WOULD CONTRIBUTE TO THE INCREASED RISK AND SPREAD OF WILDFIRE.** MOTION PASSED BY VERBAL ROLL CALL. AYES: MILLER, BERNALD, ZHAO, CAPPELLO, KUMAR. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

The Mayor made remarks about the retirement of Kate Bear, Senior Arborist.

1.7. Contract Renewal for City Surveyor Consultant Services

Recommended Action:

Approve a three (3) year contract renewal with Giuliani & Kull, Inc. for city surveyor consulting services and authorize the City Manager to execute the same.

BERNALD/ZHAO MOVED TO **APPROVE A THREE (3) YEAR CONTRACT RENEWAL WITH GIULIANI & KULL, INC. FOR CITY SURVEYOR CONSULTING SERVICES AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE SAME.** MOTION PASSED BY VERBAL ROLL CALL. AYES: MILLER, BERNALD, ZHAO, CAPPELLO, KUMAR. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

1.8. Ordinance Amendment to Decrease Speed Limit on Saratoga Avenue

Recommended Action:

Waive the second reading and adopt the attached ordinance amending Saratoga Municipal Code Sections 9-30-0609 (c)(d) (Establishment of prima facie speed limits) to reduce the speed limit on Saratoga Avenue between Fruitvale Avenue and Dagmar Drive from 40 mph to 35 mph.

ORDINANCE 371

BERNALD/ZHAO MOVED TO **WAIVE THE SECOND READING AND ADOPT THE ORDINANCE AMENDING SARATOGA MUNICIPAL CODE SECTIONS 9-30-0609 (C)(D) (ESTABLISHMENT OF PRIMA FACIE SPEED LIMITS) TO REDUCE THE SPEED LIMIT ON SARATOGA AVENUE BETWEEN FRUITVALE AVENUE AND DAGMAR DRIVE FROM 40 MPH TO 35 MPH.** MOTION PASSED BY VERBAL ROLL CALL. AYES: MILLER, BERNALD, ZHAO, CAPPELLO, KUMAR. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

1.9. Motor Vehicle (MV) Resolution Rolling Hills Road

Recommended Action:

Adopt Motor Vehicle (MV) Resolution adopting No Parking restrictions on Rolling Hills Road at the Prospect Road intersection.

MV-RESOLUTION 325

BERNALD/ZHAO MOVED TO **ADOPT MOTOR VEHICLE (MV) RESOLUTION ADOPTING NO PARKING RESTRICTIONS ON ROLLING HILLS ROAD AT THE PROSPECT ROAD INTERSECTION.** MOTION PASSED BY VERBAL ROLL

CALL. AYES: MILLER, BERNALD, ZHAO, CAPPELLO, KUMAR. NOES: NONE.
ABSTAIN: NONE. ABSENT: NONE.

2. PUBLIC HEARING

2.1. Landmark Designation & Mills Act Agreement for 15320 Peach Hill Road
Application No. MIL20-001 & LNDMRK20-0001

Recommended Action:

The Heritage Preservation Commission (HPC) recommends that the City Council:

1. Conduct a public hearing on the proposal to designate the subject property as a historic landmark and enter into a Mills Act Agreement.
2. Introduce and waive first reading of the attached ordinance designating the property as a historic landmark.
3. Direct staff to place the ordinance on the Consent Calendar for adoption at the next regular meeting of the City Council.
4. Adopt the attached Resolution authorizing the City Manager to enter into a Mills Act Agreement for the property located at 15320 Peach Hill Road upon the effective date of the landmark ordinance.

Nicole Johnson, Senior Planner, presented the staff report.

Mayor Miller opened the public hearing.

Mayor Miller invited public comment on the item.

No one requested to speak.

Mayor Miller closed the public hearing for this item.

