

MINUTES

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

Date: June 2, 2010

POSTING:

The agenda was posted on 5-27-10 at City Hall and the SV Senior Center. and on 5-27-10 at the SV Library, by the City Clerk.

CALL TO ORDER 6:00 p.m.

PLEDGE OF ALLEGIANCE and MOMENT OF SILENCE

ROLL CALL

Present:

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

City Manager Ando
City Attorney Powell
Public Wks Director Anderson
Police Chief Weiss
Interim Community Dev Dir Westman
Recreation Division Manager Sudduth
WW/Env Program Mgr Hamby
Senior Planner Bateman
City Clerk Ferrara

COMMITTEE REPORTS

CM Lind reported that the Santa Margarita Groundwater Basin Advisory Board met and reviewed the Integrated Water Management Plan and the Santa Cruz County Conjunctive Use and Enhanced Aquifer Recharge Plan, which involves a grant application that will hopefully help with funding concerning various different proposals. She stated that the annual report from the Scotts Valley Water District (SVWD) noted a 25% reduction, and the SVWD also announced that they are reducing their Scotts Valley Conservation Rebate Program by half, effective July 1, 2010.

CM Lind reported that LAFCO met and discussed LAFCO being the subject of a civil suit filed by Gary Patton as part of the Community Water Coalition Group. She stated that the suit has been filed against LAFCO, UCSC, and the City of Santa Cruz, due to UCSC's application for expansion of the north campus. She stated that complaint involves a question of jurisdiction to hear the matter.

CM Lind reported that the Integrated Waste Management Task Force met regarding their continued work on single use bags, which is also being considered by the State of California.

CM Lind reported that the Santa Cruz County Conference and Visitors Council met and they are moving forward on the Tourism Marketing District. She stated that they hope to have approval from the County Board of Supervisors on June 15 and start the assessment process on July 1. She stated that they will also have commercials begin airing next week, which will feature several events, including the Scotts Valley Art & Wine Festival.

CM Aguilar reported that the Affordable Housing Subcommittee met and discussed revising the current silent second program and first time homebuyer program, which will be coming before the Council for consideration.

Mayor Reed reported that the Library Subcommittee met to cover procedural items. He stated that the bid opening for the library will be held at 11:00 am on June 22 in the City Council Chambers. He stated the groundbreaking for the new library will be held on August 14, and it will hopefully be open in June 2011.

CM Lind announced that she attended the Senior Volunteer Appreciation lunch and was amazed to see forty volunteers and how involved the community is with the Senior Center.

PUBLIC COMMENT

Lt. Hohmann, Scotts Valley Police Department, invited everyone to attend the annual Tip-A-Cop fundraiser for Special Olympics, which will be held at Tony & Alba's on Wednesday, June 9, 2010.

Marilyn Garrett, representing Wireless Radiation group, requested that the City Council call for an immediate halt on PG&E smart meters as other agencies have done. She stated that they are calling for an immediate statewide moratorium on PG&E's smart meter system. She invited people to attend a talk regarding this issue being held on Thursday, June 10 from 7-9:30 pm at St. Andrews Church in Aptos.

Seth Dunn, Scotts Valley Kiwanis, stated that the Music at Skypark event will be coming back again this year. He stated that three events will be held the last Sunday of June, July, and August from 4-7 pm, with all money going to Scotts Valley schools and scholarships. He stated that they are looking for additional contributors, and that there is a \$1,500 sponsorship level and a \$300 sponsorship level. He thanked the City Council for their donation last year and stated that they are not asking for assistance this year from the City. Additional information is available by contacting Seth Dunn at sethdunn@yahoo.com.

CM Lind stated that the Chamber of Commerce has extended the time for people to sign up for their trip in October, Escape to Tuscany. She stated that information is available by contacting the Chamber of Commerce at 438-1010.

Mayor Reed announced that he attended Scotts Valley Education Foundation meeting to rally support for a "community day" where the SVEF would ask local merchants to donate a portion of proceeds to schools in their community on a specific day. He stated that it has been effective in other communities and the SVEF is doing this in Scotts Valley, possibly on September 18. Volunteers are welcome they can go to www.svef.net for more information.

**ALTERATIONS TO
CONSENT AGENDA**

Frank Kertai, SV resident, made comments and had questions regarding Items A, B, D, and K on the consent agenda: Item A - questioned the actual amount of affordable housing units required at the Town Center site; Item B - questioned what the two large amounts on the check register were for, \$109,111.07 from the RDA fund and \$256,698.59 from the General Capital Improvements fund; Item D - questioned the payment made to the SERAF from the RDA on May 10; and, Item K - spoke in favor of this letter.

