

MINUTES

Joint Meeting of the Scotts Valley City Council and Redevelopment Agency Board of Directors

Date: January 7, 2009

POSTING:

The agenda was posted on 1-2-09
at City Hall, the SV Library, and the
SV Senior Center by the City Clerk.

CALL TO ORDER 6:00 p.m.

PLEDGE OF ALLEGIANCE and MOMENT OF SILENCE

ROLL CALL

Present:

Mayor Johnson
Vice Mayor Reed
Council Member Aguilar
Council Member Bustichi
Council Member Lind

City Manager Ando
City Attorney Powell
Public Wks Director Anderson
Police Chief Weiss
Community Development Dir Wooden
Senior Planner Fodge
Contract Planner Westman
City Clerk Ferrara

COMMITTEE REPORTS CM Bustichi reported that the Santa Cruz Metropolitan Transit District (SCMTD) will most likely be postponing their new appointments to the Board of Directors, until all of the cities in the County have seated their new city council members. He stated that the rejection of the latest State budget may cause the SCMTD to get IOU's from the State, which will negatively impact the SCMTD's budget. He stated that the SCMTD will be sending representatives to Washington DC in March to request funding. He also stated that President-Elect Obama has stated that he will not be earmarking transportation funds, which will have a negative impact on transportation projects.

PUBLIC COMMENT

Paul Bach, SVRLDPAC, spoke in opposition to Target being constructed in Scotts Valley due to its negative impact on the City's economy and local businesses. He also stated that he believes constructing Target and the Town Center is not appropriate at this time due to the current economy. He stated that CM Bustichi had stated in the past that Target would bring in \$500,000 in sales tax revenues to the City. Mr. Bach stated that the latest results that Target has projected for sales tax revenue in Scotts Valley has dropped to \$300,000, which is before subtracting out the lost sales tax revenue from other businesses and stores that Target will take business away from, and the increased police costs, increased road maintenance costs, and the increased traffic, which he stated will nearly double.

Frank Kertai, President of the Heritage Parks Homeowners Association, read the attached letter (Attachment A), regarding the Town Center Specific Plan Final Environmental Impact Report.

ALTERATIONS TO CONSENT AGENDA

CM Ando stated that Item B was being deleted from the consent agenda at the request of the applicant.

Newly appointed Planning Commissioners Russ Patterson and Rick Bowen were introduced.

M/S: Aguilar/Reed

To approve the Consent Agenda as amended deleting Item B from the consent agenda.

Carried 5/0

Consent Agenda:

- A. Approve check register – 12-16-08, 12-23-08
- C. Approve rejection of claim for Sonya Rausch in the amount of \$23,007.23 and authorize the City Manager to refer the claim to Risk Management for resolution
- D. Approve the following appointments to the Planning Commission:
 - (1) Rick Bowen by Council Member Bustichi
 - (2) Russ Patterson by Council Member Lind
 - (3) Jack Bassett by Vice Mayor Reed

ALTERATIONS TO REGULAR AGENDA

M/S: Aguilar/Reed

To approve the Regular Agenda.

Carried 5/0

REGULAR AGENDA

1. Future Agenda Items

CM Aguilar requested that the City look at a peer review for the Town Center traffic report.

PUBLIC HEARINGS

2. **Consideration of appeal of the Planning Commissions decision to deny the design review application 08-009, use permit application 08-003 and the mitigated negative declaration 08-001 regarding the Suburban Propane relocation to 34 Janis Way**

CP Westman presented the written staff report and responded to questions from Council. She clarified that in the last line of page 52 of the staff report, Reinhard Hanselka, was not hired as the City's propane consultant.

Al Linder, the City's propane consultant, gave an oral report of his credentials, gave a PowerPoint presentation regarding the relocation of Suburban Propane to 34 Janis Way, and responded to questions from the City Council.

CP Westman recommended the following additions to Exhibit A, Conditions of Approval / Mitigation Measures of Resolution No. 1821:

- 13g. A detailed review to show compliance with seismic standards for this type of facility shall be done by a licensed structural engineer. Seismic standards will be no less than 1.5 times normal.
35. The final fence design shall be approved by the Community Development Director.

