

MINUTES

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

Date: May 16, 2007

POSTING:

The agenda was posted on 5-11-07
at City Hall by the City Clerk.

CALL TO ORDER 6:10 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
Civil Engineer Yamin
Building Official Gower
Recreation Division Manager Sudduth
Planning Consultant Westman
City Clerk Ferrara

PRESENTATION Creo Capital Partners, and Bill Turner of Lintelle Engineering, donated \$5000 toward the City's 4th of July celebration costs.

SPECIAL SET MATTER Mayor Bustichi presented a plaque to Conrad Sudduth, Recreation Division Manager, from the U.S. Bocce Foundation commemorating the opening of Scotts Valley's Bocce Courts at Skypark Park.

COMMITTEE REPORTS CM Reed reported that the Green Building Subcommittee met with City staff and representatives of the Scotts Valley Water District to review green building ordinance models, and specifically water impacts and benefits.

CM Reed reported that the Joint City/School District subcommittee met and one of the main things they discussed were the recent incidents that have occurred at Scotts Valley High School and Scotts Valley Middle School. He stated that Police Chief Weiss attended the meeting and that Chief Weiss provided an update on everything the City has done, and is continuing to do, in trying to investigate these recent incidents.

CM Aguilar reported that the AMBAG Board of Directors met and the key issue they discussed was that they are looking for a one year extension on their housing allocation numbers. She stated that this extension would allow

AMBAG to allocate housing numbers according to the planning within each community at a better ratio. She stated that they also convened a Central Coast Wetland Working Group, that will include the Scotts Valley Water District and the City of Scotts Valley, to coordinate the advancement of wetland science and management and to promote the restoration of wetlands along the central California coast.

CM Aguilar reported that she had attended a meeting in Sacramento earlier in the day regarding SB 286. She stated that SB 286 is a bill sponsored by the League of California Cities that defines the allocation of the \$2 billion in Proposition 1B transportation bond fund monies that are to go directly to cities and counties for road improvements. She stated that Caltrans would prefer the money to go through them instead of directly to cities and counties, and that the League of California Cities is lobbying the Senate to encourage them to vote for SB 286. She stated that this could have an impact on the \$400,000 that is already in the City's budget for road improvements.

CM Johnson reported that the Skypark Subcommittee and Community Development Director attended an Urban Land Institute meeting/conference in Chicago. He stated that this meeting provided an opportunity for the City to present our Skypark Town Center plan and have a peer review from 40 different urban planners. He stated that they were able to look at it from a variety of different ways and provide valuable input.

Mayor Bustichi reported that the Transportation Funding Task Force (TFTF) met on May 17 for 4-5 hours to go over their proposals and recommendations for the Santa Cruz County Regional Transportation Commission (SCCRTC). He stated that the group is very diverse and has not been able to obtain a two-thirds vote on any one proposal for funding and transportation needs for the county. He stated that they ultimately defaulted to submitting five separate plans to the SCCRTC, as well as requesting that the SCCRTC do a poll to obtain information, which would then come back to the TFTF for review.

Mayor Bustichi reported that four members of the Santa Cruz Metropolitan Transit District (SCMTD) met with Carl Gardino, who was recently appointed by the Governor to the California Transportation Commission. He stated that Mr. Gardino came to Santa Cruz to find out what we are interested in, and they had a good opportunity to sit and talk with him for two hours about a variety of key issues, including: the Pacific Station that is going on and Highway 17 commuter bus service.

PUBLIC COMMENT

No one came forward.

**ALTERATIONS TO
CONSENT AGENDA**

***M/S: Barrett/Aguilar
To approve the Consent Agenda.
Carried 5/0***

Consent Agenda:

- A. Approve Joint City Council/RDA meeting minutes of 5-2-07
- B. Approve check register – 5-7-07
- C. Approve Third Amendment to the Joint Powers Agreement between the City of Santa Cruz and the County of Santa Cruz and the cities of

Capitola and Scotts Valley relating to library services, extending the agreement to June 20, 2017, and authorize the City Manager to execute the agreement

- D. Second reading and adoption of Ordinance No. 16-ZC-206 approving a planned development district overlay (PD06-005) for the quarry site mixed-use project to allow various exceptions to the City's Municipal Code to remediate the former quarry slope and build approximately 31,500 square feet of retail/commercial condominiums and 94 multi-family residential condominiums and related improvements located at 5007-5015 Scotts Valley Drive (APN's 022-451-04 and -10)
- E. Approve Change Order No. 3, increasing the contract amount to Anderson Pacific Engineering for the Carbonero Lift Station Upgrade by \$29,061.93, and amend and increase the budget in Wastewater Fund 14, account 014.90.4579.904 by \$29,061.93

**ALTERATIONS TO
REGULAR AGENDA**

***M/S: Barrett/Aguilar
To approve the Regular Agenda.
Carried 5/0***

REGULAR AGENDA

- 1. Cost confirmation hearing in accordance with Scotts Valley Municipal Code §4.24.040: 1025 Whispering Pines Drive**

BO Gower presented the written staff report and responded to questions from Council.

