

# MINUTES

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

Date: April 18, 2007

**POSTING:**

The agenda was posted on 4-13-07  
at City Hall by the City Clerk.

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**CALL TO ORDER** 6:00 p.m.

**PLEDGE OF ALLEGIANCE and MOMENT OF SILENCE**

**ROLL CALL**

Present:

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

City Manager Comstock  
City Attorney Powell  
Deputy City Mgr/Admin Svs Dir Ando  
Police Chief Weiss  
Public Wks Director Anderson  
Community Development Dir Russell  
Planning Consultant Westman  
Recreation Division Manager Sudduth  
City Clerk Ferrara

**COMMITTEE REPORTS** CM Aguilar reported that the Affordable Housing Subcommittee met and their discussions focused on the mix of low and moderate affordable units for the proposed 94 unit development on Scotts Valley Drive.

CM Aguilar reported that she is the AMBAG representative to the California Council of Governments (CALCOG) and that she attended a CALCOG conference where they indicated that the Governor is looking at cutting large amounts of funding for transportation, specifically bus routes. She stated that CALCOG is in the process of lobbying the Governor to not cut this funding.

VM Johnson reported that the Library Joint Powers Authority met and discussed automation and computer system upgrades for the libraries.

Mayor Bustichi reported that the City Selection Committee met and discussed several issues. He stated that one item they discussed was the green building plan that the City of Santa Cruz has implemented. He stated that they are coordinating with all the jurisdictions in the county to try to create a green building ordinance that will be consistent throughout the county in order to make it easier for builders and homeowners.

Mayor Bustichi reported that a 4<sup>th</sup> of July parade committee meeting was held and there appears to be a lot of interest. He stated that they will be holding regular meetings on the first and third Wednesdays of the month at 10:00 am at City Hall, and volunteers are welcome to attend.

**PUBLIC COMMENT**

Sue Carlson, Realtor for American Dream Realty in Scotts Valley, stated that she currently has a property listed at 5272 Scotts Valley Drive that has a 50 foot easement at the rear of the property that was deeded to the City of Scotts Valley in 1982. She stated that there does not appear to be any reason for the easement and it is a serious encumbrance on the property and a detriment to the sale. She requested that the City Council look into why the easement was established and if possible remove the easement.

Mayor Bustichi questioned whether there were any other easements in this area and requested that this issue be agendized at a future Council for discussion.

Lynn Cordova, Lockhart Gulch Road, asked if political floats would be allowed at the 4<sup>th</sup> of July parade this year. Mayor Bustichi stated that they would.

**ALTERATIONS TO  
CONSENT AGENDA**

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

***To approve the Consent Agenda as amended moving item D to the regular agenda for separate vote.***

***Carried 5/0***

**Consent Agenda:**

- A. Approve Joint City Council/RDA meeting minutes of 4-4-07
- B. Approve check register – 4-9-07
- C. Approve cancellation of July 4, 2007 regular City Council meeting
- D. Second reading and adoption of Ordinance No. 16-ZC-205 approving a planned development zoning and planned development permit (PD01-003) for a new 135,899 square foot office building on La Madrona Drive // APN 021-141-05
- E. Approve Change Order No. 2, increasing the contract amount to Anderson Pacific Engineering for the Carbonero Lift Station Upgrade Project by \$34,576.83
- F. Approve non-collection of business license fee for Circus Chimera (sponsored by Scotts Valley Chamber of Commerce)

**ALTERATIONS TO  
REGULAR AGENDA**

Mayor Bustichi requested that item 2 be heard as item 1 due to the presence of consultants.

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

***To approve the Regular Agenda as amended moving item 2 to be heard as item 1.***

***Carried 5/0***

**REGULAR AGENDA**

- 2. **Consider approval of transfer of garbage franchise agreement from Waste Management of Santa Cruz County to Green Waste Recovery**

DCM/ASD Ando presented the written staff report and responded to questions from Council.

