

Meeting Date: 11/18/08

AGENDA REPORT

Agenda Item # 16C



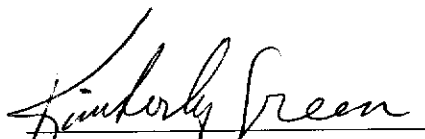
City of Santa Clara, California



DATE: November 18, 2008
TO: City Council for Information
FROM: Executive Assistant to the Mayor and City Council
SUBJECT: Correspondence received regarding the request to correct the November 16, 2004 minutes


From Friday, November 14, 2008 through Tuesday, November 18, 2008, the Mayor & Council Offices have received 6 communications regarding item #16-C on the November 18, 2008 City Council Agenda, a request to authorize correction to the minutes of November 16, 2004 City Council meeting.

All of which were against approving the recommendation to correct the minutes.



Kimberly Green
Executive Assistant
Mayor and Council Offices

APPROVED:



Jennifer Sparacino
City Manager

Documents Related to this Report:
1) *Communications from residents*

Kimberly Green

From: Dave Stealey [stealey@pacbell.net]
Sent: Monday, November 17, 2008 8:08 PM
To: Kimberly Green
Subject: Dominic Caserta

Dear Mayor Mahan and City Council,

Please deny the request of Dominic Caserta to change the city's historical record/minutes, until the criminal investigation against Mr. Caserta is complete. Politics is corrupt enough as it is.

Sincerely yours,

David Stealey
3282 Dorcich St.
Santa Clara, CA 95117
(408) 246-4114

Kimberly Green

From: Kirk Vartan [kirk@kvartan.com]
Sent: Monday, November 17, 2008 3:34 PM
To: Kimberly Green
Subject: City Council Agenda item 16C - Caserta request to change minutes - DO NOT ALLOW

Importance: High

Hello,

I would like to request that you do not authorize and do not agree to change the minutes from November 16, 2004 as requested by Dominic Caserta. The minutes are clear and an FPPC investigation is in progress. Even the agenda attachment (page 17 - labeled "Attachment 5") shows Caserta's voting record.

It shows he did not abstain from this vote. It shows he did not abstain on November 16, 2004. There are three different City documents that show he did not abstain from voting on items that involved his property on 936 Fremont Street. Are all three wrong?

While there were statements made that say Caserta abstained or left the dais, what about the other council members or city staff members? Did you contact them? What do they say?

Please, deny the request to change the meeting minutes on November 16, 2004 or any other request from Caserta regarding this issue.

Thank you,

Kirk Vartan
598 N Henry Ave.
San Jose, CA 95117

Kimberly Green

From: Chuck Riess [criess@yahoo-inc.com]
Sent: Monday, November 17, 2008 5:59 PM
To: Kimberly Green
Subject: Adjusting the meeting minutes

I wanted to let you know that I object to changing the meeting minutes of November 16, 2004 (Item 16C). Why take meeting minutes if you can go back and change history?

-- Chuck Riess

Kimberly Green

From: Angela D'Orfani [adorfani@pacbell.net]
Sent: Monday, November 17, 2008 4:33 PM
To: Kimberly Green
Subject: Correction to minutes of November 16, 2004 city council meeting?

It has come to my attention that a former councilmember will request a "correction" to the minutes of a council meeting that took place Nov. 16, 2004. The minutes were approved at a subsequent meeting and should not need to be "corrected", they are CORRECT. Please hold to your duty to the citizens of Santa Clara and do not allow this change in facts solely for the benefit of a politician.

Thank you
Angela D'Orfani

Kimberly Green

From: alex_morgan@wvm.edu
Sent: Tuesday, November 18, 2008 9:55 AM
To: Kimberly Green
Subject: Item 16C

Attachments: Item 16c.doc



Item 16c.doc
(97 KB)

Please disregard my previous email and address the attachment

Alex Morgan
1779 Graham Ln
Santa Clara, CA 95050

--

Regards
Alex Morgan
Lab Faculty Specialist
West Valley College
14000 Fruitvale Ave
Saratoga CA 95070
408 741 2686

Regarding Item 16C on tonight Santa Clara City Council's agenda.

To make a change to official city record is morally wrong and unethical, it should be illegal.

You portray yourselves as subscribing to the highest standards of government. Making changes to official records should only be considered by the council sitting at the time these records were created and not by anyone else. Doing so would set a dangerous precedence.

Roberts Rules of Order: "Corrections. The minutes may be corrected at future meetings. After an assembly approves the minutes, without a reconsideration, it may correct them further at any future time no matter how much time has elapsed or how many times they have already been amended. The official version of the minutes (not the original notes) must be signed by the person who acted as secretary for that meeting."

In the quote from Roberts Rules of Order "it may . . ." refers to the assembly that approved the minutes not some other assembly at some other time.

You are in violation of these rules to consider these changes.

Anyone voting to change these records who were not present at the time are hypocrites and should not be in public office.

