

AGENDA

Meeting of the Scotts Valley Parks and Recreation Commission

Date: August 21, 2014

Time: 6:00 p.m.

CITY OF SCOTTS VALLEY 1 Civic Center Drive Scotts Valley, CA 95066 (831) 438-3251	MEETING LOCATION Recreation Division Offices 361 Kings Village Road Scotts Valley, CA 95066	POSTING: The agenda was posted 8-18-14 at City Hall, SV Senior Center, SV Recreation Offices and on the Internet at www.scottsvalley.org .
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<i>Council Appointed Commissioners</i> <i>Eric Seib, Chair</i> <i>Wendy Brannan, Board Member</i> <i>David Sanguinetti, Board Member</i> <i>Pam Smith, Board Member</i> <i>Nick Thelen, Board Member</i>	<i>City Staff Members</i> <i>Scott Hamby, Public Works Director</i> <i>Kristin Ard, Recreation Division Manager</i> <i>Carol O'Neil, Administrative Secretary</i>
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Notice regarding Parks and Recreation Commission Meetings:

The Parks and Recreation Commission is scheduled to meet on the 3rd Thursday of each month at 6:00 pm in the Recreation Division offices located at Skykpark Park located at 361 Kings Village Road, Scotts Valley, CA 95066.

Agenda and Agenda Packet Materials:

The Parks and Recreation Commission agenda is available for review by 5:00 pm the Monday before the Thursday meeting on the Internet at the City's website: www.scottsvalley.org and in the registration office of the Recreation Office, located 361 Kings Village Road, Scotts Valley, CA. Pursuant to Government Code '54957.5, materials related to an agenda item, submitted after distribution of the agenda packet, are available for public inspection in the registration office of the Recreation Office during normal business hours, Monday-Friday, 8:00 am to 5:00 pm. In accordance with AB 1344, such documents will be posted on the City's website at www.scottsvalley.org.

CALL TO ORDER

6:00 p.m.

ROLL CALL

PUBLIC COMMENT TIME

This portion of the agenda is reserved for discussion by the public of items which are **NOT** agendized. No action may be taken by the commission except to refer the matter to staff and/or place it on a future agenda. It is in the best interest of the person speaking to the commission to be concise and to the point. All speakers are requested to sign their name at the podium so their name may be accurately recorded in the minutes of the meeting. A time limit of three minutes per individual will be allowed.

ALTERATIONS TO CONSENT AGENDA

(Commissioners can remove or add items to the Consent Agenda.)

CONSENT AGENDA

(The Consent Agenda is comprised of items which appear to be non-controversial. Persons wishing to speak on any item may do so by raising their hand to be recognized by the Chair.)

- A. Approve Parks and Recreation Commission special meeting minutes of 6-19-14

ALTERATIONS TO REGULAR AGENDA

(Commissioners can remove or add items to the Regular Agenda.)

REGULAR AGENDA

(Persons wishing to speak on any item may do so by raising their hand to be recognized by the Chair.)

1. Recreation Division Park and Program Update – staff report
2. Linear Park Hours – oral, email from concerned resident will be shared at meeting
3. Park Impact Fees – staff report
4. Glenwood – staff report
5. Octogon Building – oral

FUTURE AGENDA ITEMS

1. Animal Control
2. Arborist Reports
3. Split Rail Fencing
4. Parking on City Park Property
5. Lodato Park Challenge Course

ADJOURNMENT

The City of Scotts Valley does not discriminate against persons with disabilities. The Commission meeting locations are accessible facilities. If you wish to attend a Commission meeting and require assistance such as sign language, a translator, or other special assistance or devices in order to attend and participate at the meeting, please call the Recreation Office at 831-438-3251 five to seven days in advance of the meeting to make arrangements for assistance. If you require the agenda of a Commission meeting be available in an alternative format consistent with a specific disability, please call the Recreation Office. The California State Relay Service (TTY/VCO/HCO to Voice: English 1-800-735-2929, Spanish 1-800-855-3000; or, Voice to TTY/VCO/HCO: English 1-800-735-2922, Spanish 1-800-855-3000), provides Telecommunications Devices for the Deaf and Disabled and will provide a link between the TDD caller and users of telephone equipment.

**CITY OF SCOTTS VALLEY
PARKS AND RECREATION COMMISSION
MEETING MINUTES
June 19, 2014**

CALL TO ORDER: **6:02pm**

ATTENDANCE: Eric Seib, Commission chair
 Wendy Brannan, Commissioner
 David Sanguinetti, Commissioner
 Pam Smith, Commissioner
 Nick Thelen, Commissioner

ABSENT: **None**

STAFF: Recreation Division Manager, Ard
 Public Works Director, Hamby
 Administrative Secretary, O'Neil

GUESTS: John Weiss, Scotts Valley Police Chief

PUBLIC COMMENT

Commissioner Brannan informed the commission that she had received a letter from Don Hutchison regarding

CONSENT AGENDA

Approve minutes of May 15, 2014

M/S: Sanguinetti/Seib

Approve: 3/0/2

ALTERATIONS TO REGULAR AGENDA

None

REGULAR AGENDA

Off-Leash Dog Owners

Chief Weiss summarized the problem of dog off-leash in the parks, and police response to a recent incident. He has increased patrols, especially at Skypark, and Sgt. Milroy met with RDM Ard regarding new signs that will be installed. He explained that increasing patrols is a way to change behaviors. First violation results in a documented warning to the owner, and on the second violation

the owner will be cited. He added that the public is encouraged to call the police department to report off-leash dogs, and the new signs will have that phone number.

Commissioner Brannan inquired about the City's contract with County Animal Control, and was interested the details of services provided and cost to the City.

Recreation Division Park and Program Update

RDM Ard reported on the software update for Recreation Office programs. Park projects being discussed are the retaining wall at Siltanen Park and the shade structure at the Skypark bocce courts. City Wide Prioritization for the Lennar funds has been postponed by City Council until all of the money has been received, and the Community Garden is also on hold at this time. She also reported that the pump track project is on hold until the City and PVC complete property negotiations regarding the Town Center project. It is anticipated that once agreement is reached, construction can be completed and the pump track will be able to remain at this location longer than anticipated.

RDM Ard updated Commissioners on the amount of park impact fees available currently. Commissioner Brannan had additional questions about the funding sources and any restrictions about its use.

Future Agenda Items

Octogon Building
*Don Hutchison's letter
Glenwood Update
*Copy of Animal Control Contract
Split Rail Fencing Replacement
Arborist Report Update

Future Agenda Items

Next Meeting:

City of Scotts Valley

PARKS AND RECREATION COMMISSION STAFF REPORT

DATE: August 21, 2014
TO: Parks and Recreation Commissioners
FROM: Kristin Ard, Recreation Division Manager
SUBJECT: Parks and Recreation Update

SUMMARY OF ISSUE

Recreation Division:

July 4 was a huge success this year with a record attendance and everyone arrived ready to celebrate! The fundraiser brought in NET \$40,006 almost double over prior years. The Advocates were very excited and are looking at projects to help fund. They have given the green light to order replacement picnic tables for the kids' birthday gazebo at Skypark.

There was an incredible group of volunteers which were helpful from set up all the way to the first fireworks blast. They each received entrance and meal ticket to enjoy the event as a thank you. However, more volunteers are needed. If Commissioners have any leads on recruiting volunteers the information would be helpful.

Software Update:

The Recreation Division is currently switching over from CLASS software to Active Net. We started with Facilities and now this week is the Activities module. Anyone can log on to apm.activecommunities.com/cityofscottsvally to create their account. I encourage all to sign up for an account because once the software is fully up and running, there is easy access to information about events, activities and the calendaring is amazing!

Fall Update:

Summer is almost over and the Recreation Division is getting ready for Fall. We have begun registration for our School-Age Rec Programs at Vine Hill and Brook Knoll and I am pleased with the turnout so far. In addition, we are looking forward to having our tennis instructor, Thomas Silverstein, return in the beginning of September. He has been out most of Summer due to an

injury to his hand. The Recreation Division employees and all who participate in his lessons will be excited to have him return.