In response to Council questions regarding comments from Mr. Rinehard Hanselka of Integrated Engineering Services regarding Camps Propane Facility in Hayward, CP Westman stated that she had met with Mr. Hanselka and the Fire District regarding an above-ground mounded tank installation. She stated that Mr. Hanselka was involved in designing a facility that was going to be built in Hayward. She stated that Mr. Hanselka's design for that facility was an above-ground mounded system, and Mr. Hanselka had recommended that Scotts Valley look at the Camps Propane facility in Hayward. CP Westman stated that she had contacted Camps Propane, however, they had not followed through on Mr. Hanselka's recommendation, and instead, Camps Propane had buried the tanks directly in the ground, without a vault, and they have the valves on top with concrete over them. She stated that there is some concern about having valves on top of a propane tank, because you no longer have the benefit of the refrigeration of the product in the tank providing cooling for those valves.

Ed Newman, local attorney representing Suburban Propane, commented regarding the Planning Commission hearing as it relates to enforcement powers of the City related to safety issues. He stated that Suburban has been in business for 54 years and complies with all local, federal, and state laws. He commented regarding the letter from Attorney William Parkin, and stated that he agrees with the opinion of the City Attorney and Contract Planner, that the objections raised in the letter are without merit. He also commented regarding the objections raised by Mr. Dassel, one of which is the insurance that may apply to the easement that goes through his property, and stated that Suburban is willing to work with Mr. Dassel. He commented regarding a letter from Ron Roberson opposing this proposal and stated that Suburban does not own the site at 34 Janis Way, they are leasing it from the Roberson family. He stated that Ron Roberson had signed the lease in March of 2008 with full knowledge that Suburban was planning to move to the site.

Charlie Eadie, Consultant for Suburban Propane, introduced the team working on this project, gave a PowerPoint presentation regarding the relocation of Suburban Propane to 34 Janis Way, and responded to questions from Council.

PUBLIC HEARING OPENED - 8:05 PM

Mike Keogh, owner of property at 5321 Scotts Valley Drive, 1/4 mile from the site, spoke in favor of the relocation of Suburban Propane to 34 Janis Way.

Dwight Wilson, 424 Southwood Drive, spoke in opposition to the relocation of Suburban Propane to 34 Janis Way due to safety concerns and submitted a letter (copy on file with the City Clerk).

Derek Kim, SV resident, recommended that the City and citizens look at a way to find a solution to move the propane tanks and make it possible to build the Town Center.

Mike Mathias, SV resident, spoke in opposition to the relocation of Suburban Propane to 34 Janis Way due to safety concerns.

Kathryn Wilson, SV resident, spoke in opposition to the relocation of Suburban Propane to 34 Janis Way due to safety concerns and submitted a letter (copy on file with the City Clerk).

Paul Bach, SVRLDPAC, spoke in opposition to the relocation of Suburban Propane to 34 Janis Way due to safety concerns.

Roy Upton, General Manager of Threshold Enterprises, Inc., gave a PowerPoint presentation and spoke in opposition to the relocation of Suburban Propane to 34 Janis Way due to safety concerns. He also submitted Threshold's concerns and considerations in writing to the City Council (copy on file with the City Clerk). He requested that an independent risk assessment be completed before this project is considered for approval. Mr. Upton stated that Threshold will relocate to Santa Cruz if this project is approved.

Renee Wilson, SV resident, spoke in opposition to the relocation of Suburban Propane to 34 Janis Way due to safety concerns, and recommended keeping the tanks where they are and upgrading them at that location.

Frank Kertai, President of the Heritage Parks Homeowners Association, spoke in opposition to the relocation of Suburban Propane to 34 Janis Way due to safety concerns, and recommended an economic impact analysis be completed.

Jim Dassel, Dassel's Petroleum, spoke in favor of the relocation of Suburban Propane to 34 Janis Way.

