

# MINUTES

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

**Date: June 17, 2009**

**POSTING:**

The agenda was posted on 6-12-09 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 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  
Interim Community Dev Dir Westman  
Senior Planner Bateman  
Admin Secty/Plng Aide Schwartz

Absent:

City Clerk Ferrara

**COMMITTEE REPORTS**    CM Lind reported that she attended the Area Agency on Aging Council meeting where they discussed the Farmer's Market Nutrition Program that is beginning in May. This program will provide \$20 booklets for seniors that can be redeemed at local Farmer's Markets for food items. She stated that coupons can be redeemed at the Scott Valley Farmer's Market beginning in August.

CM Lind reported that the Local Agency Formation Commission (LAFCO) passed their budget, and that Scotts Valley will receive a 6% refund.

CM Aguilar reported that the Association of Monterey Bay Area Governments (AMBAG) met and discussed a State bill that is in progress, which would allow governments to charge a \$1 or \$2 surcharge on DMV fees. She stated that there is some concern about this agency charging this fee, and whether or not it is legal. Greater detail will be given next month.

Mayor Johnson reported that the Santa Cruz County Regional Transportation Commission (SCCRTC) met two weeks ago and divided up monies from Federal and State funding. He stated that Scotts Valley received money for rehabilitation work in the Whispering Pines area.

## **PUBLIC COMMENT**

Frank Kertai, SV resident and President of the Heritage Parks Homeowners Association, read the attached letter (Attachment A) regarding Target and Title II Corporation.

Brian Piazza, posed questions about the Scotts Valley Sports Center, specifically, what economic analysis went into the City's purchase of this property to justify spending RDA funds for the new library project?

Mayor Johnson responded that the RDA funds are dedicated library funds, which have been withheld by the County over time from the City's redevelopment funds, and can only to be used for a library project.

Mayor Johnson mentioned the recent passing of community member Sharemi Ullestad. He noted her many accomplishments and stated what an extraordinary young lady she was.

CM Lind stated that the Seaside Company will be hosting a Public Safety Appreciation Day, which will benefit the Fallen Officers Foundation, which will occur in the last week of August.

CM Aguilar stated the Monterey Bay Master Gardeners will be holding their Fourth Smart Gardener's Faire on June 27 at Skypark Park.

## **ALTERATIONS TO CONSENT AGENDA**

CM Bustichi requested that Item I be moved to the regular agenda for discussion.

CM Aguilar requested that Item G be moved to the regular agenda for discussion per the request of the Chamber of Commerce.

VM Reed requested that Item F be moved to the regular agenda for discussion.

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

***To approve the Consent Agenda as amended moving items I, G, and F to the regular agenda for discussion.***

***Carried 5/0***

### **Consent Agenda:**

- A. Approve Joint City Council/RDA meeting minutes of 5-20-09, 6-3-09
- B. Approve check register – 6-5-09, 6-2-09
- C. Approve request for non-collection of fees for the use of Skypark on June 27, 2009 for the Fourth Smart Gardening Faire
- D. Second reading and adoption of Ordinance No. 110.5 amending Section 10.18.020 of Chapter 10.18 to Title 10 of the Scotts Valley Municipal Code regulating private streets subject to vehicle code enforcement
- E. Second reading and adoption of Ordinance No. 16-ZC-216 approving zone change ZC08-001 and planned development district overlay and

permit PD08-001 to rezone parcel B (26,766 square feet) from Service-Commercial "C-S" to the High Density Residential/Planned Development "R-H/PD", and build eight (8) single family detached houses and related property improvements located at 4803 Scotts Valley Drive / APN 022-082-58

- H. Approve Resolution No. CRA-97 making a determination regarding the planning and administrative expenditures of the low and moderate income housing fund for Fiscal Year 2009/2010

**ALTERATIONS TO  
REGULAR AGENDA**

***M/S: Bustih/Reed***

***To approve the Regular Agenda as amended moving items I, G, and F to the regular agenda for discussion.***

***Carried 5/0***

**REGULAR AGENDA**

- I. **Authorize the City Attorney to execute the tolling agreement between the County of Santa Cruz and the City of Scotts Valley regarding property tax administration fees (PTAF)**

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

CM noted that about one a half years ago, the County of Santa Cruz would not issue a tolling agreement with the City and litigation had to be filed. He stated that the County is now asking for the same agreement to cover their liability, and he hopes that the County will note this action that the City is taking, and take it into account in the future.