New classes this Fall include Junior Jazzercise for 1st-5th grades, Advantage Driving School in October and a four day class during winter break, Co-Rec Fall Ball, and a Pickle Ball League.

Pump Track:

We've jumped a hurdle...Action Sports began construction of the Pump Track Sunday, August 17. They are leveling the existing dirt and plan to have clean fill delivered this week to start the shaping of the track. Volunteers are welcome to help. There is a form available at the Recreation Division Office volunteers must sign before beginning work. A big THANK YOU to Commissioner Thelen for all the time and effort you put into this project!

FISCAL IMPACT

None at this time.

STAFF RECOMMENDATION

Questions welcomed. Enjoy!

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City of Scotts Valley

PARKS AND RECREATION COMMISSION STAFF REPORT

DATE: August 21, 2014
TO: Parks and Recreation Commissioners
FROM: Kristin Ard, Recreation Division Manager
APPROVED: Scott Hamby, Public Works Director
SUBJECT: **Parks Impact Fees**

SUMMARY OF ISSUE

The Commission requested to have the Park Impact Fees revisited. Attached is Municipal Code 15.20 and Ordinance 143 both gives a definition and overview of the fee. Numbers will be provided at the meeting.

FISCAL IMPACT

None at this time.

STAFF RECOMMENDATION

Topic is for discussion purposes only.

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Ordinance 143

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Chapter 15.20

DEVELOPMENT IMPACT MITIGATION FEES

Sections:

15.20.010	Legislative findings.
15.20.020	Definitions.
15.20.030	Establishment of development fees and providing for their adoption by resolution of the city council.
15.20.040	Imposition of development impact fee.
15.20.050	Automatic annual adjustment.
15.20.060	Increase by resolution.
15.20.070	Creation of special funds.
15.20.080	Zoning to be utilized to compute fee.
15.20.090	Payment of fee.
15.20.100	Fee adjustments.
15.20.110	Use of funds.
15.20.120	Refund of fees paid.
15.20.130	Exemptions.
15.20.140	Credits.
15.20.150	Developer construction of facilities.
15.20.160	Review.
15.20.170	Controlling state law.

15.20.010 Legislative findings.

The city council of the city of Scotts Valley hereby finds and declares that all provisions set forth above are true and are hereby incorporated herein as findings; and said council does hereby further find and declare as follows:

A. The state of California, through the enactment of Government Code Sections 66001 through 66009 has, among other things, determined the nexus that must be established in the enactment of development impact fees.

B. The imposition of development impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of public facilities and service improvements necessary to accommodate such development. This must be done in order to promote and protect the public health, safety, and welfare.

C. This chapter recognizes that all new development within the city will result in additional growth and that such growth will place additional burdens on various city facilities, infrastructure, and services. This chapter further recognizes the types of land development that will generate impacts necessitating the acquisition of land and

construction of public facilities and expansion of services and infrastructure in order to meet and accommodate them.

D. All land uses within the city should bear a proportionate financial burden in the construction and improvement of public facilities and services necessary to serve them.

E. The cost of providing public facilities and service improvements occasioned by development projects within the city exceeds the revenue generated by fees exacted from said development projects.

F. The city hereby adopts the report from MSI dated April 1990 entitled "Development Impact Fee Report for the City of Scotts Valley" which establishes the costs for providing public facilities and service improvements occasioned by development projects within the city.

G. The development impact fees established by this chapter are based upon the costs which are generated through the need for new facilities and other capital acquisition costs required, incrementally, by new development within the city.

H. The fees established by this chapter do not exceed the reasonable cost of providing public facilities occasioned by development projects within the city.

I. The fees established by this chapter relate rationally to the reasonable cost of providing public facilities occasioned by development projects within the city, which public facilities are consistent with the general plan and the housing element of the general plan of the city.

J. The public facilities and anticipated future development herein referenced are based upon an analysis of existing land use and zoning.

K. The fees established by this ordinance are consistent with the goals and objectives of the city General Plan and are designed to mitigate the impacts caused by new development throughout the city. Development impact fees are necessary in order to finance the required public facilities and service improvements and to pay for new development's fair share of their construction costs.

L. Imposition of fees to finance public facilities and service improvements required by new development is necessary in order to avoid adversely impacting existing facilities and services.

M. The city has pending before it subdivision maps and other applications for residential, commercial and industrial development approval which the city must act upon. Further, the city has heretofore approved various development projects in the form of tentative map or other approvals, which have been expressly conditioned on payment of the fees established as a result of the development impact fee study undertaken by Management Services Institute (the results of said study constitute the

report referenced above), and said condition was assented to by the developers of these projects. It is necessary for the provisions of this chapter to apply to these developments in order to protect the public health, safety and welfare by the provision of adequate public facilities, to afford developers certainty with regard to their financial obligations, and to ensure that such development will not create a burden on the interrelated public facilities and services networks of the city. (Ord. 143 § 1, 1991)

15.20.020 Definitions.

For purposes of this chapter, the following terms, phrases, words and their derivation shall have the meanings respectively ascribed to them by this section:

A. "Development project" means any project undertaken for the purpose of development. "Development project" shall include a project involving the issuance of a permit for construction or reconstruction, remodeling, or any work requiring any permit under the ordinances of the city, as the same presently exist or may be amended from time to time hereafter.

The term "development project" shall also include permits for erection of manufactured housing or structures, and structures moved into the city.

B. "Fee" means a monetary exaction, other than a tax or special assessment, which is charged by the city to an applicant in connection with approval of a development project for the purpose of defraying all or a portion of the costs of public facilities related to the development project, but does not include fees specified in Section 66477 of the California Government Code, fees for processing applications for governmental regulatory actions or approvals, or fees collected under development agreements adopted pursuant to Article 2.5 (commencing with Section 65864) of Chapter 4, Division 1, Title 7 of the California Government Code.

C. "Public facilities" includes public improvements, public services, and community amenities. (Ord. 143 § 2, 1991)

15.20.030 Establishment of development fees and providing for their adoption by resolution of the city council.

The following development impact fees are hereby established and imposed on the issuance of all building permits for development within the city to finance the cost of the following categories of public facilities and improvements required by new development:

A. **General Facilities and Equipment.** A development impact fee is hereby established for general facilities and equipment.

B. **Wastewater Treatment Facilities.** A development impact fee is hereby established for wastewater treatment facilities.

C. **Law Enforcement Facilities, Equipment and Training.** A development impact fee is hereby established for law enforcement facilities, equipment and training.

D. **Storm Drainage Facilities.** A development impact fee is hereby established for storm drainage facilities.

E. **Park and Recreation Facilities.** A development impact fee is hereby established for park and recreation facilities.

F. **Library Facilities.** A development impact fee is hereby established for library facilities.

G. **Streets and Thoroughfares.** A development impact fee is hereby established for streets and thoroughfares.

H. **Administrative Overhead.** A development impact fee is hereby established for administrative overhead to cover the cost of general administration of this chapter and any resolution adopted pursuant hereto, performance of accounting tasks associated herewith, supervision and handling of funds, preparation and/or updating of master facilities plans and/or capital financing plans, and the like. This fee shall be set as a percentage of the fees set forth in subsections A through G, above, which are collected pursuant to this chapter. This fee does not relate to and is not designed to cover administrative costs incurred by the city in the case of any specific public facility constructed with the fees referenced in subsections A through G, above, since such project specific administrative costs are included in and shall be recovered from such fees.

The city council shall, by council resolution, set forth the specific amount of the fees, describe the benefit and impact area on which the fees are imposed, list the specific public improvements to be financed and describe the estimated cost of these facilities. (Ord. 143 § 3, 1991)

15.20.040 Imposition of development impact fee.

A. Any person who, after the effective date of the ordinance codified in this chapter, seeks to develop land within the city by applying for a building permit, is hereby required to pay the appropriate development impact fees established pursuant to Section 15.20.030 as the same may be applicable, in the manner, amount and for the purposes therein referenced.