Cindy Moore, property owner, spoke in opposition to the relocation of Suburban Propane to 34 Janis Way due to safety concerns, and stated that she would like to see an evacuation plan for this area.

Ron Roberson, spoke in opposition to the relocation of Suburban Propane to 34 Janis Way due to safety concerns, and its potential impact to existing homes and businesses in that area.

Judith Rachel, wife of Ron Roberson, spoke in opposition to the relocation of Suburban Propane to 34 Janis Way due to safety concerns. In response to comments from Ed Newman, she stated that Ron Roberson had signed the lease on behalf of his nephew, because his nephew had been underage at the

time the lease was signed; however, it didn't represent Ron Roberson's approval of this proposed project. She recommended mitigations regarding hours that trucks can be on the street, so that they are not allowed during peak times for children to be traveling to and from school.

Mayor Johnson questioned the necessity for an evacuation plan. Chief McMurry responded that an evacuation plan is required to be completed by the applicant.

Randy Bernstein, SV resident, spoke in opposition to the relocation of Suburban Propane to 34 Janis Way due to safety concerns and decreased property values.

Brian Caton, Consultant with Threshold Enterprises, spoke in opposition to the relocation of Suburban Propane to 34 Janis Way due to safety and traffic concerns. He stated that Threshold wants to stay in Scotts Valley and work this out. He recommended an independent study be completed and stated that there may be a way to share costs. He stated that Threshold would take court action if this project is approved.

Caroline Trent, SV resident, spoke in opposition to the relocation of Suburban Propane to 34 Janis Way due to safety concerns.

Marv DelChiaro, SV Resident, spoke in favor of the relocation of Suburban Propane to 34 Janis Way.

PUBLIC HEARING CLOSED - 9:12 PM

CM Bustichi questioned Mr. Linder regarding some of the questions raised during the public hearing, i.e. a possible terrorism threat.

Mr. Linder responded that he has traveled to several foreign countries, for the purpose of helping local governments and agencies in those foreign countries, design facilities that are hardened terrorist facilities. He stated that what is being recommended in Scotts Valley is what he has proposed in a number of foreign countries, such as the middle east.

CM Bustichi questioned Mr. Linder's comment that there had not been a BLEVE since 1969 in the United States.

Mr. Linder clarified that there had not been a BLEVE of an ASME tank with bottom fittings, as is being recommended in Scotts Valley, since 1969. He discussed reasons for BLEVE incidents that have occurred in the past, and stated that none of those incidents had occurred with the type of safety precautions that are being proposed in Scotts Valley. He stated that because of incidents that have occurred in the past with other types of facilities than what is being recommended in Scotts Valley, he has since worked to improve safety measures to prevent incidents.

CM Bustichi questioned the adoption of new fire safety codes that provide additional safety measures, and whether the two existing propane facilities have evacuation procedures.

Fire Chief McMurry responded that due to improved safety codes over the years, the new facility would have many more safety features than the existing facilities. He stated that the two existing locations have evacuation procedures that have been reviewed by the Fire District.

Phil Jones, Operations Manager with Suburban Propane, responded to questions raised regarding the training required to be a propane truck driver, and listed the required requirements and certifications.

In response to questions from Council, CA Powell stated that the City Council and staff has been working on this relocation for at least 15 years. She gave some history on how the City has dealt with land use compatibility issues regarding the Town Center, provided history on the many locations inside and outside of the City that have been evaluated, and reviewed the amortization process and friendly eminent domain concepts that have been discussed.

CM Aguilar stated that there is a possibility that if this facility used in-ground mounding she could support this relocation, however, without that possibility, she cannot vote in favor of the relocation.

M/S: Bustichi/Reed

To approve Resolution No. 1821 certifying a mitigated negative declaration and approving use permit U08-003 and design review DR08-009 to allow the installation of a 30,000 gallon above ground mounded propane tank and a 400 square foot storage building at 34 Janis Way as amended including the additional conditions 13g and 35.

