

# MINUTES

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

**Date: March 19, 2008**

**POSTING:**

The agenda was posted on 3-14-08  
at City Hall, the SV Library, and the  
SV Senior Center by the City Clerk.

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**CALL TO ORDER** 6:05 p.m.

**PLEDGE OF ALLEGIANCE** Flag ceremony performed by Girl Scouts of Monterey Bay, Troop 1191.

and **MOMENT OF SILENCE** Mayor Johnson presented a Mayor's Proclamation to the Troop honoring the 96<sup>th</sup> Anniversary of Girl Scouts of America.

**ROLL CALL**

Present:

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

City Manager Comstock  
City Attorney Powell  
Deputy City Mgr/Admin Svs Dir Ando  
Police Chief Weiss  
Public Wks Director Anderson  
Interim Community Development Dir Westman  
Associate Planner Bateman  
City Clerk Ferrara

**COMMITTEE REPORTS** CM Aguilar reported that the Association of Monterey Bay Area Governments met and the main focus of the meeting was the Regional Housing Needs Allocation for the Santa Cruz and Monterey Bay region. They also discussed that dues for participating memberships in AMBAG have not been raised for about nine years, and they will probably be discussing that in more detail at their next meeting.

CM Bustichi reported that the Santa Cruz Metropolitan Transit District (SCMTD) has been meeting in workshop meetings with the City of Santa Cruz Redevelopment Agency to develop the Pacific Station. He stated they are looking at purchasing the greyhound property to provide a bigger base, and looking at innovative transportation and development in that area, with possible residential and commercial. He also reported that he recently went to Washington DC with the SCMTD General Manager Les White and Supervisor Mark Stone to lobby for transportation funding. He stated that they are looking for funding for a smart card system, which is a rechargeable card that can be used in Santa Cruz County, Monterey County, San Mateo County, and San Francisco. They are also looking to provide additional service for the Highway 17 bus system because it is full. He stated that it would cost

approximately \$2.5 million to put the smart card system into all of the buses and to obtain the accounting software that is needed for the system. He also stated that while he was in Washington DC he met with Congresswoman Eshoo regarding support for an EDA grant for the proposed Scotts Valley Town Center, and Congresswoman Eshoo stated that she would provide a letter of recommendation for the EDA grant. Sam Farr, Diane Feinstein, and Barbara Boxer also stated that they would be interested in supporting a request for an EDA grant.

CM Aguilar stated that she had heard that the Mayor of Campbell had requested that the Highway 17 bus stop in Campbell at the light rail station. She asked CM Bustichi to bring this forward to the SCMTD.

Mayor Johnson reported that he is attending a class one day per month to help orient him toward issues facing agriculture. He stated that the class visited some farms, including an organic farm, to get their concerns and input regarding the Light Brown Apple Moth. He stated that he also attended an Agriculture Board luncheon for National Ag Day.

## **PUBLIC COMMENT**

Paul Bach, Scotts Valley resident, representing the Responsible Local Development Political Action Committee, a group composed of Scotts Valley residents and businesses, stated that at the January 16 City Council meeting he spoke in opposition to the sole source procurement for ESA to do an EIR on the Target site. He questioned if the City Council had read the RFP before they voted for it and asked who was managing the contract. Mr. Bach questioned where the potential \$500,000 sales tax figure had come from and whether the City was planning to do an economic study. He stated that he felt an economic study was necessary.

Frank Kertai, President of the Heritage Parks Homeowners Association, representing the Monte Fiore tract of Scotts Valley, spoke in opposition to the construction of a proposed 155,000 square foot superstore/retail project on La Madrona Drive and recommended that the City require an Economic Impact Study for this project. He stated that in his opinion it is in conflict with the City of Scotts Valley's 2007 Economic Development Plan, and submitted a written statement, which will be placed on file with the City Clerk.

CM Bustichi thanked everyone who attended the Lion's Club Crab Cioppino Feed earlier in month. He stated that it was once again a very successful event, with over 400 people in attendance, and a lot of money was raised for our community.

VM Barrett stated that the American Red Cross, Santa Cruz County Chapter, will be holding its 3<sup>rd</sup> Annual Heroes Breakfast on May 21, 2008. He stated that applications are being accepted now through April 1, 2008. Nomination forms are available from the Santa Cruz County Chapter of the Red Cross at 2960 Soquel Avenue, Santa Cruz, CA 95062.