**M/S: Aguilar/Barrett**

**To approve the conditional consent agreement to garbage franchise agreement between the City of Scotts Valley and Greenwaste Recovery, Inc.**

**Carried 5/0**

**1. Discussion of current regulations regarding childcare facilities**

PC Westman presented the written staff report and responded to questions from Council. She stated that an email had been received from Michael Shulman, Planning Commission Chair, and distributed to the Council and staff regarding his clarification to the 4/12/07 Planning Commission minutes (Attachment A). She stated that in October 2006, the City Council had indicated that they liked the City of Capitola's Child Care Ordinance and on April 12, 2007 the Planning Commission reviewed and commented on that ordinance. She stated that the purpose of this meeting is for Council to provide direction on a few specific points so that staff can draft an ordinance for the Planning Commission and City Council consideration. She stated that this is a discussion item only. She also stated that Hiranya Brewer and Ann Ward from the Santa Cruz County Childcare Planning Council were present at the meeting and available for questions.

**Discussion Point 1:** Is the City Council generally comfortable with the City of Capitola ordinance and are they comfortable with the process that Capitola has in their ordinance where applicants come in, make an application to the Community Development Director, the Community Development Director sends out a notice to people within 100 feet of the property, and if no one requests a hearing, the Community Development Director can issue a permit for a large family childcare home based on the four criteria that the City has established? If someone does object, it would go to the Planning Commission where they would conduct a hearing and make a decision based on the four criteria that they are able to consider: parking, traffic, noise, location/concentration.

CM Aguilar stated that she wants to be sure that our language says day care homes, not day care centers. PC Westman recommended that they be called *large family childcare homes*.

CM Aguilar recommended changing the time frame for postponing the decision on the application in the case of a public hearing to sixty days, instead of ninety days. There was Council consensus to change the time frame to sixty days from ninety days. .

**Discussion Point 2:** The Planning Commission expressed the opinion that the law only applies to single family zoned lots, and in our opinion, the law applies to all single family residential units, regardless of what zoning district they are in. This is a factor because Scotts Valley allows single family residential units in all of our residential zoning districts. She stated that in

Capitola's ordinance the site must be either a single family residence, and if not, they require that 75 square feet of outdoor space be provided for each child that is in the daycare. She also stated that Capitola's ordinance allows for the 75 square feet to be in close proximity to childcare home.

CM Aguilar stated that she does not feel 75 sq ft per child is extremely restrictive. She also stated that she disagrees with the restriction not allowing children to play in the garage.

PC Westman stated that the 75 sq ft per child would not apply to single family dwellings because under the state law you cannot put size limitations on those, this requirement is only for units other than single family that might apply to have a large family childcare.

VM Johnson stated that he feels there needs to be a reasonable amount of space per child and he does not have a problem with the requirement of 75 sq ft per child.

CM Barrett stated that he does not agree with children playing in the garage.

Mayor Bustichi questioned if the Health & Safety Code that the Fire District implements allows garages to be included in the square footage. PC Westman stated that she is not sure how that applies. She stated that Hiranya Brewer might be able to respond.

CM Reed stated that he likes the Capitola ordinance and he does not have a problem with the requirement of 75 sq ft per child. He stated that he feels the garage area would be covered by the state laws and he agrees with the Planning Commission decision to eliminate this section.

Mayor Bustichi stated that he does not have a problem with the requirement of 75 sq ft per child. He stated that he would like more information on garage issue as it relates to the Health & Safety code.

**Discussion Point 3:** PC Westman stated that the Planning Commission recommended changing Capitola's requirement of not locating a new large family day care home within a 500 foot radius of any existing large family day care home or child care center to a 300 foot radius.

CM Aguilar stated that she is concerned about the use of the wording center, facility, or home because of the different processes they are required to go through. She agreed with the Planning Department recommendation to change the radius from 500 feet to 300 feet.

The majority of the Council reached a consensus to keep the 500 foot radius.

**Discussion Point 4:** PC Westman stated that this is regarding the garage issue and from previous Council discussion she understands that it is alright to strike the language as recommended by the Planning Commission; however, we need to clarify that there is not a conflict with the Fire District Health & Safety Code or the State first.