CM Reed asked for clarification from the City Attorney as to whether the City Council could increase the proposed fine, or only decrease it. CA Powell stated that the Council could only decrease the fine. CM Reed questioned if that was because the Council had given all power to set fines to the Board of Appeals. CA Powell stated that was an accurate statement.

CM Aguilar asked CA Powell to give the Council a synopsis of the Settlement and Order that had been distributed as an add-on to the agenda.

CA Powell responded and stated that the City had received a letter from Dr. Noel's attorney, Arther R. Montandon, that morning that had been provided as an add-on to the agenda. She stated that the letter raised some issues and BO Gower had prepared a memo to the Council that had also been included as an add-on item. She stated that included in that memo was: the original Settlement and Order that Dr. Noel entered into with the City in May of 2006; the Resolution of the Code Enforcement Appeals Board, based on their action that took place on January 24, 2007 where the Board ordered the payment of the \$8,000 in costs and the \$30,000 in penalties; and also included is an Affidavit of Mailing from Planning Department Admin Secretary Sandy Adams, attesting that she mailed the notice of tonight's hearing to Dr. Noel by certified mail, as well as regular mail. CA Powell then gave a synopsis of the Settlement and Order. She stated that relevant for tonight's hearing, the Council's authority on this matter is only to determine if costs are reasonable and how to collect those costs. She stated that Sections 8, 9, and 12 of the

Settlement and Order are the only items that the Council will be reviewing tonight.

VM Johnson questioned the amount of fines referred to in Section 9 of the Settlement and Order, which showed that the amount of fines could have been \$215,000, but they were lowered to \$30,000 by the Code Enforcement Appeals Board.

CA Powell stated that according to the Settlement and Order, the parties agreed that the penalties were \$213,900, but the City agreed waive that amount in the Settlement and Order so long as Dr. Noel complied with the terms of the Settlement and Order. She stated that Dr. Noel did not comply with the Settlement and Order, and the matter went back to the Board. The Board, in accord with the terms of the Settlement and Order, were authorized to impose any fines and penalties that it felt were appropriate, which is where the \$8,000 in costs and \$30,000 in penalties came from.

Arther Montandon, Attorney for Dr. Constance Noel, stated that he had just provided an updated letter to the City Clerk with a few spelling corrections. He stated that the only substantive change in the letter provided to the City Clerk was an additional item that stated that part of the reason for the delay in this process was that the building plans and permits for this structure, which is many years old, were discarded and destroyed by the City, so actually deciding what was permitted and what wasn't, is and has been, a problem throughout this process. He stated that he believed destruction of these building plans and permits is contrary to state law. He stated that the \$8,000 imposed in the Settlement and Order had been paid and amount before the Council is an additional amount imposed by the Board of Appeals at the January meeting. He disputed that his client had been noticed correctly for the Cost Confirmation Hearing. He stated that the City's ordinance allows service to be given by certified mail, which he believes does not comply with the statute. He introduced Dr. Noel and stated that she was available to respond to questions from the Council.

Dr. Noel stated that she had purchased the house in 2003 and all the things she was being fined for were done 20-30 years ago. She stated that no one had a problem with the house until she rented it out to a Hispanic family, and then all of a sudden she received numerous complaints. She stated that she has been unable to rent, sell, or use her property during this whole time. She stated that she has one family there, and she is not receiving any rent, so she feels she is already being fined by having a negative cash flow of over \$4,000 to \$5,000 per month. She said she feels the City kept changing the rules and going against the Settlement Agreement.

Mayor Bustichi questioned staff regarding the accusation of permits being destroyed by staff. BO Gower responded that it is his understanding that plans for a city residence do not have to be kept for more than 180 days after completion of the structure, and it is standard practice not to retain plans after the permit is finalized. Mayor Bustichi asked if we retain copies of permits. BO Gower responded that we retain copies of receipts that show what was issued. Mayor Bustichi questioned if the receipts show what was issued. BO

Gower stated that receipts show two structures: one for a 2,000 square foot single family residence (which is now closer to 2,400 square feet); and a detached garage/shop that has multiple dwelling units in it on different levels. Mayor Bustichi questioned if the City's receipts show what is currently on the site being different than what is on the receipts. BO Gower stated that the code enforcement file is very lengthy on this property. He stated that a review of tax records show a progression over the years where you can see add on's being added to the building and the garage/shop building being converted to multiple units; however, the City shows no records of those additions being approved. BO Gower stated that some of the additions are from the 1970's and the multiple units in the garage/shop are from the early 1980's.