***M/S: Johnson/Bustichi
To approve the Consent Agenda.
Carried 5/0***

Consent Agenda:

- A. Approve Joint City Council/RDA meeting minutes of 5-19-10
- B. Approve check register – 5-17-10
- C. Approve contract for professional services between the City of Scotts Valley and the Housing Authority of the County of Santa Cruz for affordable housing services and authorize the Chair to sign the contract
- D. Approve Resolution No. CRA-100 authorizing a loan from the low and moderate income housing fund to make the required fiscal year 2009-10 supplemental educational revenue augmentation fund payment
- E. Approve Resolution No. 1007.23 making certain findings and determinations in compliance with Section XIII B of the California Constitution (Gann Initiative) and setting the appropriations limit for fiscal year 2010-2011
- F. Approve Resolution No. 1139.14 adopting the City of Scotts Valley Investment Policy
- G. Authorize the Friends of the Scotts Valley Library to sell tiles to be installed at the new library entrance as a fund raiser for the library building remodel project
- H. Approve appointment of Mayor Reed as the City's representative to the Friends of the Scotts Valley Library
- I. Approve appointment of Jodi Laub to the Scotts Valley Arts Commission by Council Member Lind to replace Stuart Roe
- J. Approve denial of claim from Margaret Khouri, M.D. and through her Conservator and Guardian ad Litem, Ann Bass, c/o Mary E. Alexander, MPH, JD in the amount of \$72,000,000
- K. Authorize the Mayor to sign letter in opposition to SB 625 (Wright)

**ALTERATIONS TO
REGULAR AGENDA**

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

REGULAR AGENDA

1. 2010-2011 Budget Hearings: Senior Center, Recreation Fund, Community Center, Wastewater Fund, Recycling Fund

CM Ando presented the written staff report and responded to questions from Council. He stated that this item is for information only and no action is required at this time.

VM Bustichi questioned net savings of reducing savings at the Senior Center. CM Ando \$50,000.

Ferd Bergholz, President of the Scotts Valley Senior Center Board of Directors, spoke regarding the Senior Center Budget, distributed Senior Center revenues as of May 19, 2010, reviewed the revenue history, and

CM Aguilar stated that she is working on ideas to get someone into the Senior Center at least part-time, possibly by using \$25,000 from the \$3 million owed to the General Fund from the RDA.

Mayor Reed presented Senior Center Coordinator Zibe Karo with a plaque from the Scotts Valley Senior Center members and the Recreation Division staff thanking her for her ten years of devoted service.

Mayor Reed presented a Mayor's Proclamation to Ferd Bergholz, President of the Scotts Valley Senior Center Board of Directors, thanking him for his ten years of volunteer service as the President of the Scotts Valley Senior Center Board of Directors.

Mr. Bergholz stated that money could be saved by hiring a temporary employee, part-time at a lower rate, who could at least help with shopping, driving, and coordinating volunteers, and the Recreation employee could be responsible for all other work.

M/S: Aguilar

To pay the General Fund \$25,000 from the RDA and if less money is needed the money can be used for other things in the General Fund.

No second received - motion failed

CM Johnson stated that the budget is coming back for approval at the next meeting, so a decision regarding this is not necessary at this meeting.

RDM Sudduth responded to questions and comments from the Council regarding the Senior Center, Recreation Division, and Community Center budgets.

WWM Hamby was available for questions from the Council regarding the Wastewater Division budget and recycling.

PUBLIC HEARINGS

2. Gateway South FSEIR: Consideration of Planning Commission's recommendation to certify as adequate the Final Supplemental Environmental Impact Report (FSEIR) for the Gateway South retail store

SP Bateman presented the written staff report and responded to questions from Council. He stated that the City's consultant who prepared the EIR, ESA, had Leslie Lowe, Karl Heisler, and Jack Hutchison, available to respond to questions from Council.

David Silverman, Attorney for Title II, thanked Susan Westman and Taylor Bateman for their assistance over the years, and spoke regarding the SEIR and the action being considered by the Council at this meeting.

PUBLIC HEARING OPENED - 7:45 PM

Frank Kertai, SV resident and President of the Heritage Parks Homeowners Association, representing his community, read the attached letter in opposition to the certification of the Gateway South FSEIR (Attachment A).