Mayor Bustichi stated that he would like additional input on the garage issue.

Hiranya Brewer, Childcare Planning Council, stated that she would have to get back to the Council on the garage issue. She stated that one of the considerations that the Planning Commission had was that in thinking about these large family childcare homes, one should be thinking of them as "like" large families. So when talking about use of the garage, it is good to think about how many families in Scotts Valley use there garage for their children to play in on a rainy day. She encouraged the Council to consider whatever recommendations they come up with as being equally applicable in many ways to a large family in Scotts Valley.

Mayor Bustichi feels that we should be consistent with Health and Safety Code regulations regarding the garage use.

CM Aguilar stated that she was concerned about item f, driveway restrictions, which restrict the property owner, day care home operator, or employees from parking in the driveway during the hours of operation. She recommended changing that to restrict parking by the property owner, day care home operator, or employees for the first 2 hours and last 2 hours of the day. PC Westman stated that the section only applies if the driveway is designated as the place to drop off or pick up. CM Reed recommended keeping the wording as is.

PC Westman stated that the Planning Commission recommended adding a requirement that the day care provider include in their hand out procedures a statement that no more than two people would be dropping off or picking up their child at one time. She stated that the Planning Commission did not feel that there should be any special provisions for noise because they were looking at this as a large family home. She stated that Capitola limits the times that children can be outside playing from 9am to 6pm. She stated that they also give the Community Development Director some discretion to look at things such as location of outside play areas, height and location of fences, and similar measures. CM Reed recommended deleting the time restriction limiting the hours that children can play outside because he felt this was micro-managing. There was a consensus from the Council to delete the time restriction on outside play.

**Discussion Point 5:** PC Westman stated that the final point of discussion was how to deal with existing childcare homes in Scotts Valley. She stated that one suggestion is to have an amnesty program with a specific length of time. This would allow people currently operating to come into the City and apply for a permit where they would be grandfathered in as existing non-

conforming uses with no penalties charged. There was Council consensus to establish a six month to one year amnesty time frame. Westman recommended this. Consensus - 6 months to a year.

PC Westman stated that she will draft an ordinance for Planning Commission and Council review.

CA Powell stated that staff will be using Capitola's ordinance as a format, but they will try to make it more clear and user friendly.

Ellen Murtha, Childcare Ventures, stated that her organization exists to strengthen and sustain childcare as part of a vital community. She asked that the City reference the State requirements and stated that they are delighted that Scotts Valley is looking to other cities for model ordinances; however, she asked that Scotts Valley look at less restrictive models, specifically as it relates to square footage, parking, and drop-off.

Hiranya Brewer, Childcare Planning Council for Santa Cruz County, clarified that according to State law there are no square footage requirements inside or outside for large family childcare homes. She encouraged the Council to rely on the Planning Commission recommendations because of the hard work and energy that went into their discussion. She felt that they had done a very thorough job of investigating this issue.

CM Aguilar questioned if the outdoor spacing requirement could be challenged because it is not a requirement of State law. CA Powell stated that the goal of the State law is to provide opportunities for single family homes to have day care. She stated that what Capitola says and Scotts Valley is recommending is that the requiring the outdoor space would give the non-single family units similar space for the children.

Mayor Bustichi requested that staff include the Health & Safety Code regulations as they relate to the Fire District and square footage. PC Westman stated that she will have that information and a Fire District representative available for the next discussion.

CM Reed stated that he had a question regarding the guidance from staff on page 6 of the staff report, the last sentence in the paragraph regarding noise, which states "*State law does require that the City consider that the noise from children playing is a standard residential activity.*" He stated that he did not see the State law that said that when he read through the agenda packet and in his conversations with the City Attorney it wasn't clear where that came from. He wanted to confirm that there wasn't some provision or law that hadn't been provided in their agenda packet that they are not aware of. PC Westman stated that he was correct, the State law says that we have to consider noise of children playing, and this was her interpretation of that, not the exact wording. CA Powell stated that the exact wording is "*Any noise standard shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise levels generated by children.*"

### **3. 2007/2008 General Fund revenue budget**

DCM/ASD Ando presented the written staff report and responded to questions from Council. He stated that this item is for discussion purposes only and no action is required at this time.