CM Johnson asked specifically what the City's concerns are regarding this property and the structures.

BO Gower responded that there has been a 400 square foot addition to the lower floor of the house, and the garage/shop building has multiple living units with full kitchens and multiple laundry hook-ups. He also stated that the electrical and plumbing are substandard.

Mayor Bustichi asked Dr. Noel if she had received a disclosure statement when she purchased this property. Dr. Noel stated that the previous owner had died, she purchased the home from the estate, and she had not received a disclosure statement. However, she stated that she knew about the house because they had been her back door neighbor since 1977. She stated that the bottom level of the three story house was the third bedroom and that the permit states that it is a 3-bedroom house.

VM Johnson asked what the greatest number of people was that had been living there at one time. Dr. Noel stated that five was the greatest number. Dr. Noel stated that she has done everything that the City has asked, and we are still not happy with her.

Mayor Bustichi asked when the originally complaint came in and how long this has been going on. BO Gower stated that the original complaint was received in November or December of 2004.,

VM Johnson asked Mr. Montandon what the implication of the statement was regarding no complaints being received until a Hispanic family moved into the home.

Mr. Montandon responded that he had done code enforcement for 27 years in cities with large Hispanic populations, and he found a correlation that when Hispanic people come from areas where they don't speak English into communities where they do, you generally get complaints. Although, he stated he is not accusing the City of anything.

BO Gower stated that for the record none of the complaints received by the City had anything to do with the family being Hispanic.

Mr. Montandon stated that he feels that they have never been given adequate notice to respond to complaints. He also stated that the City is required to keep building plans for structures that are three stories. BO Gower stated that this structure was not approved as a three story structure.

CM Reed questioned when Dr. Noel or Mr. Montandon had brought their concerns forward regarding the complaints not starting until a Hispanic family moved in.

Mr. Montandon stated that they had brought it up a few times in the past; however, they were not accusing City staff of being motivated in that regard. They simply wanted to point out for the record that this is simply the time when the complaints began to be generated.

CA Powell stated that there was never a complaint with allegations about the race of the inhabitants, the concern had been about the number of inhabitants as well as the improvements that were on-site.

Mayor Bustichi stated that we are here to look at the building code violations only. He stated that he believes the receipts spell out the square footage, and the number of units approved.

CM Aguilar questioned if the eight items listed in the Code Enforcement Appeals Board resolution had been completed. BO Gower responded as follows: 1 complete; 2 complete; 3 incomplete; 4 incomplete; 5 incomplete; 6 incomplete; 7 incomplete; and 8, the application for a secondary dwelling unit has not been approved and the improvements have not been removed and inspected by the City.

Lyndon Ludford, neighbor in Hidden Glenn Subdivision, which backs up to the property, stated that there are two properties that abutt each other on a common back yard, and stated his concerns regarding the number of people that live there and their illegal behavior. He stated that he feels that they are running some kind of group home. He stated that the Hidden Glenn Subdivision Homeowners Association has appointed him as liaison with the City of Scotts Valley, the County of Santa Cruz, the Police Department, and the Water District to bring all of the problems into focus. He reviewed some of the police complaints and illegal activities that had occurred at this address and asked that the City Council help to put an end to this neighborhood blight.

Lisa Peterson, 309 Spreading Oak Drive, stated that she believes the house has been altered to allow a large number of people to live there. She stated that she feels it is a very different situation than what Dr. Noel and her attorney are presenting, and urged the Council to enforce the fines.

Rosanne Mikais, has owned property directly behind 1025 Whispering Pines Drive for thirty years. She stated that Dr. Noel is her foster daughter and that she has had a foster license for many years and has helped a large number of people. She responded to some of the allegations from Mr. Ludford and stated that she feels they are being set up by the neighbors with police calls, and that they are working at giving them a bad name.

Mr. Montandon stated that the properties are not connected and that there is a piece of property owned by the Scotts Valley Water District between the two properties. He stated that this is not a group home and he believes that a police log has been "built" by calls from the neighbors.

Mayor Bustichi stated once again that we are only looking at the building code violations, not police reports or other concerns. He stated that there are code violations and he believes there have been alterations to the house. When the alterations occurred is not an issue. The agreement has not been fulfilled, which is why we are holding this hearing.