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Kimberly Green

From: Jan Carey [gardenladymg@yahoo.com]

Sent: Tuesday, November 18, 2008 10:34 AM

To: Kimberly Green

Subject: Changing of records-a risky business

Dear Council,

If there happens to be any impropriety in Caserta's actions on this record, the council will be counted as one in his impropriety. Tread carefully. What may be viewed as a political favors by the populace, may turn to strong concerns of the ethics of this council as corruption.

Sincerely,
Janice Carey

11/18/2008

Good evening. My name is Kirk Vartan and I am requesting that you **DO NOT** pass the motion to change the minutes from November 16, 2004. Here are specific reasons why:

1. Page 13 of Caserta's agenda packet is a portion of the minutes from November 9, 2004. It shows he abstained from voting.
 - a. This shows evidence that the City Clerk documents when a council member abstains from a vote.

2. Page 15 of Caserta's agenda packet is a portion of the minutes from November 16, 2004. It shows he did **NOT** abstain. It also shows Mathews as being absent.
 - a. This shows evidence that the City Clerk documents when a council member abstains and if they are absent in the vote.

3. Page 17 of Caserta's agenda packet is a history of Caserta's abstentions on voting. It shows he did **NOT** abstain on November 16, 2004 or December 14, 2004, but did abstain on November 9, 2004.
 - a. This is a detailed record for many years. It shows evidence that Caserta did **NOT** abstain from voting on November 16, 2004 and December 14, 2004.

4. The December 14, 2004 minutes (in front of you now) show Mathews reconstituting himself so he can vote on the approval of the November 16, 2004 minutes. However, it also documents that three council members abstained (Kennedy, McLeod, and Moore), citing they were not Council Members on November 16, 2004. Four votes are required to pass a motion, leaving Mayor Mahan, Council Members Kolstad, Mathews, and Caserta as the four votes to pass the motion to accept the minutes for November 16, 2004.

5. The FPPC is currently reviewing the facts in this matter. Why is Council Member Caserta trying to change the minutes now?

Please DO NOT pass the motion to change the minutes on November 16, 2004.

Thank you.

MINUTES OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA
FOR MEETING HELD ON TUESDAY EVENING, DECEMBER 14, 2004

The City Council of the City of Santa Clara met at 6:00 p.m., on the above-mentioned date, in the Reception Lobby Area for Interviews to Fill a Vacancy on the Historical and Landmarks Commission for the term ending June 30, 2007 and in the Council Conference Room for a Closed Session pursuant to Government Code Section 54956.9(b) regarding the City as a potential defendant in one case (no reportable action).

The Council then met at 7:00 p.m. for the regular session in the City Hall Council Chambers. The meeting was opened with the recitation of the Pledge of Allegiance and the reading of an Invocation-Prayer.

Present: Council Members Dominic J. Caserta, Will Kennedy, Patrick Kolstad, Jamie L. Matthews, Jamie McLeod and Kevin Moore and Mayor Patricia M. Mahan.

Staff present: City Manager, Assistant City Manager, Director of Planning and Inspection, Director of Public Works, City Attorney and City Clerk.

3.A Council Member Matthews informed the Council that he had reviewed the minutes of November 9, 2004 and reconstituted himself regarding the matter. MOTION was then made by Matthews, seconded and carried with Kennedy, McLeod and Moore abstaining (not Council Members on November 9, 2004), that the Minutes for the meeting of November 9, 2004 be adopted as written.

3.B Council Member Matthews informed the Council that he had reviewed the minutes of November 16, 2004 and reconstituted himself regarding the matter. MOTION was then made by Matthews, seconded and carried with Kennedy, McLeod and Moore abstaining (not Council Members on November 16, 2004), that the Minutes for the meeting of November 16, 2004 be adopted as written.

The City Manager informed the Council that the Informational Memo (12/14/04) submitted by the Executive Assistant to the Mayor and City Council with attached City Council Committee List was distributed at this evening's meeting for Council review and action at the January 11, 2005 Council meeting.

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11/18/08

16C

From: Meg39@aol.com
Sent: Tuesday, November 18, 2008 4:54 PM
To: Mayor and Council
Cc: Rod Diridon
Subject: (no subject)

Dear fellow Santa Clarans,

What is the purpose of tonight's agenda item #16C? I call it an attempt at historical revisionism for the monetary gain of one councilmember. It's no big deal, you say, just to record retroactively and long after the fact that yes, Councilmember Caserta really did abstain on that vote back in November 2004. But if he actually did abstain, why wasn't it recorded into the meeting minutes at that time? Two reasons come to mind.

(1) Councilman Caserta did not abstain, or (2) He did abstain, but the Santa Clara City Council got mighty careless or forgetful and didn't enter his abstention into the record.

So here we are in November 2008. Honestly, do you think anyone actually remembers that vote which took place almost four years ago? Or if any councilmember abstained therefrom? I doubt it. So please don't engage in the dangerous precedent of altering the past.

Respectfully,

Margaret (Meg) Dastrup

Margaret (Meg) Dastrup
1965 Monterey Court, Santa Clara, CA 95051
landlines: 408-985-7241 (local) 800-985-7241 (long distance) cell: 805-625-2269

"No matter what your lot in life, build on it."
(Saying on a refrigerator magnet -- author unknown)

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