CM Aguilar requested that another column be added in each column in the future showing what Measure C is bringing in and/or is estimated to bring in so that the community knows how much is being placed into the reserves. DCM/ASD Ando stated that the detail will be included in the budget. He stated that he had not included it for this presentation because 2005/06 only had three months of Measure C.

Mayor Bustichi stated that page 1 of the staff report provides a good comparison of where we are with and without Measure C monies and he is glad to see we are moving in the right direction.

Mayor Bustichi requested that the Joint City/School District Subcommittee discuss the potential timing of implementing School Resource Officer position.

### **4. Consider approval of 5 year Capital Improvement Program (CIP) 2007-2012**

CM Comstock presented the written staff report and responded to questions from Council. PWD Anderson also responded to questions from Council regarding specific items on the CIP.

CM Aguilar requested that staff look into grants for item 28 under Wastewater Facilities, "Enlarge pipe under Mt. Hermon Road at Kings Village Road", as it could potentially be part of the sphere of influence of the proposed town center. PWD Anderson stated that he would investigate grants; however, he added that funds are available in the Wastewater Fund and there would be no impact to the General Fund.

CM Reed stated that item 30 under Parks, "Gym" may not be needed if a new middle school is constructed with a new gym.

VM Johnson stated that the Siltanen Park horseshoe pits are in complete disrepair and dangerous. RDM Sudduth stated that he would look into making these repairs out of this years maintenance budget.

VMJohnson stated that regarding item 56, Library, under "Tier II Library" he would like to see the City look hard at considering a way to construct the library, especially with the increased use due to the Cabrillo Campus in Scotts Valley. He stated that with the money available in the library fund and from DIF fees this is becoming more of a reality.

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

***To approve the 5-year Capital Improvement Program (CIP) for 2007 through 2012.***

***Carried 5/0***

**PUBLIC HEARINGS**

5. **Consider approval of fee adjustments to various Police, Administrative, Public Works, Building, Planning, Facility Rental, and Recreation fees**

DCM/ASD Ando presented the written staff report and responded to questions from Council.

RDM Sudduth presented the recreation division portion of this item regarding childcare fees.

**PUBLIC HEARING OPENED – 7:50 PM**

No one came forward.

**PUBLIC HEARING CLOSED – 7:51 PM**

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

***To approve Resolution No. 1198.51 amending certain fees and charges for City police, administrative, facility rental, planning, building, and public works services.***

***Carried 5/0***

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

***To approve Resolution No. 1593.10 amending certain fees and charges for City recreation services.***

***Carried 5/0***

**REGULAR AGENDA**  
(Resumed)

6. **Discussion: Maintenance Worker I position**

DCM/ASD Ando presented the written staff report and responded to questions from Council.

***M/S: Johnson/Barrett***

***To freeze the Maintenance Division Manager position when it becomes open at the end of April 2007 and hire a Maintenance Worker I.***

***Carried 5/0***

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

None.

**CONVENE TO CLOSED SESSION**

The City Council convened to closed session at 7:55 p.m. to discuss the following items:

1. Pursuant to Government Code Section 54959.9(c), the City Council met in closed session to confer with their legal counsel regarding potential litigation – 2 cases.

**RECONVENE TO OPEN SESSION**

The City Council reconvened to open session at 8:15 p.m.

**REPORT ON ACTION TAKEN DURING CLOSED SESSION**

Mayor Bustichi announced that there was nothing to report.

**ADJOURNMENT**

The meeting adjourned at 8:16 p.m.

Approved: \_\_\_\_\_  
Dene Bustichi, Mayor / Chair

Attest: \_\_\_\_\_  
Tracy A. Ferrara, City Clerk / Secretary