B. No permits or extension of permits for the activities referenced in subsection A of this section shall be granted unless and until the appropriate development impact fees hereby required have been paid to the city.

C. Notwithstanding anything to the contrary set forth in subsection A, above, or in any other provision of this chapter, the development impact fees as established pursuant to Section 15.20.030 shall apply to any development project which has heretofore received a tentative map approval or other approval from the city, where the approval of the same, assented to by the developer, has been conditioned upon payment of the fees established as a result of the analysis and study (the "report") pertaining to development impact fees undertaken by Management Services Institute (referenced in Section 15.20.010). (Ord. 143 § 4, 1991)

15.20.050 Automatic annual adjustment.

Each fee imposed by this chapter shall be adjusted automatically on July 1st of each fiscal year, beginning on July 1, 1991, by a percentage equal to the Engineering Cost Index as published by Engineer News Record for the preceding twelve months. This automatic adjustment shall not apply to fees which are based on various factors which result in automatic adjustments or those which specifically indicate otherwise. (Ord. 143 § 5, 1991)

15.20.060 Increase by resolution.

The amount of each fee established pursuant to this chapter may be more specifically set and revised periodically by resolution of the city council, with this ordinance being considered as enabling and directive in this regard. (Ord. 143 § 6, 1991)

15.20.070 Creation of special funds.

Each fee collected pursuant to this chapter shall be deposited in a special fund created to hold the revenue generated by each such fee. Moneys within each such fund may be expended only by appropriation by the city council for specific projects which are of the same category as that for which the money was collected. In this regard, the following special funds are hereby created and established for the purposes indicated:

A. A general facilities and equipment fund is hereby established. The general facilities and equipment fund is a fund for payment of the actual or estimated costs of constructing and improving the general municipal facilities within the city, including any required acquisition of land.

B. A wastewater treatment facilities fund is hereby established. The wastewater treatment facilities fund is a fund for payment of the actual or estimated costs of constructing and improving the sewage treatment facilities within the city, including any required acquisition of land.

C. A law enforcement facilities, equipment and training fund is hereby established. The law enforcement

facilities, equipment and training fund is a fund for payment of the actual or estimated costs of law enforcement facilities, equipment, and training, including any required acquisition of land.

D. A storm drainage facilities fund is hereby established. The storm drainage facilities fund is a fund for payment of the actual or estimated costs of constructing and improving the park and recreation facilities within the city, including any required acquisition of land, as well as grading, irrigation and turfing costs associated therewith.

E. A park and recreation facilities fund is hereby established. The park and recreation facilities fund is a fund for payment of the actual or estimated costs of constructing and improving the park and recreation facilities within the city, including any required acquisition of land, as well as grading, irrigation and turfing costs associated therewith.

F. A library facilities fund is hereby established. The library facilities fund is a fund for the payment of the actual or estimated costs of constructing and improving the library facilities within the city, including any required acquisition of land.

G. A streets and thoroughfares fund is hereby established. The streets and improvement fund is a fund for payment of the actual or estimated costs of the design, upgrading or improvement of the traffic network, including any required acquisition of land.

H. An administrative overhead fund is hereby established. The administrative overhead fund is a fund for payment of the actual or estimated costs of administering the provisions of this chapter and any resolutions adopted pursuant hereto, all consistent with the provisions of Section 15.20.030. (Ord. 143 § 7, 1991)

15.20.080 Zoning to be utilized to compute fee.

The approved zoning for the property to be developed shall be used in the computation of the fees required to be paid with respect to any property. If a parcel contains more than one zone, then the applicable fees shall be prorated by acreage or units, as appropriate, attributable to each zone. Public properties shall be classified into the category of use as between residential, commercial, or industrial as determined by the director of planning of the city of Scotts Valley (herein "planning director") or his duly authorized designee, and shall pay fees pursuant to that classification. All fees due hereunder shall be determined and calculated by the city engineer of the city of Scotts Valley (herein "city engineer") or his duly authorized designee. (Ord. 143 § 8, 1991)

15.20.090 Payment of fee.

The fees established pursuant to this chapter shall be paid for the property on which a development project is proposed at the time of the issuance of any required building permit, except as otherwise provided in this chapter. Provided, however, that fees imposed on residential development shall be collected in accordance with the provisions of California Government Code Section 66007, as the same presently exists or may hereafter be amended from time to time.

The term "building permit" as used herein includes any permits required for construction, reconstruction, remodeling, moving structures into the city, and the like, such as electrical and plumbing permits, moving permits, and the like.

The fees created pursuant to this chapter shall be calculated on the basis of net acreage or number of units, as set forth in the resolution referenced in Section 15.20.030. For development projects containing a fraction of a net acre, the fee shall be calculated on the fraction of the acre involved in the development project. All fees collected shall be promptly transferred for deposit in the appropriate fund referenced in Section 15.20.070.

Notwithstanding the above, the fee for streets and thoroughfares in the case of commercial and industrial developments shall be calculated on the basis of gross square footage (i.e., all of the floor area confined by the outside surface of the exterior walls of a building, except for that floor area devoted solely to vehicle parking or circulation) times the rate per square foot; and the fee for wastewater treatment facilities in the case of commercial and industrial developments shall be calculated on the basis of gallons per day times the rate per gallon; and the fee for storm drainage facilities in the case of all developments shall be calculated on the basis of the number of square feet of impervious area times the rate per square foot of impervious areas, all as established in the resolution adopted pursuant to Section 15.20.030. (Ord. 143 § 9, 1991)

15.20.100 Fee adjustments.

A developer of any project subject to the fees described herein may apply to the city council for a reduction, adjustment, or waiver of any one or more of said fees, based upon the absence of any reasonable relationship or nexus between the impacts of that development and either the amount of the fee(s) charged or the type of facilities to be financed. The application shall be made in writing and filed with the city clerk not later than (1) ten days prior to the public hearing on the development permit application for the project, or (2) if no development permit is required, at the time of the filing of the

request for a building permit. The application shall state in detail the factual basis for the claim of waiver, reduction, or adjustment. The city council shall consider the application at the public hearing on the permit application or at a separate public hearing held within sixty days after the filing of the fee adjustment application, whichever is later. The decision of the city council shall be final. If a reduction, adjustment, or waiver is granted, any change in use within the project shall invalidate the waiver, adjustment or reduction of the fee if such change in use would render the same inappropriate. The hearing shall be noticed and conducted in the same fashion and manner as prescribed by the laws of the city for hearing on development permits.

The city council may, from time to time, and as the need may arise, set forth, by council resolution, specific limitations which will apply to reductions, adjustments, or waivers of development impact fees which may be made pursuant to this section. In this regard, this chapter shall be considered enabling and directory. (Ord. 143 § 10, 1991)

15.20.110 Use of funds.

A. Funds collected from development impact fees shall be used for the purpose of paying (1) the actual or estimated costs of constructing and/or improving the public facilities within the city to which said specific fee or fees relate, including any required acquisition of land or rights-of-way therefor; (2) reimbursing the city for the development's share of those public facilities already constructed by the city or to reimburse the city for costs advanced, including without limitation, administrative costs incurred with respect to a specified public facility project; or (3) to reimburse other developers who have constructed public facilities described in the resolution adopted pursuant to Section 15.20.030 where those facilities were beyond that needed to mitigate the impact of said developer's project or projects.

B. In the event that bonds or similar debt instruments are issued for advanced provision of public facilities for which development impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type to which the fees involved relate.

C. At least once each fiscal period, the city manager of the city of Scotts Valley (herein "city manager"), or his duly authorized designee shall present to the city council a proposed five year capital improvement program for the various public facilities referenced in the resolution adopted pursuant to Section 15.20.030 assigning moneys (including any accrued interest) from the

funds referenced in Section 15.20.070 to specific improvement projects and related expenses. Moneys, including any accrued interest, not assigned in any fiscal period shall be retained in the same fund until the next fiscal period except as provided by the refund provisions of Section 15.20.120.