RESOLUTION 20-046

BERNALD/CAPPELLO MOVED TO WAIVE FIRST READING OF THE ORDINANCE DESIGNATING THE PROPERTY AS A HISTORIC LANDMARK, TO DIRECT STAFF TO PLACE THE ORDINANCE ON THE CONSENT CALENDAR FOR ADOPTION AT THE NEXT REGULAR MEETING OF THE CITY COUNCIL, AND ADOPT THE RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MILLS ACT AGREEMENT FOR THE PROPERTY LOCATED AT 15320 PEACH HILL ROAD UPON THE EFFECTIVE DATE OF THE LANDMARK ORDINANCE. MOTION PASSED BY VERBAL ROLL CALL. AYES: MILLER, BERNALD, ZHAO, CAPPELLO, KUMAR. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

3. GENERAL BUSINESS

ZHAO/KUMAR MOVED **TO REORDER AGENDA ITEMS 3.7 AND 3.5 TO BEGINNING OF GENERAL BUSINESS ITEMS.** MOTION PASSED BY VERBAL ROLL CALL. AYES: MILLER, BERNALD, ZHAO, CAPPELLO, KUMAR. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

3.1. Community Event Grant Program Policy Amendment

Recommended Action:

Adopt the resolution amending the City of Saratoga's Community Event Grant Program Policy.

Kayla Nakamoto, Administrative Analyst, presented the staff report.

Mayor Miller invited public comment on the item.

No one requested to speak.

RESOLUTION 20-047

BERNALD/CAPPELLO MOVED TO **ADOPT THE RESOLUTION AMENDING THE CITY OF SARATOGA'S COMMUNITY EVENT GRANT PROGRAM POLICY WITH THE ADDITION OF CLARIFYING LANGUAGE IN THE PROGRAM REQUIREMENTS.** MOTION PASSED BY VERBAL ROLL CALL. AYES: MILLER, BERNALD, ZHAO, CAPPELLO, KUMAR. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

3.2. 2019 Citywide Accessibility Assessment

Recommended Action:

1. Receive report on the 2019 Facility Survey (citywide accessibility assessment).
2. Move to accept an amendment to extend the contract with BKF Engineers for the citywide accessibility assessment project from June 30, 2020 to December 31, 2021.

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

Mayor Miller invited public comment on the item.

No one requested to speak.

MILLER/CAPPELLO MOVED TO **ACCEPT AN AMENDMENT TO EXTEND THE CONTRACT WITH BKF ENGINEERS FOR THE CITYWIDE ACCESSIBILITY ASSESSMENT PROJECT FROM JUNE 30, 2020 TO DECEMBER 31, 2021.** MOTION PASSED BY VERBAL ROLL CALL. AYES: MILLER, BERNALD, ZHAO, CAPPELLO, KUMAR. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

3.3. Award of Contract to O'Grady Paving Inc. for the 2020 Pavement Management Program

Recommended Action:

1. Move to declare O'Grady Paving Inc. to be the lowest responsible bidder on the project.
2. Move to award a Construction Contract to O'Grady Paving Inc. in the amount of \$1,558,615.50, and authorize the City Manager to execute the same.
3. Move to authorize staff to execute change orders to the contract up to \$327,309.26 (21%).

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

Mayor Miller invited public comment on the item.

No one requested to speak.

BERNALD/ZHAO MOVED TO **DECLARE O'GRADY PAVING INC. TO BE THE LOWEST RESPONSIBLE BIDDER ON THE PROJECT, TO AWARD A CONSTRUCTION CONTRACT TO O'GRADY PAVING INC. IN THE AMOUNT OF \$1,558,615.50, AUTHORIZE THE CITY MANAGER TO EXECUTE THE SAME, AND TO AUTHORIZE STAFF TO EXECUTE CHANGE ORDERS TO THE CONTRACT UP TO \$327,309.26 (21%).** MOTION PASSED BY VERBAL ROLL CALL. AYES: MILLER, BERNALD, ZHAO, CAPPELLO, KUMAR. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

3.4. Urgency Ordinance Authorizing Special Event Permits for Restaurants to Provide Temporary Outdoor Dining on City-Owned Parking Lots

Recommended Action:

Adopt the attached Urgency Ordinance to allow Special Event Permits for temporary outdoor dining in the Village Parking District parking lots and to waive the Special Event Permit fees.

