

MINUTES

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

Date: July 1, 2009

POSTING:

The agenda was posted on 6-26-09
at City Hall, the SV Library, and the
SV Senior Center by the City Clerk.

CALL TO ORDER 600 p.m.

PLEDGE OF ALLEGIANCE and MOMENT OF SILENCE

ROLL CALL

Present:

Mayor Johnson
Vice Mayor Reed
Council Member Bustichi
Council Member Lind

City Manager Ando
City Attorney Powell
Public Wks Director Anderson
Police Chief Weiss
Interim Community Dev Dir Westman
City Clerk Ferrara

Absent:

Council Member Aguilar

COMMITTEE REPORTS

VM Reed reported that the City's Library Subcommittee met. He provided a progress report on the proposed library (the Slawinski Sports building), which he stated had been inspected by several members of the City staff, the library staff, and a structural engineer. He stated that the structure is solid, workable, and flexible. He reported that they are also continuing the process for the architect for the library, with eleven finalists being interviewed on July 8 in order to determine the top three to five finalists who will be making presentations to the entire City Council.

CM Bustichi reported that the Affordable Housing Subcommittee met today and discussed the possibility of Habitat for Humanity (HFH) purchasing a 3-unit subdivision on Blake Lane that had been approved by the City Council about a year ago. He stated that HFH is looking for participation from the Redevelopment Agency Affordable Housing fund to construct affordable housing units on this site.

CM Bustichi reported that the Santa Cruz Metropolitan Transit District (SCMTD), met and received good news that the SCMTD will receive approximately \$5 million in funding, which will be used to replace sixteen Paracruz vans, and toward the Smart Card system. He also reported that the California Transit Association just received notice that they prevailed in a lawsuit they filed against the State of California, challenging the diversion of transit funds to the general fund over the last few years.

Mayor Johnson reported that the Santa Cruz County Regional Transportation Commission recently held a workshop. He stated that there was nothing of significance to report.

PUBLIC COMMENT

Frank Kertai, SV resident and President of the Heritage Parks Homeowners Association, read the attached letter regarding his contention that CM Bustichi, CM Lind, and VM Reed have an economic interest in the SV Chamber of Commerce and should not have participated in the vote at the June 17 City Council meeting to increase funding to the SV Chamber of Commerce (Attachment A). Mr. Kertai then asked the City Council if they had any questions.

VM Reed questioned Mr. Kertai regarding his accusation that he, CM Lind, and CM Bustichi, have an economic interest in the SV Chamber of Commerce. He also stated that he is not a member of the SV Chamber of Commerce.

CA Powell stated that CM Lind and CM Bustichi are both members of the SV Chamber of Commerce, but since they do not sit on the Chamber Board or have an economic stake, there is no conflict of interest.

Paul Bach, Scotts Valley Responsible Local Development Political Action Commission (SVRLDPAC), expressed concerns that he is not able to have a back and forth conversation with the City Council during public comment time. He also stated that he feels Council Members should recuse themselves more often due to what he feels are conflicts of interest.

CM Lind announced that on July 18 the Scotts Valley Peace Officers Association is holding the 16th Annual Cops 'n' Rodders Car Show and Cruise from 9:00 am to 2:00 pm at Siltanen Park.

CM Ando announced that the City's Annual 4th of July parade will be held this Saturday at 3:00 pm and applications are available on the City's website and at City Hall. He stated that applications will be accepted up until the beginning of the parade.

ALTERATIONS TO CONSENT AGENDA

***M/S: Bustichi/ Reed
To approve the Consent Agenda.
Carried 4/0/1 (ABSENT: Aguilar)***

Consent Agenda:

A. Approve Joint City Council/RDA meeting minutes of 6-17-09

ALTERATIONS TO REGULAR AGENDA

***M/S: Bustichi/Reed
To approve the Regular Agenda.
Carried 4/0/1 (ABSENT: Aguilar)***

REGULAR AGENDA

1. **Consider approval of Resolution No. 1535.4 ordering collection of delinquent assessments and taxes for various assessments and community facilities districts pursuant to California Streets and Highways Code Section 8830 and pursuant to California Government Code Section 53356.1 // APN 021-141-05**

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

Paul Bach, Scotts Valley Responsible Local Development Political Action Commission (SVRLDPAC), spoke in favor of the City approving this item.

M/S: Bustichi/Lind

To approve Resolution No. 1535.4 ordering collection of delinquent assessments and taxes for various assessments and community facilities districts pursuant to California Streets and Highways Code Section 8830 and pursuant to California Government Code Section 53356.1.

Carried 4/0/1 (ABSENT: Aguilar)

PUBLIC HEARINGS

2. **Skypark Open Space Maintenance Assessment District No. 1: Resolution No. 1555-SP-020; Annual Engineer's 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 the City Council.