D. Funds may be used to provide refunds as described in Section 15.20.120.

E. The city shall be entitled to retain funds collected representing administrative overhead as compensation for the expense of collecting the fees and administering this chapter (all consistent with the provisions of Section 15.20.030). (Ord. 143 § 11, 1991)

15.20.120 Refund of fees paid.

A. If a building permit expires without commencement of construction, then the fee payer shall be entitled to a refund, without interest, of the impact fee paid as a condition for its issuance, except that the city shall retain one percent of the fee to offset a portion of the costs of collection and refund. The fee payer must submit an application for such a refund to the city engineer within thirty calendar days of the expiration of the permit. Failure to timely submit the required application for refund shall constitute a waiver of any right to the refund. All determinations with respect to said refund applications shall be made by the city engineer.

B. In the event any fee collected pursuant to this chapter remains unexpended or uncommitted in any fund established pursuant to Section 15.20.070 five or more years after deposit of said fee, the city shall make findings once each fiscal year to identify the purpose to which the fee is to be put and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged.

C. The unexpended or uncommitted portion of the fee, and any interest accrued thereon, for which need cannot be demonstrated pursuant to subsection B, shall be refunded to the then current record owner or owners of lots or units of the development project or projects on a prorated basis.

D. The provisions of California Government Code Section 66001(d), (e) and (f) shall apply fully to any refund of fees remaining expended or uncommitted in any such city fund for five or more years after deposit, and the provisions of subsections B and C, above, shall be subordinate to said section and shall be applied consistent therewith. (Ord. 143 § 12, 1991)

15.20.130 Exemptions.

A. The following shall be exempted from payment of the development fees referenced in Section 15.20.030:

1. Alterations, renovations, or expansion of an existing building or structure where no additional dwelling units are created and the use is not changed; provided, however, that expansion of an existing commercial or industrial building or structure shall not be exempt from the fee for streets and thoroughfares or the fee for wastewater treatment facilities. Provided further, that the expansion of an existing building or structure shall not be exempt from the fee for storm drainage facilities.

2. The replacement of a destroyed or partially destroyed or damaged building or structure with a new building or structure of the same size and use.

B. All determinations regarding the exemptions provided above shall be made by the city engineer. (Ord. 143 § 13, 1991)

15.20.140 Credits.

A. New development that, through demolition or conversion, will eliminate existing development is entitled to a fee credit if the existing development is a lawful use under the zoning ordinance, including a nonconforming use.

B. New development that will replace development that was partially or totally destroyed by fire, flood, earthquake, mudslide, or other casualty or Act of God, is entitled to a fee credit if the development that was partially or totally destroyed was a lawful use under the zoning ordinance, including a nonconforming use, at the time thereof.

C. Credit for such eliminated development or development that was partially or totally destroyed (as above specified) shall be calculated by the city engineer in accordance with the fee schedule set forth in the resolution to be adopted pursuant to Section 15.20.030 and shall be applied to new development on the same site.

D. Notwithstanding any other provision of this chapter, new development shall be given a credit against the fee due hereunder for park and recreation facilities to the extent of the amount of any fees paid and/or the value of any land dedicated by such new development, as well as the value of any credit due any such new development, for park and recreation facilities pursuant to the provisions of Ordinance No. 64.2 or any other ordinance of the city, as the same now exist or may hereafter be amended from time to time. (Ord. 143 § 14, 1991)

15.20.150 Developer construction of facilities.**A. In-lieu Fee Credits for Construction of Improvements.**

1. A developer that has been required by the city to construct any facilities or improvements (or a portion thereof) described in the resolution adopted pursuant to Section 15.20.030 as a condition of approval of a development permit may request an in-lieu credit of the specific development impact fee(s) involved for the same development. Upon request, an in-lieu credit of fees shall be granted for facilities or improvements that mitigate all or a portion of the need therefor that is attributable to and reasonably related to the given development.

2. Only costs proportional to the amount of the improvement or facility that mitigates the need therefor attributable to and reasonably related to the given development shall be eligible for in-lieu credit, and then only against the specific relevant fee(s) involved to which the facility or improvement relates.

3. Fees required under this chapter shall be reduced by the actual construction costs of the facilities or improvements that relate to said fees, as demonstrated by the applicant and reviewed and approved by the city engineer, all consistent with the provisions of paragraphs 1 and 2 above. Subject to the applicable provisions of subsection B of this section, if the cost of the facilities or improvements is greater than required relevant fees, this chapter does not create an obligation on the city to pay the applicant the excess amount.

4. An amount of in-lieu credit that is greater than the specific fee(s) required under this chapter may be reserved and credited toward the fee of any subsequent phases of the same development, if determined appropriate by the city engineer. The city engineer may set a time limit for reservation of the credit.

5. Credits shall be calculated by the city engineer in accordance with the fee schedule set forth in the resolution to be adopted pursuant to Section 15.20.030.

B. Developer Construction of Facilities Exceeding Needs Related to Development Project. Whenever an applicant is required, as a condition of approval of a development permit, to construct any facility or improvement (or a portion thereof) described in the resolution adopted pursuant to Section 15.20.030 which facility or improvement is determined by the city to exceed the need therefor attributable to and reasonably related to the given development project, a reimbursement agreement with the applicant and a credit against the specific relevant fee which would otherwise be charged pursuant to this chapter on the development project, shall be offered. The credit shall be applied with respect to that portion of the improvement of facility which is attributable to and

reasonably related to the need therefor caused by the development, and shall be determined, administered and processed in accordance with and subject to the provisions of Section 15.20.150. The amount to be reimbursed shall be that portion of the cost for the improvement or facility which exceeds the need therefor attributable to and reasonably related to the given development. The reimbursement agreement shall contain terms and conditions mutually agreeable to the developer and the city, and shall be approved by the city council.

C. Site-related Improvements. Credit shall not be given for site-related improvements, including, but not limited to, traffic signals, right-of-way dedications, or providing paved access to the property, which are specifically required by the project in order to serve it and do not constitute facilities or improvements specified in the resolution referenced in Section 15.20.030 hereof.

D. Determination of Credit. The developer seeking credit and/or reimbursement for construction of improvements or facilities, or dedication of land or rights-of-way, shall submit such documentation, including without limitation, engineering drawings, specifications, and construction cost estimates, and utilize such methods as may be appropriate and acceptable to the city engineer to support the request for credit or reimbursement. The city engineer shall determine credit for construction of improvements or facilities based upon either those cost estimates or upon alternative engineering criteria and construction cost estimates if he determines that such estimates submitted by the developer are either unreliable or inaccurate. The city engineer shall determine whether facilities or improvements are eligible for credit or reimbursement.

E. Time for Making Claim for Credit. Any claim for credit must be made no later than the application for a building permit. Any claim not so made shall be deemed waived.

F. Transferability of Credit—Council Approval. Credits shall not be transferable from one project or development to another without the approval of the city council.

G. Appeal of Determinations of City Engineer. Determinations made by the city engineer pursuant to the provisions of this chapter may be appealed to the city council by filing a written appeal (setting forth in detail the factual basis therefor) with the city clerk, together with a fee established by resolution of the city council, within ten calendar days of the determination of the city engineer. The appeal shall be considered by the city council at a public hearing to be held, noticed and conducted in accordance with the provisions prescribed in Section 15.20.100 for public hearings with respect to fee

adjustments. The decision of the city council on the appeal shall be final. (Ord. 143 § 15, 1991)

15.20.160 Review.

A. Except for the first year the ordinance codified in this chapter is in effect, no later than six months following the end of each fiscal year, the city manager shall prepare a report for the city council identifying the balance of fees in the various funds established pursuant to Section 15.20.070, the facilities constructed, and the facilities to be constructed. In preparing the report, the city manager shall adjust the estimated costs of the public improvements in accordance with the Engineering Construction Cost Index as published by Engineer News Record for the elapsed time period from the previous July 1st or the date that the cost estimate was developed. The annual report shall also include a review of the administrative overhead charge.