**M/S: Council Member Bustichi/Council Member Aguilar**

**To approve Item I authorizing the City Attorney to execute the tolling agreement between the County of Santa Cruz and the City of Scotts Valley regarding property tax administration fees (PTAF).**

**Carried 5/0**

**F. 2009/2010 Budget Adoption:**

- (1) **Approve Resolution 630.29 approving the budget for the City of Scotts Valley for Fiscal Year 2009/2010 and making appropriations for the amounts budgeted**
- (2) **Approve Resolution No. 1501.16 approving the continued collection of the Utility Users' Tax for the budget Fiscal Year 2009/2010**

VM Reed summarized the state of City finances regarding the temporary sales tax (Measure C) and it's phase-out. He stated that the tax was initiated to help get the Town Center project up and running, until those new taxes began to roll in. He noted that the City is constantly evaluating costs and how to keep them to a minimum while providing good public service. He stated that due to the economy the Town Center is not going to be developed any time soon. He stated that he has also asked the City Manager to review possible

cuts in the City budget. He stated that winning the County lawsuit provides about \$2.1 million, plus \$400,000 per year, in the future; however, if the County appeals this will cause delays in receiving the money. He is comfortable approving the proposed budget at this time, as long as it is revisited in three months or so. He recommended a possible work furlough for non-emergency employees of one day a month.

CM Aguilar asked if the RDA is paying the \$3.5 million it owes to the General Fund.

CM Ando responded that the RDA has not been paying into the General Fund, due to City income from the Measure C tax.

CM Bustichi stated that he is in general agreement with Vice Mayor Reed's comments.

**M/S: Bustichi/Aguilar**

**To approve Resolution 630.29 approving the proposed budget, and to review it within 90 days, or when we know how the State budget decisions will affect the City budget.**

**Carried 5/0**

**M/S: Aguilar/Reed**

**Approve Resolution No. 1501.16 approving the continued collection of the Utility Users' Tax for the budget Fiscal Year 2009/2010.**

**Carried 5/0**

**1. Presentation from County of Santa Cruz Commission on Disabilities**

Mayor Johnson introduced Mr. Doug Patrick, Commissioner on the Santa Cruz Commission on Disabilities.

Mr. Patrick provided a presentation on the Report on Services to County Residents with Disabilities, that was compiled by the Commission and presented to the County Board of Supervisors. Mr Patrick responded to questions from Council members.

Mayor Johnson praised Mr. Patrick on the quality of the report and the extent of public service that his organization provides.

Ellen Buckingham, member of the Scotts Valley City Committee on Disabilities, spoke in support of the Santa Cruz Commission on Disabilities. She stated that is concerned about additional costs that will be incurred if major cuts are made.

**2. Presentation from Scotts Valley Chamber of Commerce and consideration of request for increased funding**

CM Ando presented the written staff report, responded to questions from the Council and introduced Josh Breeden, President of the Board of Directors of the Scotts Valley Chamber of Commerce.

Mr. Breeden, President of the Board of Directors of the Scotts Valley Chamber of Commerce, gave a presentation on the activities that the Chamber office is currently engaged in pursuant to their contract with the City. He reviewed the reasons for their increased funding request, and responded to questions and comments from the City Council.

Frank Kertai, SV resident and President of the Heritage Parks Homeowners Association, spoke on this matter and read the attached letter (Attachment B).

Glenn Soma, Board Member for the Scotts Valley Chamber of Commerce, spoke on the matter and described the value of the work that the Chamber does.

VM Reed praised the Chamber, but stated that he has trouble approving a budget increase, due to current economic difficulties. He stated that he feels he can justify a \$20,000 increase, but not \$25,000.

Mayor Johnson provided a number of reasons that he feels make the case for approving the requested \$25,000.

CM Bustichi stated that he would support an increase for two years, but not three.

VM Reed noted the extraordinarily difficult economic times and the need for the City to trim expenditures wherever possible. He stated that he supports the Chamber completely, but cannot support the proposed increase in funding at this time.