## **ALTERATIONS TO CONSENT AGENDA**

***M/S: Barrett/Bustichi***

**To approve the Consent Agenda as amended moving Item C regarding approval of the Indemnification and Defense Agreement between the City of Scotts Valley and the Local Agency Formation Commission (LAFCO) regarding LAFCO approval of the amendment to the Scotts Valley Sphere of Influence to the regular agenda for discussion.  
Carried 5/0**

**Consent Agenda:**

- A. Approve Joint City Council/RDA meeting minutes of 3-5-08
- B. Approve check register – 3-11-08
- D. Approve denial of claim submitted by Attorney Charles Alfonso on behalf of Vedder Community Management, LLC and Whispering Pines Mobile Home Park, Ltd. relating to personal injury at 444 Whispering Pines Drive and authorize the City Manager to refer the claim to Risk Management for resolution
- E. Approve Resolution No. CRA 39.5 authorizing the Chairperson of the Scotts Valley Redevelopment Agency to execute a Fourth Amendment to Amended and Restated Owner Participation Agreement by and between the City of Scotts Valley and the City of Santa Cruz
- F. Approve Police Department request for a sole-source purchase of the Voice Print International digital voice logger

**ALTERATIONS TO  
REGULAR AGENDA**

**M/S: Aguilar/Barrett**

**To approve the Regular Agenda as amended moving Item C regarding approval of the Indemnification and Defense Agreement between the City of Scotts Valley and the Local Agency Formation Commission (LAFCO) regarding LAFCO approval of the amendment to the Scotts Valley Sphere of Influence to the regular agenda for discussion.  
Carried 5/0**

**REGULAR AGENDA**

- C. **Approve Indemnification and Defense Agreement between the City of Scotts Valley and the Local Agency Formation Commission (LAFCO) regarding LAFCO approval of the amendment to the Scotts Valley Sphere of Influence**

CA Powell presented the written staff report and responded to questions from Council.

CM Bustichi clarified with CA Powell that this item was brought forward by LAFCO. CA Powell responded that it was brought forward by LAFCO.

Frank Kertai, President of the Heritage Parks Homeowners Association, representing the Monte Fiore tract of Scotts Valley, spoke in opposition to the City Council approving Item C on the consent agenda, approving the Indemnification and Defense Agreement between the City of Scotts Valley and the Local Agency Formation Commission (LAFCO) regarding LAFCO approval of the amendment to the Scotts Valley Sphere of Influence. He submitted a written statement, which will be placed on file with the City Clerk.

CM Bustichi questioned if Mr. Kertai and/or the Monte Fiore Homeowners Association would seek legal action if the City approved this item tonight. Mr. Kertai responded that it was one of the possibilities that they were looking at.

CM Aguilar asked the City Attorney how this approval would affect the City and/or the potential development of the proposed retail site.

CA Powell stated that the sphere of influence decision, whether the line is adjusted or not, will not change the process that we are currently going through. She stated that the City is still the planning authority for the proposed retail site. She stated that LAFCO made it very clear at their meeting that they do not deal with the planning issues of the City Council, and whether the sphere of influence line is adjusted or not, that won't change. She stated that the decision to adjust the sphere of influence by LAFCO would be conditioned on the City of Scotts Valley agreeing to this indemnification. She stated that if the City does not agree to defend and indemnify LAFCO, she believes the LAFCO Board would either not do the sphere of influence adjustment or reconsider it. She stated that no matter what LAFCO does, the City's role is still the same in considering the retail project that is currently proposed by Title II on the La Madrona property.

CM Bustichi asked Mr. Kertai, as a representative of the Monte Fiore Homeowners Association, why they would not want to be included in the sphere of influence.

Mr. Kertai responded that he did not feel they had been properly noticed regarding the sphere review, and had they known, they could have taken certain actions ahead of that, one of which would have been possibly proposing to secede from the City. He stated that if they had enough lead time they could have put together the proposal to secede and applied to LAFCO to secede from the City. He stated that not only would Monte Fiore have seceded from the City, but the entire sphere of influence, because of the way LAFCO rules work. He stated that Monte Fiore makes up the majority of the value of the properties involved and that if the SV Hilton, combined with the Monte Fiore development had voted to go that route, they would have seceded from the City and all of that property would have reverted to the County. He stated that the whole issue revolves around the feeling that many of them get of not having a voice that is being heard with respect to the proposed development. He stated that they do not understand why it has gone this far and that they believe it is the City's absolute right to determine where and how large a scale of retail development is placed in the City.