Debbie Pedro, Community Development Director, presented the staff report.

Mayor Miller invited public comment on the item.

No one requested to speak.

ORDINANCE 372

CAPPELLO/BERNALD MOVED TO **ADOPT THE URGENCY ORDINANCE TO ALLOW SPECIAL EVENT PERMITS FOR TEMPORARY OUTDOOR DINING IN THE VILLAGE PARKING DISTRICT PARKING LOTS AND TO WAIVE THE SPECIAL EVENT PERMIT FEES.** MOTION PASSED BY VERBAL ROLL CALL. AYES: MILLER, BERNALD, ZHAO, CAPPELLO, KUMAR. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

3.5. City Council Positions on Proposed Legislation

Recommended Action:

Consider approving the resolutions in support of Senate Bill 795, in opposition to Senate Bill 902, and in opposition to Senate Bill 1120.

Crystal Bothelio, Assistant City Manager, presented the staff report.

Mayor Miller invited public comment on the item.

The following people requested to speak:

Ken Czworniak spoke

Julianne Michaels spoke

No one else requested to speak.

RESOLUTION 20-048
RESOLUTION 20-049
RESOLUTION 20-050

CAPPELLO/BERNALD MOVED TO **APPROVE THE RESOLUTIONS IN SUPPORT OF SENATE BILL 795, IN OPPOSITION TO SENATE BILL 902, AND IN OPPOSITION TO SENATE BILL 1120 AND TO ASK STAFF FOR A CITY WEBSITE PAGE WITH INFORMATION ABOUT STATE LEGISLATORS.**

MOTION PASSED BY VERBAL ROLL CALL. AYES: MILLER, BERNALD, ZHAO, CAPPELLO, KUMAR. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

3.6. COVID-19 Local Emergency Proclamation Termination

Recommended Action:

Approve the resolution proclaiming the termination of the local emergency due to the spread of novel coronavirus (COVID-19).

Crystal Bothelio, Assistant City Manager, presented the staff report.

Mayor Miller invited public comment on the item.

No one requested to speak.

RESOLUTION 20-051

BERNALD/ZHAO MOVED TO **APPROVE THE RESOLUTION PROCLAIMING THE TERMINATION OF THE LOCAL EMERGENCY DUE TO THE SPREAD OF NOVEL CORONAVIRUS (COVID-19).** MOTION PASSED BY VERBAL ROLL CALL. AYES: MILLER, BERNALD, ZHAO, CAPPELLO, KUMAR. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

3.7. Ballot Measure to Adopt Term Limits for Saratoga City Council Members and Resolution Regarding Voluntary Compliance with the Term Limits Described in the 1992 City of Saratoga Term Limits Advisory Measure

Recommended Action:

Based on direction provided at the June 17, 2020 Council meeting staff recommends that the City Council:

1. Adopt the attached resolution placing a measure on the November 2020 ballot providing for term limits for Council Members including:
 - a. The specific terms of that measure;
 - b. The ballot question;
 - c. Directing that the full text of the measure appear in the voter pamphlet together with an impartial analysis by the City Attorney;
 - d. Authorizing specified Council members to file arguments for and against the proposed measure; and
 - e. Declaring that rebuttal arguments are not authorized.
2. Adopt the attached resolution regarding voluntary compliance with the term limits described in the 1992 City of Saratoga term limits advisory measure.

Richard Taylor, City Attorney, presented the staff report.

Mayor Miller invited public comment on the item.

The following people requested to speak:

Jeffrey Schwartz spoke

Lakhinder Walia spoke

Angela Ling spoke

Ken Czworniak spoke

Julianne Michaels spoke

No one else requested to speak.