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

***To approve the increase in funding to the Scotts Valley Chamber of Commerce from \$15,000 to \$25,000, for a two-year term.***

***Carried 4/1 (NOES: Reed)***

- G. 2009/2010 Scotts Valley Redevelopment Agency budget adoption:**
- (1) Approve Resolution No. CRA-96 adopting the proposed budget as amended for the 2009/2010 Fiscal Year**
  - (2) Approve loan agreement between the City of Scotts Valley and the Scotts Valley Redevelopment Agency**

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

***To approve Resolution No. CRA-96 adopting the proposed budget as amended for the 2009/2010 fiscal year, with the addition of the increase in funding to the Chamber of Commerce from \$15,000 to \$25,000.***

***Carried 4/1 (NOES: Reed)***

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

***To approve the loan agreement between the Scotts Valley Redevelopment Agency and the City of Scotts Valley for administrative costs to the Agency, and authorize the Executive Director/City Manager to execute the same loan agreement.***

***Carried 5/0***

## **PUBLIC HEARINGS**

- 3. Consideration of Planning Commission's recommendation of denial for a General Plan Amendment, Zone Change, Planned Development, Land Division, and Design Review to create six lots and build six detached townhome style single family dwellings and related improvements on a vacant parcel on Scotts Valley Drive // APN 022-861-21**

SP Bateman presented the written staff report and responded to questions from the City Council. Issues discussed included grading, retaining and sound wall construction, parking, groundwater recharge, traffic analysis, and the existing right-of-way across the property.

Michael Tansy, applicant and property owner, addressed the Council and responded to questions and comments from the Council.

### **PUBLIC HEARING OPENED - 8:09 PM**

Mr. Casey Chen, owner of the adjacent property to the south, spoke on the matter. He discussed the history of his property regarding zoning and a right-of-way, and stated that he feels the Council must deal with and resolve the right-of-way issue before acting on this project proposal.

SP Bateman and CA Powell provided additional clarification of the property history issues.

Frank Kertai, SV resident and President of the Heritage Parks Homeowners Association, spoke on the matter and suggested a possible solution to the easement issue.

### **PUBLIC HEARING CLOSED - 8:23 PM**

Discussion ensued with Council, staff and the applicant regarding access and easements, potential future development, exterior finishes, exterior lighting, retaining walls, arborist report, traffic, groundwater recharge.

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

***To have the applicant revise the project for a five-unit complex and include a groundwater recharge plan, updated arborist report, updated traffic report, lighting plan with CC&R language, updated review comments from Police Department regarding emergency access, and updated list of exterior finish products per CM Bustichi's recommendations, and return for the July 15 Council meeting.***

***Carried 5/0***

Mayor Johnson left the meeting at 8:45 pm due to back problems. VM Reed took over the meeting.

## **REGULAR AGENDA**

(Resumed)

### **4. Skypark Open Space Maintenance Assessment District No. 1: Resolution No. 1555-SP-20; Annual Engineers Report Skypark**

VM Reed recused himself from consideration of this item, since he lives within this District.

PWD Anderson presented the written staff report and responded to questions from Council. He stated that no action from the Council is required at this time. PWD Anderson stated that this public meeting is being held to accept public testimony and that Council will consider approval of Resolution No. 1555-SP-20 at the public hearing set for July 1, 2009.

No questions from the Council or comments from the public.

### **5. Pinewood Estates Landscape Maintenance Assessment District; Resolution No. 1213.22; Annual Engineer's Report Pinewood**

PWD Anderson presented the written staff report and responded to questions from Council. He stated that no action from the Council is required at this time. PWD Anderson stated that this public meeting is being held to accept public testimony and that Council will consider approval of Resolution No. 1213.22 at the public hearing set for July 1, 2009.

No questions from Council or comments from the public.

### **6. Consideration of amendment to the Memorandum of Understanding (MOU) between the City of Scotts Valley and the Land Trust of Santa Cruz County, entered into on December 17, 2003, regarding the Glenwood Open Space**

ICDD Westman presented the written staff report and responded to questions from the City Council. Discussions of the issues included involvement of the Scotts Valley Water District and corresponding payment of costs, guiding documents, and studies.

No public comment.