Les Dittert, SV resident, spoke in opposition to the certification of the Gateway South FSEIR.

Inga Palmer, Manana Woods resident, read a letter in opposition to the certification of the Gateway South FSEIR.

Dave Jensen, SV resident, spoke in opposition to the certification of the Gateway South FSEIR.

Jan Wagner, Manana Woods resident, spoke in opposition to the certification of the Gateway South FSEIR.

PUBLIC HEARING CLOSED - 8:02 PM

Mayor Reed stated that there are three things the Council is considering tonight: (1) certify whether the final SEIR has been completed in compliance with CEQA; (2) determine whether the final SEIR was presented to the decision making body, in the case the City Council and Redevelopment Agency Board, and whether it considered before the project (the project is not up for consideration at this time); and, (3) determine whether final SEIR reflects the lead agencies independent judgment and analysis. He stated that the firms that had done work on this project were selected based on their experience and through a process that the City has followed for a long time that is consistent with what many other jurisdictions in California follow when they do this type of project. Based on this information, Mayor Reed questioned if CA Powell felt there was any basis that the City could say the FSEIR does not reflect Scotts Valley's independent judgment and analysis.

CA Powell responded that she did not believe so.

VM Bustichi questioned City staff regarding the FSEIR and responded to questions posed during public comment time. He stated that there are eight unavoidable impacts in the FSEIR and asked staff if the City Council would approving those impacts if they approve the FSEIR tonight.

ICDD Westman responded that the City Council is not considering the eight unavoidable impacts tonight and they are not part of the approval of the FSEIR.

VM Bustichi asked City staff if the Gateway South Specific Plan, that is currently in place, was being altered tonight with the approval of the FSEIR.

SP Bateman responded that the Gateway South Specific Plan is not being altered.

VM Bustichi questioned if blasting or dynamiting of the granite was being approved with the FSEIR.

SP Bateman responded that blasting or dynamiting is not a part of the FSEIR or any project. He stated that there is a layer of granite that is probably rippable with heavy machines; however, if it was not rippable and there was to be any blasting, additional environmental review would be required.

VM Bustichi questioned if the approval of the FSEIR would include approval of any traffic mitigations or patterns.

CA Powell responded that if the City Council certifies the FSEIR, which includes a traffic study, the certification is determining that the traffic study was done in compliance with CEQA. She stated that the traffic study indicates traffic patterns and impacts to intersections, but the Council would not be approving any mitigation measures or any findings of overriding consideration to deal with those traffic impacts.

VM Bustichi questioned if a future project would require a new traffic study.

SP Bateman responded that there is definitely that potential depending on the future tenant.

VM Bustichi questioned if a future project would require a new economic study.

SP Bateman responded that a new economic study would be required.

CM Aguilar questioned if this FSEIR is based on the square footage of the proposed building and the possibility of the associated traffic.

SP Bateman responded that CM Aguilar was correct.

CM Aguilar stated that based on the fact that the FSEIR is based on the building footprint and the associated possible traffic, she feels that the significant and unavoidable impacts apply.

M/S: Bustichi/Johnson

To approve Resolution No. 1549.9, certifying as adequate the Final Supplemental Environmental Impact Report (SEIR) for the Gateway South Retail Store located on La Madrona Drive // APN 021-141-05. Carried 4/1 (NOES: Aguilar)

REGULAR AGENDA
(Resumed)

3. Presentation of 2010-2011 Redevelopment Agency budget

CM Ando presented the written staff report and responded to questions from Council. He stated that this item is for information only and no action is required at this time.

4. Future Council/RDA agenda items

None.

CONVENE TO CLOSED SESSION

The City Council convened to closed session at 8:35 p.m. to discuss the following items:

1. Pursuant to Government Code Section 54957.6, the City Council met in closed session to confer with their labor negotiator regarding employee negotiations with SEIU, Mid Management Group, Management Group, Scotts Valley Police Bargaining Unit, and the Scotts Valley Police Supervisors Association.

RECONVENE TO OPEN SESSION

The City Council reconvened to open session at 9:15 p.m.

REPORT ON ACTION TAKEN DURING CLOSED SESSION

Mayor Reed announced that there was nothing to report.

ADJOURNMENT

The meeting adjourned at 9:18 p.m.

Approved:



Jim Reed, Mayor / Chair

Attest: 
Tracy A. Ferrara, City Clerk / Secretary

20100602 City Council Meeting Kertai Comments Item2 Gateway South FSEIR

Good Evening. I am Frank Kertai, Scotts Valley resident, President of the Heritage Parks Association, here tonight representing both myself and my community.