RESOLUTION 20-052

BERNALD/CAPPELLO MOVED TO **ADOPT THE RESOLUTION REGARDING VOLUNTARY COMPLIANCE WITH THE TERM LIMITS DESCRIBED IN THE 1992 CITY OF SARATOGA TERM LIMITS ADVISORY MEASURE.** MOTION PASSED BY VERBAL ROLL CALL. AYES: MILLER, BERNALD, ZHAO, CAPPELLO. NOES: KUMAR. ABSTAIN: NONE. ABSENT: NONE.

BERNALD MOVED **TO PLACE NO MEASURE ON TERM LIMITS ON THE BALLOT.**

Motion failed due to lack of a second.

KUMAR/ZHAO MOVED TO **PLACE A PROPOSED MEASURE ON THE BALLOT WITH A 2-TERM LIMIT AND LIFETIME TERM LIMIT OF EIGHT YEARS.** MOTION FAILED BY VERBAL ROLL CALL. AYES: ZHAO, KUMAR. NOES: MILLER, BERNALD, CAPPELLO. ABSTAIN: NONE. ABSENT: NONE.

CAPPELLO/MILLER MOVED TO **PLACE A PROPOSED MEASURE ON THE NOVEMBER 2020 BALLOT PROVIDING FOR TERM LIMITS FOR COUNCIL MEMBERS AS DESCRIBED IN THE 1992 CITY OF SARATOGA TERM LIMITS ADVISORY MEASURE.** MOTION FAILED BY VERBAL ROLL CALL. AYES: MILLER, CAPPELLO. NOES: BERNALD, ZHAO, KUMAR. ABSTAIN: NONE. ABSENT: NONE.

Mayor Miller called for a break at 9:38 p.m. and reconvened the meeting at 9:45 pm.

COUNCIL ASSIGNMENTS

Mayor Howard Miller

Silicon Valley Clean Energy Authority Board of Directors – SMART has named SVCE as a finalist as one of top clean energy programs in the nation. The Directors also approved contracts for a new geothermal project and approved sending out a request for information for long-term storage of power.

VTA – BART in San Jose is open.

Vice Mayor Mary-Lynne Bernald

Hakone Foundation Board & Executive Committee – a meeting was held, but there is no report.
Public Art Committee – the theme for July’s “Chalk Full of HeArt” is red, white and blue.

Council Member Yan Zhao

Hakone Foundation Board – the Board approved the Fiscal Year 2020/2021 budget, voted to send a supporting letter on Black Lives Matter, and received an update on online gift shop.
Public Art Committee – the Committee will have a discussion with Villa Montalvo on a gateway sculpture project, also approved the budget, and received updates on existing projects.

Council Member Manny Cappello

Cities Association of Santa Clara County Board of Directors – the Board had a meeting and discussed the Santa Clara/Santa Cruz Airport/Community Roundtable.
Saratoga Ministerial Association – the meeting included discussion on social issues and bringing back Living Room conversations.

Council Member Rishi Kumar

Santa Clara County Library Joint Powers Authority – at the JPA meeting, the Fiscal Year 2020/2021 budget was approved and received audit reports.

CITY COUNCIL ITEMS

None

COUNCIL COMMUNICATIONS

Council Member Cappello announced his resignation from the Saratoga City Council effective today.

Mayor Miller gave direction to staff to fill Manny Cappello’s Council Assignments with the Alternates and to bring back to Council a report on filling Council vacancies.

CITY MANAGER'S REPORT

None

ADJOURNMENT

CAPPELLO/ZHAO MOVED TO **ADJOURN THE MEETING AT 11:08 P.M.** MOTION PASSED BY VERBAL ROLL CALL. AYES: MILLER, BERNALD, ZHAO, CAPPELLO, KUMAR. NOES: NONE. ABSTAIN: NONE. ABSENT: NONE.

Minutes respectfully submitted:

Debbie Bretschneider, City Clerk
City of Saratoga