B. At a noticed public hearing, the city council shall review the report and the development impact fees to determine whether the fee amounts continue to be reasonably related to the impact of development and whether the described public facilities are still needed. The council may revise the development impact fees to include additional projects not previously foreseen as being needed.

C. The report prepared by the city manager and its review by the city council, as well as any findings thereon, shall be subject to the provisions of California Government Code Section 66001(d), to the extent applicable (which shall be controlling in the event of any conflict). (Ord. 143 § 16, 1991)

15.20.170 Controlling state law.

The provisions of this chapter and any resolution adopted pursuant hereto, shall at all times be subject and subordinate to the provisions of Chapter 5 (commencing with Section 66000), Division 1, of Title 7 of the California Government Code, as the same presently exist or may hereafter be amended from time to time, to the extent the same are applicable. In the event of any conflict between the provisions of this chapter and said state law, the latter shall control. (Ord. 143 § 17, 1991)

ORDINANCE NO. 143

AN ORDINANCE OF THE CITY OF SCOTTS VALLEY
ESTABLISHING DEVELOPMENT IMPACT MITIGATION
FEES ON ALL NEW DEVELOPMENT WITHIN THE CITY

WHEREAS, the City of Scotts Valley ("city") requires that adequate public facilities and services be available to accommodate the needs, demands and burdens of new development; and

WHEREAS, developers of lands within the City of Scotts Valley should be required to mitigate the burden created by development through the construction or financing of the construction of the public facilities, service improvements (herein collectively "facilities" or "public facilities") necessitated by new development; and

WHEREAS, Management Services Institute ("MSI") has been retained by the city to prepare and has prepared a report dated April, 1990, entitled "Development Impact Fee Report for the City of Scotts Valley" ("report") which analyzes the need for new public facilities required by new development; and

WHEREAS, this report sets forth the relationship between new development, the needed public facilities and the estimated cost of them; and

WHEREAS, the facts and evidence presented establish that there is a reasonable relationship between the need for the described public facilities and the impacts of the types of development projects defined in Section 2 below, for which the fees are to be charged, and there exists a reasonable relationship between the

fees' use and the type of development for which the fees are charged, as these reasonable relationships or nexuses are in more detail described in the report referred to above; and

WHEREAS, the cost estimates for constructing these facilities are reasonable, and the fees expected to be generated by new development will not exceed the total costs of constructing the facilities or portion of the facilities to which they are attributable; and there is a reasonable relationship between the amount of the fees and the cost of the facilities or portion of the facilities attributable to the development on which the fees are imposed.

WHEREAS, the City Council of the City of Scotts Valley ("City Council") has determined, based upon the evidence presented in connection with the establishment of fees imposed by this ordinance, and from the various reports and other information received by the City Council in the course of its business, that imposition of fees to finance public facilities and service improvements for the city is necessary in order to protect the public health, safety and welfare; and

WHEREAS, it is necessary for the provisions of this ordinance to apply to future developments in order to protect the public health, safety and welfare by the provision of adequate public facilities and service improvements, to give developers certainty with regard to their financial obligations, and to ensure that new development will not create a burden on the interrelated public facilities and service networks.

NOW THEREFORE, the City Council of the City of Scotts Valley does hereby ordain as follows:

Section 1. Legislative Findings.

The City Council of the City of Scotts Valley hereby finds and declares that all provisions set forth above are true and are hereby incorporated herein as findings; and said Council does hereby further find and declare as follows:

A. The State of California, through the enactment of Government Code Sections 66001 through 66009 has, among other things, determined the nexus that must be established in the enactment of development impact fees.

B. The imposition of development impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of public facilities and service improvements necessary to accommodate such development. This must be done in order to promote and protect the public health, safety, and welfare.

C. This ordinance recognizes that all new development within the city will result in additional growth and that such growth will place additional burdens on various city facilities, infrastructure, and services. This ordinance further recognizes the types of land development that will generate impacts necessitating the acquisition of land and construction of public facilities and expansion of services and infrastructure in order

to meet and accommodate them.

D. All land uses within the city should bear a proportionate financial burden in the construction and improvement of public facilities and services necessary to serve them.

E. The cost of providing public facilities and service improvements occasioned by development projects within the City of Scotts Valley exceeds the revenue generated by fees exacted from said development projects.

F. The City of Scotts Valley hereby adopts the report from MSI dated April 1990 entitled "Development Impact Fee Report for the City of Scotts Valley" which establishes the costs for providing public facilities and service improvements occasioned by development projects within the City of Scotts Valley.

G. The development impact fees established by this ordinance are based upon the costs which are generated through the need for new facilities and other capital acquisition costs required, incrementally, by new development within the City of Scotts Valley.

H. The fees established by this ordinance do not exceed the reasonable cost of providing public facilities occasioned by development projects within the City of Scotts Valley.

I. The fees established by this ordinance relate rationally to the reasonable cost of providing public facilities occasioned by development projects within the City of Scotts Valley, which public facilities are consistent with the General Plan and the Housing Element of the General Plan of the City of Scotts Valley.

J. The public facilities and anticipated future development

herein referenced are based upon an analysis of existing land use and zoning.

K. The fees established by this ordinance are consistent with the goals and objectives of the city's General Plan and are designed to mitigate the impacts caused by new development throughout the city. Development impact fees are necessary in order to finance the required public facilities and service improvements and to pay for new development's fair share of their construction costs.

L. Imposition of fees to finance public facilities and service improvements required by new development is necessary in order to avoid adversely impacting existing facilities and services.

M. The city has pending before it subdivision maps and other applications for residential, commercial and industrial development approval which the city must act upon. Further, the city has heretofore approved various development projects in the form of tentative map or other approvals, which have been expressly conditioned on payment of the fees established as a result of the development impact fee study undertaken by Management Services Institute (the results of said study constitute the report referenced above), and said condition was assented to by the developers of these projects. It is necessary for the provisions of this ordinance to apply to these developments in order to protect the public health, safety and welfare by the provision of adequate public facilities, to afford developers certainty with

regard to their financial obligations, and to ensure that such development will not create a burden on the interrelated public facilities and services networks of the city.

Section 2. Definitions.

For purposes of this ordinance, the following terms, phrases, words and their derivation shall have the meanings respectively ascribed to them by this section:

A. "Development Project" means any project undertaken for the purpose of development. "Development Project" shall include a project involving the issuance of a permit for construction or reconstruction, remodeling, or any work requiring any permit under the ordinances of the City of Scotts Valley, as the same presently exist or may be amended from time to time hereafter.

The term "development project" shall also include permits for erection of manufactured housing or structures, and structures moved into the city.

B. "Fee" means a monetary exaction, other than a tax or special assessment, which is charged by the City of Scotts Valley to an applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, but does not include fees specified in Section 66477 of the California Government Code, fees for processing applications for governmental regulatory actions or approvals, or fees collected under development agreements adopted pursuant to Article 2.5 (commencing

with Section 65864) of Chapter 4, Division 1, Title 7 of the California Government Code.

C. "Public Facilities" includes public improvements, public services, and community amenities.

Section 3. Establishment of Development Fees and Providing for their Adoption by Resolution of the City Council.

The following development impact fees are hereby established and imposed on the issuance of all building permits for development within the City of Scotts Valley to finance the cost of the following categories of public facilities and improvements required by new development:

A. General Facilities and Equipment.

A development impact fee is hereby established for general facilities and equipment.

B. Wastewater Treatment Facilities.

A development impact fee is hereby established for wastewater treatment facilities.

C. Law Enforcement Facilities, Equipment and Training.

A development impact fee is hereby established for law enforcement facilities, equipment and training.

D. Storm Drainage Facilities.

A development impact fee is hereby established for storm

drainage facilities.

E. Park and Recreation Facilities.

A development impact fee is hereby established for park and recreation facilities.

F. Library Facilities.

A development impact fee is hereby established for library facilities.

G. Streets and Thoroughfares.

A development impact fee is hereby established for streets and thoroughfares.