CM Bustichi questioned if Mr. Kertai and the Monte Fiore residents wanted to secede from the City. Mr. Kertai responded that he could not make that call for the Homeowners Association. He stated that he did not feel he had the ability to speak for the Homeowners Association and make that call on his own, that is something they would have to put to a vote.

CM Bustichi questioned if the City had met the legal requirement for noticing.

CA Powell stated that the City has no legal requirement that the City notify anyone regarding this decision. She stated that the City had received a request from Mr. Kertai that the City notify him of any items related Target. She stated that in the City's opinion, this item does not relate to Target. However, she stated that Mr. Kertai was notified on two occasions by Taylor Bateman, Associate Planner, that this item was on the agenda.

***M/S: Bustichi/Reed***

***To approve the Indemnification and Defense Agreement between the City of Scotts Valley and the Local Agency Formation Commission (LAFCO) regarding LAFCO approval of the amendment to the Scotts Valley Sphere of Influence.***

***Carried 5/0***

1. **First reading and introduction of Ordinance No. 67.2 amending Scotts Valley Municipal Code Chapter 5.28 entitled Cable Television Franchise Regulations to now be entitled State Video Services Franchises which establishes franchise and PEG fees and customer service penalties for State video franchise holders providing video service within the City of Scotts Valley**

CA Powell presented the written staff report and responded to questions from Council.

***M/S: Aguilar/Barrett***

***To approve the first reading and introduction of Ordinance No. 67.2, an ordinance of the City of Scotts Valley, amending Scotts Valley Municipal Code Chapter 5.28 entitled Cable Television Franchise Regulations to now be entitled State Video Services Franchises which establishes franchise and PEG fees and customer service penalties for State video franchise holders providing video service within the City of Scotts Valley, and waive the reading thereof.***

***Carried 5/0***

2. **Future Council/RDA agenda items**

CM Bustichi requested that traffic on Bethany Drive be reviewed by the Traffic Safety Advisory Committee.

**PUBLIC HEARINGS**

3. **Consideration of Minor Land Division (MLD07-003) application to create two parcels from one existing 1.03 acre parcel in the Service Commercial (C-S) zoning district at 4803 SV Drive // APN 022-082-58**

CM Bustichi recused himself from this item as he owns property within 500 feet of this property.

ICDD Westman presented the written staff report and responded to questions from Council.

Owen Lawler, representing SSL Engineers (property owners), stated the reasons they are requesting this minor land division, and stated that he was available to respond to questions from Council.

**PUBLIC HEARING OPENED - 7:11 PM**

No one came forward.

**PUBLIC HEARING CLOSED - 7:12 PM**

***M/S: Aguilar/Barrett***

***To approve Resolution No. 1811 approving a minor land division MLD07-003 to create two parcels from one existing 1.03 acre parcel located at 4803 Scotts Valley Drive (APN 022-082-58).***

***Carried 4/1 (ABSENT: Bustichi)***

4. **Consideration of Pinnacle View Planned Development for 12 single family dwellings and 8 townhomes located on four vacant parcels totaling two acres at the end of Lundy Lane // 11, 13,15, 17 Lundy Lane (behind Pinnacle Pass) // APN's 21-281-01, 02, 05, 06 // GPA05-004/ZC05-003/PD05-003/LD05-004/DR05-028**

AP Bateman presented the written staff report and responded to questions from Council.

CM Aguilar clarified that she had met with the developers regarding the path and she was not aware that the street would connect at a future date. She stated that she would not have requested the pathway if she had known that the street would connect.

Mayor Johnson asked about fencing the groundwater basin because he is concerned about safety for children and the possibility of it being an attractive nuisance.

Todd Creamer, C2G/Civil Consultants Group, responded that the basin will only be about three feet and his cut off for fencing is three feet. He stated that it will be an ongoing maintenance issue, and if it is fenced, it will require a gate for maintenance access.