Carried 4/1 (NOES: Aguilar)

3. **Consideration of approval for a Planned Development District Overlay and Permit (PD047-002), Land Division (LD07-002), and Design Review (DR017-008) for the "Town Center Homes" application to create 46 townhouses and related property improvements on a vacant 2.43 acre lot on Blue Bonnet Lane // APN 022-21-92**

SP Fodge presented the written staff report and responded to questions from Council.

M/S: Bustichi/Aguilar

To approve extending the City Council meeting beyond 11:00 pm in accordance with Scotts Valley Municipal Code Section 2.24.010.

Carried 5/0

Norman Schwartz, representing Town Center Homes, gave a PowerPoint presentation of the Town Center Home project and responded to questions from Council. Mr. Schwartz introduced the development team, including Jonathan Bailey, Hydrologic Consultant, and stated that Mr. Bailey has a PowerPoint presentation regarding hydrology that is available to the City Council.

CM Aguilar recommended that this private street be added to the City of Scotts Valley Municipal Code so that the Police Department can provide vehicle code enforcement. She also stated that she would like to see visitor parking marked with a sign, or on each individual space, but clearly identified.

SP Fodge responded that regarding visitor parking, condition 10h could be added as follows:

10h. Designate visitor parking, via signage or painting, subject to review and approval by the Community Development Director.

PUBLIC HEARING OPENED - 11:18 PM

Frank Kertai, President of the Heritage Parks Homeowners Association, read a letter (Attachment B) and spoke in opposition to the Town Center Homes project due to concerns about the location being within the potential blast zone of the existing propane companies, and concerns that the Town Center Specific Plan Traffic Report is being used as a basis for approval, which he feels has several deficiencies.

PUBLIC HEARING CLOSED - 11:20 PM

M/S: Bustichi/Lind

To approve Resolution No. 1822 approving an environmental assessment (EA07-007) for the construction of a 46-unit residential townhouse project and related property improvements, subject to mitigation measures, on the vacant 2.43-acre lot located on Blue Bonnet Lane / APN 02-211-92.

Carried 5/0

M/S: Bustichi/Lind

To approve first reading and introduction of Ordinance No. 16-ZC-213 approved a planned development (PD) district overlay and permit (PD07-002) for the construction of a 46-unit residential townhouse project and related property improvements, subject to a PD district overlay map on the vacant 2.43-acre lot located on Blue Bonnet Lane / APN 022-211-92, and waive the reading thereof.

Carried 5/0

M/S: Bustichi/Lind

To approve Resolution No. 1822.1 approving a land division (LD07-002) and design review (DR07-008) for the construction of a 46-unit residential townhouse project and related property improvements, subject to conditions of approval, on the vacant 2.43-acre lot located on

Blue Bonnet Lane / APN 022-211-92 as amended, requiring that this private street be added the City of Scotts Valley Municipal Code to allow for vehicle code enforcement, and adding condition 10h as noted above. Carried 5/0

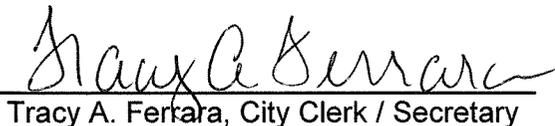
ADJOURNMENT

The meeting adjourned at 11:28 p.m.

Approved:


Randy Johnson, Mayor / Chair

Attest:


Tracy A. Ferrara, City Clerk / Secretary

Good Evening. My name is Frank Kertai. I am a resident of Scotts Valley. I am the President of the Heritage Parks Association of Scotts Valley.

Last November, this City Council approved the Town Center Specific Plan Final Environmental Impact Report with a three to two majority vote, citing overriding considerations. Part of the justification used for approval of that EIR was a flawed traffic report. We pointed out the deficiencies and flaws of that report at both planning commission and city council meetings. We summarized the major flaws of that traffic analysis in a letter written by Les Ditteret, a Scotts Valley resident and Civil Engineer with decades of experience.

At the December 3rd 2008 City Council meeting Councilman Bustichi claims the city addressed the issues raised in our letter in an orchestrated exchange with City Attorney Kirsten Powell. I submit to this council that talking about the issues is not the same as addressing the issues. We requested, as did retired councilman Cliff Barrett, that a full peer review of the Town Center Traffic report be performed. We repeat our request for that peer review now. Given the project before the council this evening, this seems like an opportune time to include a peer review of the original traffic report.