***M/S: Aguilar/Lind***

***To approve the MOU amendment as proposed.***

***Carried 4/0/1 (ABSENT: Johnson)***

7. **Consideration of award of contract to WRA, Inc. for the preparation of a Long Term Management Plan for the Glenwood Open Space**

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

Mr. Tom Hauso, Glenwood resident, spoke on the matter. He stated that he has concerns with the Land Trust and how the land will be used in the future.

ICDD Westman and Council Member Aguilar responded to Mr. Hauso's concerns.

**M/S: Aguilar/Lind**

**To award the contract to WRA as proposed.**

**Carried 4/0/1 (ABSENT: Johnson)**

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

None.

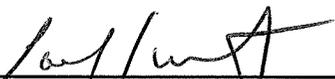
**ADJOURNMENT**

The meeting adjourned at 9:10 pm.

Approved:

  
Randy Johnson, Mayor / Chair

Attest:

  
Joel Schwartz, Admin Secty/Plng Aide

## 20090617 City Council Meeting Kertai Comments

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

This city council will shortly have brought before it the consideration for approval of a large retail project at Gateway South. The project proponent, Title II Corporation and its' principle Mr. Choo have recently been in the news because of financial difficulties. They are significantly in arrears for numerous financial obligations. These arrearages include hundreds of thousands of dollars in property taxes and personal tax leans on the proposed project property on La Madrona Drive. A majority of those past due property taxes is owed to the City of Scotts Valley.

This city council has commissioned an economic impact report for this project. That economic impact report should also include the viability of the project proponent as well as the impacts of the project to this city and the local economy. In addition, as required by California State Law, there will be an environmental impact report for this proposed project. That report should include an evaluation of the environmental business practices of the proposed retailer, Target Corporation. These questionable practices should be of concern to this city council. The time to consider these practices is before approval is granted for the project.

The following excerpts are from an article published in the San Jose Mercury News this week and widely reported in local news media, including radio and television:

Target stores across the state have been illegally dumping hazardous wastes in landfills, state Attorney General Jerry Brown and 20 district attorneys alleged in a lawsuit filed Monday in Alameda County.

"Target has shown a willful disregard for California's hazardous-waste laws by dumping flammable liquids and toxic chemicals in local landfills over a period of eight years," Brown said in a statement. "If successful, this lawsuit would force Target to comply with state laws governing the lawful handling and disposal of toxic and corrosive waste."

Among district attorneys who signed onto the Target suit are those for Santa Clara, Alameda, Contra Costa, San Mateo, San Joaquin, and Solano counties.

As examples of illegal dumping by Target — which operates more than 200 stores and seven distribution centers in California — the lawsuit cites two instances from May in which Alameda County Target stores sent waste including flammable aerosol canisters, propane canisters, light bulbs containing mercury, corrosive spray cleaners and medical waste to local landfills not authorized to receive it. State law requires that a licensed hazardous waste hauler cart such stuff to special disposal facilities so they won't end up in landfills, where they can seep into water supplies or emit dangerous gases.

Since 2001, local environmental health inspectors have served Target with more than 300 Notices of Violation for breaking California's hazardous waste control laws, Brown's office claims; the Attorney General's Office launched a probe in March 2006. This lawsuit, alleging various violations of the state's Health and Safety Code and unfair-competition laws, would force Target to clean up its act, and seeks up to \$25,000 for each violation.

Over the past two years I have provided significant background information to this city council that details how a large big-box retail store as proposed for Gateway South would have net negative impact on both our local economy and on our local government. Over twenty other Bay Area governments have already reached this conclusion and enacted restrictions or outright bans on retail superstores. The cities of Santa Clara and Salinas are recent additions to this list.

All of Target's talk about "social responsibility" and "giving back to the community" is disingenuous when its' ongoing business practices both flaunt the law and have such a negative impact on our local environment.

Add to this evidence a pattern of bad corporate behavior as described in this recent newspaper article and it is easy to assess this project. Not only is it a highly inappropriate development proposal – it is simply wrong for this city and community.