H. Administrative Overhead.

A development impact fee is hereby established for administrative overhead to cover the cost of general administration of this ordinance and any resolution adopted pursuant hereto, performance of accounting tasks associated herewith, supervision and handling of funds, preparation and/or updating of Master Facilities Plans and/or Capital Financing Plans, and the like. This fee shall be set as a percentage of the fees set forth in Subsections A through G, above, which are collected pursuant to this ordinance. This fee does not relate to and is not designed to cover administrative costs incurred by the city in the case of any specific public facility constructed with the fees referenced in Subsections A through G, above, since such project specific administrative costs are included in and shall be recovered from such fees.

The City Council shall, by Council Resolution, set forth the

specific amount of the fees, describe the benefit and impact area on which the fees are imposed, list the specific public improvements to be financed and describe the estimated cost of these facilities.

Section 4. Imposition of Development Impact Fee.

A. Any person who, after the effective date of this ordinance, seeks to develop land within the city by applying for a building permit, is hereby required to pay the appropriate development impact fees established pursuant to Section 3 as the same may be applicable, in the manner, amount and for the purposes therein referenced.

B. No permits or extension of permits for the activities referenced in subsection (A) shall be granted unless and until the appropriate development impact fees hereby required have been paid to the city.

C. Notwithstanding anything to the contrary set forth in Subsection A, above, or in any other provision of this ordinance, the development impact fees as established pursuant to Section 3 shall apply to any development project which has heretofore received a tentative map approval or other approval from the city, where the approval of the same, assented to by the developer, has been conditioned upon payment of the fees established as a result of the analysis and study (the "report") pertaining to development impact fees undertaken by Management Services Institute (referenced

in Section 1).

Section 5. Automatic Annual Adjustment.

Each fee imposed by this ordinance shall be adjusted automatically on July 1st of each fiscal year, beginning on July 1, 1991, by a percentage equal to the Engineering Cost Index as published by Engineer News Record for the preceding twelve (12) months. This automatic adjustment shall not apply to fees which are based on variable factors which result in automatic adjustments or those which specifically indicate otherwise.

Section 6. Increase by Resolution.

The amount of each fee established pursuant to this ordinance may be more specifically set and revised periodically by resolution of the City Council, with this ordinance being considered as enabling and directive in this regard.

Section 7. Creation of Special Funds.

Each fee collected pursuant to this ordinance shall be deposited in a special fund created to hold the revenue generated by each such fee. Monies within each such fund may be expended only by appropriation by the City Council for specific projects which are of the same category as that for which the money was

collected. In this regard, the following special funds are hereby created and established for the purposes indicated:

A. A General Facilities and Equipment Fund is hereby established. The General Facilities and Equipment Fund is a fund for payment of the actual or estimated costs of constructing and improving the general municipal facilities within the city, including any required acquisition of land.

B. A Wastewater Treatment Facilities Fund is hereby established. The Wastewater Treatment Facilities Fund is a fund for payment of the actual or estimated costs of constructing and improving the sewage treatment facilities within the city, including any required acquisition of land.

C. A Law Enforcement Facilities, Equipment and Training Fund is hereby established. The Law Enforcement Facilities, Equipment and Training Fund is a fund for payment of the actual or estimated costs of law enforcement facilities, equipment, and training, including any required acquisition of land.

D. A Storm Drainage Facilities Fund is hereby established. The Storm Drainage Facilities Fund is a fund for payment of the actual or estimated costs of constructing and improving the storm drain facilities within the city, including any required acquisition of land.

E. A Park and Recreation Facilities Fund is hereby established. The Park and Recreation Facilities Fund is a fund for payment of the actual or estimated costs of constructing and improving the park and recreation facilities within the city,

including any required acquisition of land, as well as grading, irrigation and turfing costs associated therewith.

F. A Library Facilities Fund is hereby established. The Library Facilities Fund is a fund for the payment of the actual or estimated costs of constructing and improving the library facilities within the city, including any required acquisition of land.

G. A Streets and Thoroughfares Fund is hereby established. The Streets and Thoroughfares Fund is a fund for payment of the actual or estimated costs of the design, upgrading or improvement of the traffic network, including any required acquisition of land.

H. An Administrative Overhead Fund is hereby established. The Administrative Overhead Fund is a fund for payment of the actual or estimated costs of administering the provisions of this ordinance and any resolutions adopted pursuant hereto, all consistent with the provisions of Section 3.

Section 8. Zoning to be Utilized to Compute Fee.

The approved zoning for the property to be developed shall be used in the computation of the fees required to be paid with respect to any property. If a parcel contains more than one zone, then the applicable fees shall be prorated by acreage or units, as appropriate, attributable to each zone. Public properties shall be classified into the category of use as between residential, commercial, or industrial as determined by the Director of Planning of the City of Scotts Valley (herein "Planning Director") or his

duly authorized designee, and shall pay fees pursuant to that classification. All fees due hereunder shall be determined and calculated by the City Engineer of the City of Scotts Valley (herein "City Engineer") or his duly authorized designee.

Section 9. Payment of Fee.

The fees established pursuant to this ordinance shall be paid for the property on which a development project is proposed at the time of the issuance of any required building permit, except as otherwise provided in this ordinance. Provided, however, that fees imposed on residential development shall be collected in accordance with the provisions of California Government Code Section 66007, as the same presently exists or may hereafter be amended from time to time.

The term "building permit" as used herein includes any permits required for construction, reconstruction, remodeling, moving structures into the city, and the like, such as electrical and plumbing permits, moving permits, and the like.

The fees created pursuant to this ordinance shall be calculated on the basis of net acreage or number of units, as set forth in the resolution referenced in Section 3. For development projects containing a fraction of a net acre, the fee shall be calculated on the fraction of the acre involved in the development project. All fees collected shall be promptly transferred for deposit in the appropriate fund referenced in Section 7.

Notwithstanding the above, the fee for streets and thoroughfares in the case of commercial and industrial developments shall be calculated on the basis of gross square footage (i.e., all of the floor area confined by the outside surface of the exterior walls of a building, except for that floor area devoted solely to vehicle parking or circulation) times the rate per square foot; and the fee for wastewater treatment facilities in the case of commercial and industrial developments shall be calculated on the basis of gallons per day times the rate per gallon; and the fee for storm drainage facilities in the case of all developments shall be calculated on the basis of the number of square feet of impervious area times the rate per square foot of impervious area, all as established in the resolution adopted pursuant to Section 3.

Section 10. Fee Adjustments.

A developer of any project subject to the fees described herein may apply to the City Council for a reduction, adjustment, or waiver of any one or more of said fees, based upon the absence of any reasonable relationship or nexus between the impacts of that development and either the amount of the fee(s) charged or the type of facilities to be financed. The application shall be made in writing and filed with the City Clerk not later than (1) ten days prior to the public hearing on the development permit application for the project, or (2) if no development permit is required, at

the time of the filing of the request for a building permit. The application shall state in detail the factual basis for the claim of waiver, reduction, or adjustment. The City Council shall consider the application at the public hearing on the permit application or at a separate public hearing held within 60 days after the filing of the fee adjustment application, whichever is later. The decision of the City Council shall be final. If a reduction, adjustment, or waiver is granted, any change in use within the project shall invalidate the waiver, adjustment or reduction of the fee if such change in use would render the same inappropriate. The hearing shall be noticed and conducted in the same fashion and manner as prescribed by the laws of the city for hearing on development permits.

The City Council may, from time to time, and as the need may arise, set forth, by Council resolution, specific limitations which will apply to reductions, adjustments, or waivers of development impact fees which may be made pursuant to this section. In this regard, this ordinance shall be considered enabling and directory.

Section 11. Use of Funds.

A. Funds collected from development impact fees shall be used for the purpose of paying (1) the actual or estimated costs of constructing and/or improving the public facilities within the city to which said specific fee or fees relate, including any required acquisition of land or rights-of-way therefor; (2) reimbursing

the city for the development's share of those public facilities already constructed by the city or to reimburse the city for costs advanced, including without limitation, administrative costs incurred with respect to a specific public facility project; or (3) to reimburse other developers who have constructed public facilities described in the resolution adopted pursuant to Section 3, where those facilities were beyond that needed to mitigate the impact of said developer's project or projects.