The Planning Commission approved the Town Center Plan with one major environmental stipulation -- that the propane facilities should be relocated. However the same Planning Commission denied the propane facility relocation to the proposed Janis Way location. The Planning Commission's decision to deny the Janis Way relocation appears to be based on opposition from the community. It is more likely than not that there will be a legal challenge to the approval of the move to Janis Way by this City Council.

Given all of these issues at hand with respect to the proposed move of the Suburban Propane facility, why is the Town Center Townhomes project even on the agenda at this time since moving forward with that project is predicated on the required move or mitigation of the propane facilities? Hopefully, this city council is evaluating projects as they come before it with an open mind – not with minds already made up.

Respectfully,

Frank Z. Kertai

Les Dittert Comments Final Town Center Specific Plan

November 18, 2008

Scotts Valley City Council
Scotts Valley City Hall
One Civic Center Drive
Scotts Valley, CA 95066

Subject: Town Center Final EIR Specific Plan

Dear City Council/Planning Commission:

My name is Les Ditteret. I am a resident of Scotts Valley and a Civil Engineer by trade. I have decades of experience in all aspects of Civil Engineering, including Traffic, Industrial Design Management, Structural Design, Seismic Analysis and Transit Design. I have also worked for CALTRANS. I am writing this letter to point out a fatal flaw in the traffic analysis that was performed by W-TRANS for the Town Center Specific Plan.

The output in Appendix F of the EIR depicting the LOS of the studied intersections show that LOS Analysis is based on the Highway Capacity Method (HCM 2000). This method is not accurate in determining the actual operation of intersections along a corridor where the intersections are closely spaced and the traffic signals are coordinated. Actually, the City of Scotts Valley's Guidelines for Traffic Impact Study, as well as that of the State of California Department of Transportation (CALTRANS), are very clear on this same issue.

More importantly, Chapter 16 of the Highway Capacity Manual, which this study is using, specially states the limitations of this methodology as follows: **"The methodology does not take into account the potential downstream congestion on intersection operation. Nor does the methodology detect and adjust for the impacts of turn-pocket overflows on through traffic and intersection operation."** The manual also acknowledges this limitation in other parts of Chapter 16 of this manual. See Table 4.11-4 of the Scotts Valley Town Center Specific Plan EIR for a list of the intersections analyzed incorrectly with this methodology.

My review of the Synchro Program Analysis provided by the City of Scotts Valley shows some of the intersections and timings as coordinated and others along the same corridor as pre-timed or uncoordinated. Actually signals all along Mr. Hermon Rd. between Glen Canyon Rd. and Lockwood Lane should be analyzed as coordinated. Since the City did not furnish an updated Synchro Analysis, this may have been corrected. However, if that is the case, the traffic engineer must certify that the Sim-Traffic simulation provided by Synchro will not render any error during coordination.

Similarly, the Synchro run provided by the City show that all intersections, with the exception of Scotts Valley Drive and Mt. Hermon Rd., have zero pedestrian conflict. It is my opinion that the intersections adjacent to the proposed Town Center Shopping Center will experience *significant* delays due to pedestrian conflict.

The EIR figures 4.11-5 through 4.11-10 show the turning volumes within the studied intersections during AM and PM time periods for Short Term Cumulative and Buildout Scenarios with and without a Mid Town Interchange. There are no figures showing these scenarios with the project added.

Table 4.11-4 shows the Level of Service (LOS) Analysis for short term Cumulative Conditions with the project and without the project for three adjacent intersections: 1) Mt. Hermon Rd and the Washington Mutual entrance to the Shopping center, 2) Blue Bonnet Lane and Kings Village Rd., and 3) Blue Bonnet Lane and Bean Creek Rd. I take exception to the information presented in this table for the intersection of Mt. Hermon Rd. and Washington Mutual access. The study for this intersection is subdivided to a study of approaches, i.e., Southbound and Northbound approaches where under Short Term Cumulative Conditions the Southbound approach is rendered N/A. This intersection should be studied as a whole as an unsignalized intersection under Short Term Conditions and signalized under Short Term Cumulative plus Project conditions.