M/S: Reed/Barrett

To issue an order for a special assessment of City staff costs and penalties against the 1025 Whispering Pines property owned by Dr. Constance Noel.

Carried 5/0

2. Consideration of Homeless Action Partnership funding request

DCM/ASD Ando presented the written staff report and responded to questions from Council. He stated that Teresita Hinojosa-Pereira, from the Santa Cruz County Human Resources Agency, was available to respond to questions from Council.

M/S: Johnson/Aguilar

To approve the addition of \$462 to the 2007-08 Redevelopment Agency Affordable Housing Fund budget for the Santa Cruz County Homeless Action Partnership, Homeless Information System (HMIS).

Carried 5/0

3. Discussion: Sign Ordinance

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

CM Aguilar stated that she would like to see this addressed and looked at again so that it complies with state law. She feels we need to be a little more pro-active in taking care of sign ordinance as it relates to businesses and would like to put together a subcommittee to review the sign ordinance and look at the issues that have been brought forward.

CM Barrett stated that he would like to see the maximum height limit for signs to include balloons, banners, etc. He stated that a business along the freeway had balloons that went approximately 40 feet in the air, and he did not feel this was appropriate.

Mayor Bustichi stated that he feels the sign ordinance does need to be addressed. He knows that we have a variety of opinions, and hopefully we can find some common ground. He would like to see a sign program at each end of the City to attract people to the community and stated that he feels we need to regulate the community signs.

CM Barrett stated that he is concerned about making rules and regulations with no enforcement, and recommended looking at a part-time code enforcement officer.

CM Aguilar stated that the Scotts Valley Municipal Code currently addresses banners and she feels we need to educate the community on the sign regulations. She feels we lost a wonderful asset to the community when we lost the banner over Scotts Valley Drive.

The City Council unanimously agreed to appoint Mayor Bustichi and Council Member Aguilar to a Sign Subcommittee. Council recommended possibly having a sign ordinance workshop that could be posted and attended by the entire City Council, and also holding a business round table meeting to get businesses involved.

4. 2007/2008 General Fund Budget hearing

CM Comstock reviewed some of the goals and objectives that were set and accomplished for 2006 as follows:

- Provide a balanced budget and begin a financial plan that will eliminate the structural deficit and replace reserves.
- Replace the Police Chief who will retire in 2006.
- Resolve the housing element issue.
- Update the City of Scotts Valley's Economic Development Plan, which was adopted in 1996-97.

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. The budget is scheduled for adoption at the 6/20/07 City Council meeting.

Lisa Agliano, Claire Hodgin, and Mary Dettle representing the Scotts Valley Arts Commission, stated that they are requesting an additional \$5,000 this year to implement some new programs. They reviewed projects they currently work on and brought up some ideas for projects they would like to do such as hosting an Alfred Hitchcock film festival, music in the park, artwork in city hall, and adding a piece of artwork to the skate park.

Mayor Bustichi stated that he is very impressed with how well the turnover in the Police Department has gone, and how cohesive they still are after all the changes.

CM Aguilar recommended unfreezing a police officer position because of the \$132,800 overtime budget.

Mayor Bustichi requested that staff provide an overtime budget history with percentages, and a breakdown of exactly how much is for police officers only. He also requested that staff provide a history of overtime costs compared to staffing.

PUBLIC HEARINGS

5. Consideration of amendments to the Gateway South Specific Plan to maintain consistency with the City of Scotts Valley's General Plan // SPA07-001 and ND07-002

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

Mayor Bustichi disclosed that he rents property on Mt. Hermon Road that is included in this area. He stated that he will be vacating the property in November and that he would have no financial gain or loss regarding this issue.

PUBLIC HEARING OPENED – 8:09 PM

No one came forward.

PUBLIC HEARING CLOSED – 8:10 PM

M/S: Aguilar/Barrett

To approve Resolution No. 1549.7 certifying the negative declaration and approving amendments to the Gateway South Specific Plan // SPA07-001 and ND07-002.

Carried 5/0

REGULAR AGENDA
(Resumed)

6. Future Council/RDA agenda items

CM Reed requested that a discussion item be placed on a future agenda regarding keeping the Code Enforcement Appeals Board or having Council make decisions on code enforcement matters.

Mayor Bustichi requested a future agenda item when the green building ordinance comes before the Council, to look at using wastewater treatment plant funds as incentive for existing commercial and residential replacement of urinals to waterless urinals and regular toilets to dual flush toilets.

ADJOURNMENT

The meeting adjourned at 8:12 p.m.

Approved: _____

Dene Bustichi, Mayor / Chair

Attest: _____

Tracy A. Ferrara, City Clerk / Secretary