B. In the event that bonds or similar debt instruments are issued for advanced provision of public facilities for which development impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type to which the fees involved relate.

C. At least once each fiscal period, the City Manager of the City of Scotts Valley (herein "City Manager"), or his duly authorized designee shall present to the City Council a proposed five (5) year capital improvement program for the various public facilities referenced in the resolution adopted pursuant to Section 3 assigning monies (including any accrued interest) from the funds referenced in Section 7 to specific improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the same fund until the next fiscal period except as provided by the refund provisions of Section 12.

D. Funds may be used to provide refunds as described in

Section 12.

E. The City of Scotts Valley shall be entitled to retain funds collected representing administrative overhead as compensation for the expense of collecting the fees and administering this ordinance (all consistent with the provisions of Section 3).

Section 12. Refund of Fees Paid.

A. If a building permit expires without commencement of construction, then the feepayer shall be entitled to a refund, without interest, of the impact fee paid as a condition for its issuance, except that the city shall retain one percent (1%) of the fee to offset a portion of the costs of collection and refund. The feepayer must submit an application for such a refund to the City Engineer within 30 calendar days of the expiration of the permit. Failure to timely submit the required application for refund shall constitute a waiver of any right to the refund. All determinations with respect to said refund applications shall be made by the City Engineer.

B. In the event any fee collected pursuant to this ordinance remains unexpended or uncommitted in any fund established pursuant to Section 7 five or more years after deposit of said fee, the city shall make findings once each fiscal year to identify the purpose to which the fee is to be put and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged.

C. The unexpended or uncommitted portion of the fee, and any interest accrued thereon, for which need cannot be demonstrated pursuant to Subsection B, shall be refunded to the then current record owner or owners of lots or units of the development project or projects on a prorated basis.

D. The provisions of California Government Code Section 66001(d), (e) and (f) shall apply fully to any refund of fees remaining unexpended or uncommitted in any such city fund for five or more years after deposit, and the provisions of Subsections B and C, above, shall be subordinate to said Section and shall be applied consistent therewith.

Section 13. Exemptions.

A. The following shall be exempted from payment of the development impact fees referenced in Section 3:

1. Alterations, renovations, or expansion of an existing building or structure where no additional dwelling units are created and the use is not changed; provided, however, that the expansion of an existing commercial or industrial building or structure shall not be exempt from the fee for streets and thoroughfares or the fee for wastewater treatment facilities. Provided further, that the expansion of an existing building or structure shall not be exempt from the fee for storm drainage

facilities.

2. The replacement of a destroyed or partially destroyed or damaged building or structure with a new building or structure of the same size and use.

B. All determinations regarding the exemptions provided above shall be made by the City Engineer.

Section 14. Credits.

A. New development that, through demolition or conversion, will eliminate existing development is entitled to a fee credit if the existing development is a lawful use under the Zoning Ordinance, including a nonconforming use.

B. New development that will replace development that was partially or totally destroyed by fire, flood, earthquake, mudslide, or other casualty or Act of God, is entitled to a fee credit if the development that was partially or totally destroyed was a lawful use under the Zoning Ordinance, including a nonconforming use, at the time thereof.

C. Credit for such eliminated development or development that was partially or totally destroyed (as above specified) shall be calculated by the City Engineer in accordance with the fee schedule set forth in the resolution to be adopted pursuant to Section 3 and shall be applied to new development on the same site.

D. Notwithstanding any other provision of this ordinance, new development shall be given a credit against the fee due hereunder for park and recreation facilities to the extent of the

amount of any fees paid and/or the value of any land dedicated by such new development, as well as the value of any credit due any such new development, for park and recreation facilities pursuant to the provisions of Ordinance No. 64.2 or any other ordinance of the city, as the same now exist or may hereafter be amended from time to time.

Section 15. Developer Construction of Facilities.

A. In-Lieu Fee Credits for Construction of Improvements.

1. A developer that has been required by the city to construct any facilities or improvements (or a portion thereof) described in the resolution adopted pursuant to Section 3 as a condition of approval of a development permit may request an in-lieu credit of the specific development impact fee(s) involved for the same development. Upon request, an in-lieu credit of fees shall be granted for facilities or improvements that mitigate all or a portion of the need therefor that is attributable to and reasonably related to the given development.

2. Only costs proportional to the amount of the improvement or facility that mitigates the need therefor attributable to and reasonably related to the given development shall be eligible for in-lieu credit, and then only against the specific relevant fee(s) involved to which the facility or improvement relates.

3. Fees required under this ordinance shall be reduced

by the actual construction costs of the facilities or improvements that relate to said fees, as demonstrated by the applicant and reviewed and approved by the City Engineer, all consistent with the provisions of Paragraphs 1 and 2 above. Subject to the applicable provisions of Section 15 B, if the cost of the facilities or improvements is greater than required relevant fees, this ordinance does not create an obligation on the city to pay the applicant the excess amount.

4. An amount of in-lieu credit that is greater than the specific fee(s) required under this ordinance may be reserved and credited toward the fee of any subsequent phases of the same development, if determined appropriate by the City Engineer. The City Engineer may set a time limit for reservation of the credit.

5. Credits shall be calculated by the City Engineer in accordance with the fee schedule set forth in the resolution to be adopted pursuant to Section 3.

B. Developer Construction of Facilities Exceeding Needs Related to Development Project.

Whenever an applicant is required, as a condition of approval of a development permit, to construct any facility or improvement (or a portion thereof) described in the resolution adopted pursuant to Section 3 which facility or improvement is determined by the city to exceed the need therefor attributable to and reasonably related to the given development project, a

reimbursement agreement with the applicant and a credit against the specific relevant fee which would otherwise be charged pursuant to this ordinance on the development project, shall be offered. The credit shall be applied with respect to that portion of the improvement or facility which is attributable to and reasonably related to the need therefor caused by the development, and shall be determined, administered and processed in accordance with and subject to the provisions of Section 15. The amount to be reimbursed shall be that portion of the cost of the improvement or facility which exceeds the need therefor attributable to and reasonably related to the given development. The reimbursement agreement shall contain terms and conditions mutually agreeable to the developer and the city, and shall be approved by the City Council.

C. Site-Related Improvements.

Credit shall not be given for site-related improvements, including, but not limited to, traffic signals, right-of-way dedications, or providing paved access to the property, which are specifically required by the project in order to serve it and do not constitute facilities or improvements specified in the resolution referenced in Section 3 hereof.

D. Determination of Credit.

The developer seeking credit and/or reimbursement for construction of improvements or facilities, or dedication of land or rights-of-way, shall submit such documentation, including without limitation, engineering drawings, specifications, and construction cost estimates, and utilize such methods as may be appropriate and acceptable to the City Engineer to support the request for credit or reimbursement. The City Engineer shall determine credit for construction of improvements or facilities based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if he determines that such estimates submitted by the developer are either unreliable or inaccurate. The City Engineer shall determine whether facilities or improvements are eligible for credit or reimbursement.

E. Time for Making Claim for Credit.

Any claim for credit must be made no later than the application for a building permit. Any claim not so made shall be deemed waived.

F. Transferability of Credit - Council Approval.

Credits shall not be transferable from one project or development to another without the approval of the City Council.

G. Appeal of Determinations of City Engineer.

Determinations made by the City Engineer pursuant to the provisions of this ordinance may be appealed to the City Council by filing a written appeal (setting forth in detail the factual basis therefor) with the City Clerk, together with a fee established by resolution of the City Council, within ten (10) calendar days of the determination of the City Engineer. The appeal shall be considered by the City Council at a public hearing to be held, noticed and conducted in accordance with the provisions prescribed in Section 10 for public hearings with respect to fee adjustments. The decision of the City Council on the appeal shall be final.

Section 16. Review.