I finish my comments this evening with a quote from Sir Winston Churchill:

**Never give in--never, never, never, never, in nothing great or small, large or petty, never give in except to convictions of honour and good sense. Never yield to force; never yield to the apparently overwhelming might of the enemy.**

**-- Sir Winston Churchill, *Speech, 1941, Harrow School***

Respectfully,

Frank Z. Kertai

# Target targeted in waste-dumping lawsuit

By Josh Richman

Bay Area News Group (published in San Jose Mercury News)

Posted: 06/15/2009 06:01:45 PDT

Target stores across the state have been illegally dumping hazardous wastes in landfills, state Attorney General Jerry Brown and 20 district attorneys alleged in a lawsuit filed Monday in Alameda County.

"Target has shown a willful disregard for California's hazardous-waste laws by dumping flammable liquids and toxic chemicals in local landfills over a period of eight years," Brown said in a statement. "If successful, this lawsuit would force Target to comply with state laws governing the lawful handling and disposal of toxic and corrosive waste."

Among district attorneys who signed onto the Target suit are those for Santa Clara, Alameda, Contra Costa, San Mateo, San Joaquin, and Solano counties.

As examples of illegal dumping by Target — which operates more than 200 stores and seven distribution centers in California — the lawsuit cites two instances from May in which Alameda County Target stores sent waste including flammable aerosol canisters, propane canisters, light bulbs containing mercury, corrosive spray cleaners and medical waste to local landfills not authorized to receive it. State law requires that a licensed hazardous waste hauler cart such stuff to special disposal facilities so they won't end up in landfills, where they can seep into water supplies or emit dangerous gases.

Target spokeswoman Bethany Zucco said in a statement that the company is "disappointed" by the lawsuit, as Target had been engaged in "a cooperative and constructive dialogue on this topic for almost three years."

"Target is strongly committed to protecting the health and safety of our guests, team members and communities, as well as to maintaining compliance with all applicable environmental laws," she said. "We are proud to have a best-in-class program for proper handling and disposal of environmentally sensitive products. We continue to believe that further review of our practices will lead to the conclusion that our program not only meets but surpasses the requirements of California law," she added.

Since 2001, local environmental health inspectors have served Target with more than 300 Notices of Violation for breaking California's hazardous waste control laws, Brown's office claims; the Attorney General's Office launched a probe in March 2006. This lawsuit, alleging various violations of the state's Health and Safety Code and unfair-competition laws, would force Target to clean up its act, and seeks up to \$25,000 for each violation.

At the same time, Brown and three district attorneys — including San Joaquin County's — have reached a settlement with Kmart over similar allegations, requiring the company to stop the dumping, retrain its workers and pay more than \$8.65 million in civil penalties, costs and funding for projects to improve environmental protection.

Brown said Kmart has cooperated and "agreed to live up to its obligations under the law and will train its employees to properly handle and dispose of hazardous waste."

20090617 City Council Meeting Kertai Comments – Item 2`

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

I have seen the Scotts Valley Chamber of Commerce in action. There is no question that this organization provides benefits to local businesses, the city and to the community.

However, empirical data information is needed to make this decision, not anecdotal information:

- Financial Statements
  - o Sources and Uses of Funds
  - o Income Statement
  - o Balance Sheet
- Number of members, this year versus prior years
- What is makeup of membership?
  - o Website categorizes members
  - o What is membership by category?
- What is the fiscal shortfall in SVCOC operating budget?
- Does SVCOC have fall-back sources of funds?
- What is the city's quantitative benefit financially from this investment?
  - o Estimate?

Has GIRO Corporation joined the Chamber?

- One of the conditions of subsidizing GIRO's move was that they would participate locally and invest in the community
- Not listed on SVCOC website

**Suggestions:**

- Gather more specific empirical data when you hold your events
- When you sell tickets for events, identify if person is from Scotts Valley or out of town
  - o Asking one question not too obtusive
  - o Used different color tickets so easy to count later
  - o Use different color badges so vendors can easily identify out of town/local folks
- Provide website feature that allows anyone to sign up and be notified of upcoming events
  - o Email
  - o Text messaging
  - o Phone blast

Should some city council members recuse themselves from consideration and voting on this issue? I request a ruling from the City Attorney on this issue.

- Scotts Valley Chamber of Commerce Ambassadors
  - o Dene Bustichi
  - o Donna Lind
  - o Jim Reed (also editor of newsletter)

Respectfully,

Frank Z. Kertai