**PUBLIC HEARING OPENED - 7:30 PM**

Lori McCammon, 250 El Sereno, stated that she feels parking is an issue and stated that she is concerned about the retaining wall at the bottom of the slope being constructed without a building permit, cutting trees down, slope stabilization, and the disturbance of wildlife habitat.

AP Bateman responded to the retaining wall issue and stated that a building permit will be required to construct the retaining wall. He stated that the developer will also be reconstructing the hillside.

Mr. Creamer addressed the stabilization of the hillside. He stated that they will be buttressing with fill at the bottom of the hillside, and the retaining wall is an extra feature. He stated that the planned parking exceeds current parking standards. He stated that a biotic report had been prepared, and wildlife moves in a transitory fashion on this property instead of using it as a habitat.

Jerry Shanahan, applicant, responded to the tree concerns. He stated that they will be providing remediation and support for many of the trees that currently have exposed roots, which will improve the stabilization of the hillside.

CM Aguilar expressed her concerns regarding Condition of Approval #16 on Exhibit A of Resolution No. 1808.1. She stated that she is very concerned because she would prefer to see a deed restriction so that it is very difficult for property owners to come to the Council and request exceptions. She recommended moving the property line to the retaining wall in order to keep people from building on the property above the retaining wall. She stated that she would like to see the most restrictions possible and the most difficult process to discourage building of any kind above the retaining wall.

CA Powell stated that Condition No. 16 actually puts a restriction on two levels: (1) the CC&R's; and (2) an actual restrictive easement to protect the area above the retaining wall. She stated that no matter what mechanism is used, the property owner can always come to the City Council to request changes, amendments, or lot line adjustments.

CM Aguilar requested that a condition of approval be added to allow for vehicle code enforcement since this is a private street.

CA Powell stated that a condition of approval could be added requiring the applicant to request the addition of their street to the traffic ordinance, Section 10.18.020 of the Scotts Valley Municipal Code, which would allow for vehicle code enforcement.

Mr. Shanahan stated that he did not have a problem with adding the street to the traffic ordinance for vehicle code enforcement.

**PUBLIC HEARING CLOSED - 7:58 PM**

***M/S: Aguilar/Bustichi***

***To approve Resolution No. 1808 certifying the mitigated negative declaration for twelve single family dwellings and eight townhomes located at 11, 13, 15 & 17 Lundy Lane // APNs 021-281-01, 02, 05 & 06. Carried 5/0***

***M/S: Aguilar/Bustichi***

***To approve first reading and introduction of Ordinance No. 16-ZC-209 approving a planned development zoning for twelve single family dwellings and eight townhomes located at 11, 13, 15 & 17 Lundy Lane // APNs 021-281-01, 02, 05 & 06, and waive the reading thereof. Carried 5/0***

***M/S: Aguilar/Bustichi***

***To approve Resolution No. 1808.1 approving a land division (LD05-004), planned development permit (PD05-003) and design review (DR05-028) for twelve single family dwellings and eight townhomes located at 11, 13, 15 & 17 Lundy Lane // APNs 021-281-01, 02, 05 & 06 as amended with the condition that the property owner apply to amend Section 10.18 of***

**the Scotts Valley Municipal Code to include the new street to allow for vehicle code enforcement, prior to recording of the final map.  
Carried 5/0**

5. **Continued open from 1-16-08 regular City Council meeting: Proposed amendment to the Glenwood Specific Plan: Deerfield Drive and Mountain Valley Drive; meadow view accessory structures and impervious surfaces**

AP Bateman presented the written staff report and responded to questions from Council.

**PUBLIC HEARING OPENED at 7:30 pm on 1/16/08 and continued to 3/19/08**

Jerry Raymond, Glenwood Homeowners Association Board of Directors, read a letter from the Glenwood HOA, thanking City staff, the Planning Commission, and the City Council for their support and cooperation through this process.

**PUBLIC HEARING CLOSED - 8:12 PM**

**M/S: Bustichi/Aguilar  
To approve Resolution No. 1443.2 certifying a negative declaration and amendments to the Glenwood Specific Plan.  
Carried 5/0**

**ADJOURNMENT**

The meeting adjourned at 8:17 p.m.

Approved: \_\_\_\_\_

Randy Johnson, Mayor / Chair

Attest: \_\_\_\_\_

Tracy A. Ferrara, City Clerk / Secretary