A. Except for the first year this ordinance is in effect, no later than six (6) months following the end of each fiscal year, the City Manager shall prepare a report for the City Council identifying the balance of fees in the various funds established pursuant to Section 7, the facilities constructed, and the facilities to be constructed. In preparing the report, the City Manager shall adjust the estimated costs of the public improvements in accordance with the Engineering Construction Cost Index as published by Engineer News Record for the elapsed time period from the previous July 1 or the date that the cost estimate was developed. The annual report shall also include a review of

the administrative overhead charge.

B. At a noticed public hearing, the City Council shall review the report and the development impact fees to determine whether the fee amounts continue to be reasonably related to the impact of development and whether the described public facilities are still needed. The Council may revise the development impact fees to include additional projects not previously foreseen as being needed.

C. The report prepared by the City Manager and its review by the City Council, as well as any findings thereon, shall be subject to the provisions of California Government Code Section 66001(d), to the extent applicable (which shall be controlling in the event of any conflict).

Section 17. Controlling State Law.

The provisions of this ordinance and any resolution adopted pursuant hereto, shall at all times be subject and subordinate to the provisions of Chapter 5 (commencing with Section 66000), Division 1, of Title 7 of the California Government Code, as the same presently exist or may hereafter be amended from time to time, to the extent the same are applicable. In the event of any conflict between the provisions of this ordinance and said state law, the latter shall control.

Section 18. Superceding Provisions.

The provisions of this ordinance and any resolution adopted

pursuant hereto, shall supercede any previous ordinance or resolution to the extent the same is in conflict herewith.

Section 19. Severability.

If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision; and such holding shall not affect the validity of the remaining portions hereof.

Section 20. Effective Date.

Pursuant to California Government Code Section 65962(b), this ordinance shall be in full force and effect sixty (60) days from and after its adoption.

Section 19. Publication.

The City Clerk is hereby authorized and directed to publish this ordinance by one insertion in the Scotts Valley Banner, a newspaper of general circulation in the City of Scotts Valley, within 15 days of its adoption.

* * * * *

This ordinance was introduced on the 9th day of January, 1991, and passed and adopted on the 16th day of January, 1991, at a duly held regular meeting of the City Council of the City of Scotts Valley, by the following vote:

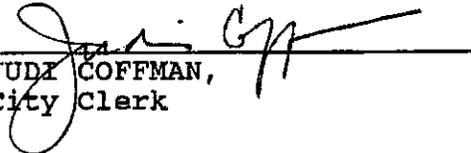
AYES: Miller, Schmidt, Koshland, Lopez, Caffrey

NOES: None

ABSENT: None


MICHAEL CAFFREY, Mayor

ATTEST:


JUDI COFFMAN,
City Clerk

City of Scotts Valley

PARKS AND RECREATION COMMISSION STAFF REPORT

DATE: August 21, 2014
TO: Parks and Recreation Commissioners
FROM: Kristin Ard, Recreation Division Manager
APPROVED: Scott Hamby, Public Works Director
SUBJECT: **Glenwood Open Space**

SUMMARY OF ISSUE

Improvements for the Glenwood Open Space went to Council on June 18, 2014. Attached is the staff report to Council and page 5 of the minutes showing in item 3 the decision Council made. Maps/drawings will be provided at the meeting.

FISCAL IMPACT

None at this time.

STAFF RECOMMENDATION

Topic is for discussion purposes only.

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City of Scotts Valley INTEROFFICE MEMORANDUM

DATE: June 18, 2014
TO: Honorable Mayor and City Council
FROM: Corrie Kates, Community Development Director/Deputy City Manager
SUBJECT: **CONSIDERATION OF IMPROVEMENTS TO K STREET TRAILHEAD
OPENING TO THE GLENWOOD OPEN SPACE**

SUMMARY OF ISSUE

On November 6, 2013, staff provided an update to City Council on the Glenwood Open Space development plan and explained that there would be two phases to opening up the area to the public. One phase for the West side of Glenwood Drive (High School side - "K-Street) and a second phase for the East side of Glenwood Drive (Pasture Areas).

Staff advised the City Council that the Land Trust and Fish and Wildlife had approved opening the K Street side of the open space area for a public trail.

The Parks and Recreation Commission established a Sub-Committee that has been assisting in developing the trails that would be established in both areas with a focus on the K Street side first.

The first step in opening the K Street side of the open space area is to build a trailhead with adequate parking. Staff prepared conceptual plans for a K Street trailhead that are attached with an engineer's estimate for construction. There were three basic options that were developed that range from a basic trail head access area to a more comprehensive trail head access that included more parking and lighting or a no project option. The description and pricing are as follows:

Option 1

Build a basic ADA compliant parking area with a trash bin and security fencing along the High School Edge (Cost approximately \$57,270)

Option 2

Build Option 1 and add 4 additional parking stalls with security fencing along the High School Edge (Cost approximately \$108,653)

Option 3

Build Option 2 and add a street light with security fencing with security fencing along the High School Edge (Cost approximately \$120,651)

No Project - Option 4

There is no exhibit for this option. Leave in existing condition. No cost at this time to open trailhead without improvements.

Staff met with the Santa Cruz Land Trust, the School District and the Parks and Recreation Commission to obtain comments and conceptual approval of the trailhead concept plan. There comments were included in the current concept design.

NEXT STEPS

That the City Council discuss the options and related costs. After discussion, if the City Council is comfortable with proceeding forward with an option or a modified option, staff would prepare any needed changes and then go out to bid. Detailed below is an estimated project schedule should the City Council move forward with the trailhead project.

Project Schedule

Task	Timeline
Approve an Option	June 8, 2014
Prepare Improvement Plans	July 2014
Public Works Bids Project/Awards Contract	August 2014
Construction	September 2014
Ribbon Cutting	November 2014

FISCAL IMPACT

There is no endowment funding for the development of K Street or the proposed trailhead. However, since K Street is a public street and the improvements are related to a public parking area and a public street, Gas Tax funding can be used to fund the project.

CONCLUSION

Provide direction and consider the options, direct staff to proceed with bidding the project should an option be chosen and return with a final cost and contract for consideration.

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Sally Green, Arts Council of Santa Cruz County, spoke about the importance of arts and their positive impact on society and the economy, gave an overview of the services provided and supported by the Arts Council of Santa Cruz County, and thanked the Council for their support over the years.

2. Consider change to rebate program for water efficient fixtures

DCM Kates presented the written staff report and responded to questions from Council.

Piret Harmon, General Manager of the Scotts Valley Water District, reviewed the guidelines for this program and responded to questions from Council.

M/S: Aguilar/Lind

To approve the change in the rebate program for high efficiency toilets, not to exceed \$25,000. If additional funds are needed, staff can bring this back to the City Council for reconsideration.

Carried 5/0 (AYES: Aguilar, Bustichi, Johnson, Lind, Reed)

3. Consider improvements to K-Street trail head opening to Glenwood Open Space

CDD Kates presented the written staff report and responded to questions from Council.

CM Johnson recommended Option 4, no project.

CM Aguilar stated that she would like to see money for the improvements come from the Lennar funds and to have the Parks & Recreation Commission include this project in their priorities listing.

VM Bustichi stated that he would like to see money from the Land Trust used for this. He does not want to use gas tax or general fund money.

CM Lind could not recommend funding for this project.

CDD Kates requested that the City Council approve Option 4 at this time, which would be to leave the area in its existing condition and open the trailhead without improvements. He recommended adding a light and security fencing if funding can be obtained.

M/S: Bustichi/Johnson

To approve Option 4, which is to leave the area in its existing condition and open the trailhead without improvements, direct City staff to look into obtaining funding to add a light and security fencing, and return to Council for approval and reconsideration of funding options for the light and security fencing.

Carried 5/0 (AYES: Aguilar, Bustichi, Johnson, Lind, Reed)

4. Skypark Open Space Maintenance Assessment District No. 1: Resolution No. 1555-SP-025 and 1555-SP-26; Annual Engineer's Report Skypark

CM Reed stated that he lives within this assessment district and recused himself from consideration of this item.