Note figures 4.11-4 through 4.11-11 do show Northern approaches for the main entrance to the shopping center. The traffic movement shown by the traffic engineer leaving the project site is divided to about half leaving the main entrance and the other half leaving Mt. Hermon Rd. and Kings Village Drive. In view of this, the traffic engineer should study the actual access taking place at Kings Village Drive by motorists leaving the project. The traffic engineer shows that not all traffic leaving the project will be using the main access. However, it is not clear where this is taking place at the project. The traffic engineer fails to show any circulation study including turning and parking, etc. In view of this, the traffic engineer should add another access at Kings Village Rd if they contend this to be the case.

Two intersections have been singled out to require undertaking significant construction to mitigate the impact of the proposed project. These mitigations will cost millions in construction and right of way acquisition costs. These intersections are: 1) Scotts Valley Drive and Mt. Hermon Rd. and 2) Mt. Hermon Rd. and La Madrona Drive. My preliminary study of the potential impacts indicates that the proposed project will have a significant impact on the businesses located at the intersection of Scotts Valley Drive and Mt. Hermon Rd. I believe this intersection was widened about a decade ago adding. I believe that project cost millions simply for the construction, not to mention additional cost for right of way acquisition and legal costs for the condemnation.

For the interest of time and clarity, I am limiting my discussion to the above points. I suggest that the City conduct a peer review of the traffic study. It is very important that the peer reviewer be independent and should have no conflict of interest. The peer reviewer should be someone that has not performed any prior analysis on behalf of the city or any developer in the city. It is very likely that other traffic engineers that have performed studies for the city likely used similarly flawed approach and would be hard pressed to provide a valid and impartial peer review.

Les Dittert Comments Final Town Center Specific Plan

Feel free to contact me for any specifics regarding these issues I have raised.

Les Dittert, P.E.
509 Shasta Park Ct.
Scotts Valley, CA 95066
831.440.9973

Good Evening. My name is Frank Kertai. I am a resident of Scotts Valley. I am the President of the Heritage Parks Association of Scotts Valley.

This project was originally denied by the City Council in the past because the Fire District advised the city that any project in that area would fall in the blast zone. Given the Scotts Valley Fire District's concerns about the Town Center Homes location within the potential blast zone area, approval of this project should be dependent upon resolution of legal challenges regarding moving the propane facilities from their current location. Approving the Town Center Homes project before resolution of the propane facilities move or mitigation of the propane facility risks is essentially approval of the project with deferred mitigation.

It appears that the proposed Town Center Homes is using the Town Center Specific Plan Traffic Report as one basis for approval. As I have already mentioned this evening, we have advised this City Council that the Town Center Specific Plan (TCSP) Traffic Report had several deficiencies. I resubmitted a copy of the letter that describes those deficiencies again earlier today.

The accuracy, validity and completeness of the Town Center Specific Plan Traffic Report must be verified by an independent traffic engineer before the City can allow it to be used by other applicants for development. We have brought to the attention of the City Council the deficiencies of Highway Capacity Methodology (HCM) used in that Traffic Report. Our Civil Engineer has cited that both the HCM manual and the Synchro manual in his analysis. Both of these references conclude that the HCM LOS indications are valid only for intersections that can be regarded as isolated. The manuals clearly warn about the inaccuracy of using the HCM method where the intersections are closely spaced such as is the case on Mt. Hermon Road.

We take exception to the Planning Commission's requirement that the building permit be contingent upon fronting the traffic improvement study. Rather, it should be contingent upon payment for implementing improvements as well. I would like to remind that City Council that this practice has been the standard in the past. Examples of this practice include the Borland project.

If the City Council approves this project on the basis of the Town Center Specific Plan and the underlying flawed traffic report this City Council is, in effect, approving this project based upon overriding considerations.

Respectfully,

Frank Z. Kertai