My review of the FSEIR responses for the proposed Gateway South Retail project reveals significant material flaws. I find a number of the answers to be non-responsive, opinion not supported by facts or references, conclusions diametrically opposite to earlier SEIR documents or simply statements not reflective of environmental and economic realities.

For example, the earlier FSEIR for the 132,000 sq. ft. Office Building proposed earlier at this site concluded that “No other alternatives, including high density residential or “big box” retail uses on the site were determined feasible. And yet here we were, with this latest project proposing just that: a 143,000 sq. ft. “big box store” and 517 parking spots. The FSEIR concludes that parking would be 40% deficient during the holiday season.

This retail project as proposed makes absolutely no sense. The project asks for a **125%** variance to the Gateway South Specific Plan. It totally ignores the City of Scotts Valley’s responsible hillside development policy by proposing to blast into the hillside and front-filling the property to over twenty feet above street level. Additionally, this project contradicts numerous sections of the City of Scotts Valley Land Use Plan objectives, policies and recommended actions. **A few examples include:**

Objective LO-24 Ensure compatibility between residential development and surrounding land uses.

Policy LP-25 The City shall prohibit new land use activities within and in close proximity to residential zones that generate undesirable impacts which cannot be mitigated.

Action LA-26 Through the environmental and permit review process, the City shall identify projects which could impact residential zones in a negative manner, **and if such impacts cannot be mitigated, the City shall deny the project.**

According to Grey Hayes, a local UCSC Environmental Studies PhD graduate, many of the responses provided in the FSEIR to numerous biotics comments and concerns falls well short of being adequate to inform decision making for this project. William Parkin of the law firm Wittwer & Parkin, LLP, a prominent local land use attorney, notes numerous issues where the FSEIR fails CEQA and other legal requirements.

The FSEIR itself concludes that there would be at least 8 significant and unavoidable impacts from this project, all related to traffic. This is despite the fact that only 8 city intersections were studied for this project. In reality; this project would have city-wide and regional impacts. The projected additional car trips per day from this retail project represents a nearly **25%** increase over the approximately 40,000 car trips per day on the Mt. Hermon Road corridor. When combined with the expected Town Center traffic impacts, the combined traffic impacts would be a nearly **50%** increase on what is already one of the busiest traffic corridors in Santa Cruz County.

The Traffic Impact Study (TIS) for this project did not even follow the city's own guidelines for such studies. It used flawed methodologies and data that were greater than two years old. Even CALTRANS found major errors with the project Traffic Impact Study, none of which have been addressed.

Title II is asking for significant entitlements while at the same time being less than a responsible property owner. They let the property lapse into foreclosure proceedings, pulling it out of foreclosure with only a partial payment of property taxes due. Title II remains one of the largest delinquent tax payers in the county and the state.

A retail project of this size, proximity and projected impacts is likely to have a significant negative economic effect on the Hilton Scotts Valley. A negative impact of only 20% would likely eliminate more than 50% of any possible sales tax benefit from a retail project. The Transient Occupancy Tax (TOT) from the Hilton is currently one of the largest sources of tax revenue for this city. Unlike sales taxes, this revenue goes directly to the city. Is this city council willing to risk this steady revenue source for an unknown project and a property owner with such a well documented *negative* track record?

I have provided this council with an ABAG sponsored study which analyzed historical economic impacts of large retail projects in the Bay Area. Large projects like this have historically had a net negative economic impact on both the local economy and the local municipality. Cost impacts of such large projects are often underestimated. **Empirical evidence has shown they invariably result in no net sales tax increases for the local municipality.** With no additional sales tax benefits, what **“overriding considerations”** can this city council cite as compelling reasons to validate the FSEIR and approve the **125%** land use variance to the Gateway South Specific Plan?

Also of note is that of nearly 100 written response to the SEIR, only three were in favor of this project. **A big box store is simply inappropriate for Gateway South.** It is my sincere hope that this city council listens to the voices of this community.

Because of these and other concerns and comments I and others have previously submitted, I recommend *disapproval* of the certification of the FSEIR and *rejection* of the request for a **125%** variance amendment to the Gateway South Specific Plan.

I finish with a quote from Benjamin Franklin's autobiography:

‘So convenient a thing it is to be a reasonable creature, since it enables one to find or make a reason for everything one has in mind to do.’
- Benjamin Franklin (from autobiography)

Respectfully,

Frank Z. Kertai