PUBLIC HEARING OPENED - 6:40 PM

Tom Hauso, property owner of adjacent property below the bluffs, stated that he would like to meet with someone to get more information regarding the slope stabilization.

Mayor Johnson stated that CM Ando and/or PWD Anderson would meet with the Hauso.

PUBLIC HEARING OPENED - 6:42 PM

M/S: Bustichi/Lind

To approve Resolution No. 1555-SP-020 ordering and authorizing the levy and collection of assessments therein pursuant to the Landscaping and Lighting Act of 1972 for the Skypark Open Space Maintenance District.

Carried 3/0/2 (ABSENT: Aguilar/Reed)

**3. 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 the City Council.

PUBLIC HEARING OPENED - 6:44 PM

No one came forward.

PUBLIC HEARING OPENED - 6:44 PM

M/S: Bustichi/Lind

To approve Resolution No. 1213.22 ordering and authorizing the levy and collection of assessments therein pursuant to the Landscaping and Lighting Act of 1972 for the Pinewood Estates Landscape Maintenance District.

Carried 4/0/1 (ABSENT: Aguilar)

REGULAR AGENDA

(Resumed)

4. Consider approval of second amendment to the Agreement between the Redevelopment Agencies of the City of Scotts Valley and County of Santa Cruz pursuant to Community Redevelopment Law and Health and Safety Code Section 33000, et. seq. and the City of Scotts Valley and the County of Santa Cruz

CM Ando presented the written staff report and responded to questions from the City Council. He stated that the dates included in the agreement in Attachment 3, Schedule/Timetable, will be amended to change the date for opening the library from December 15, 2010 to June 30, 2011.

M/S: Bustichi/Lind

To approve second amendment to the agreement between the Redevelopment Agency of the City of Scotts Valley and the Redevelopment Agency of the County of Santa Cruz pursuant to Community Redevelopment Law and Health & Safety Code §33000, et seq. and the City of Scotts Valley and the County of Santa Cruz and authorize the City Manager / Executive Director to execute the Second Amendment to the Agreement.

Carried 4/0/1 (ABSENT: Aguilar)

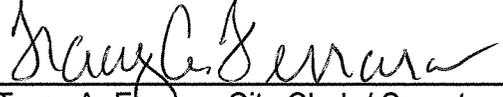
5. Future Council/RDA agenda items

VM Reed requested a future agenda item looking at ways to streamline the ability of residents and business owners to put solar panels on their homes or businesses.

ADJOURNMENT

The meeting adjourned at 6:55 p.m.

Approved: 
Randy Johnson, Mayor / Chair

Attest: 
Tracy A. Ferrara, City Clerk / Secretary

20090701 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.

At the June 3rd and June 17th Scotts Valley City Council meetings, this council reviewed, discussed and approved funding for the Scotts Valley Chamber of Commerce in the amounts of \$25,000 for two years and \$15,000 for the third year, for a total funding of \$65,000. The review, discussion and voting by council members Bustichi, Lind and Reed of this matter at both meetings was a violation of Title 2, Division 6, California Code of Regulations.

Your participation was a clear conflict of interest as you three are intimately involved with, and members of, that organization. In fact, Mr. Bustichi and Ms. Lind are prominently displayed on the Chamber website as Ambassadors to the Chamber. Mr. Reed is a past Ambassador to the Chamber and his name and photograph are featured in the masthead for the monthly Chamber newsletter.

Section 18705.1 of Title 2 describes the "Materiality Standard of Economic Interest in Business Entities". This section describes the conflict as material if **"the governmental decision will result in the increase or decrease in the value of the business entity's assets or liabilities of \$20,000 or more"**. The funding of the Chamber in the amount of \$65,000 clearly meets this standard. Because council member's Bustichi, Lind and Reed are members of the Chamber, their actions affected their "economic interests" significantly.

Section 18707.7 of Title 2 discusses "Public Generally: Industries, Trades or Professions". This section of Title 2 identifies that "For purposes of this subdivision, a not for profit entity other than a governmental entity is treated as a business entity." The Scotts Valley Chamber of Commerce is the sole entity in it's category in this municipality.

Section 18709 of Title 2 discusses "Governmental Decision: Segmentation". This section describes conditions under which public officials may participate in decisions when certain conditions apply. This council's actions with respect to the funding of the Scotts Valley Chamber meet none of the conditions described by this section.

I specifically pointed out this conflict of interest at the June 17 council meeting when this matter was being discussed. I pointed out this conflict to the City Attorney, Ms. Powell, while council members were discussing this item. Ms. Powell told me that it was up to the council members to decide whether they should recuse themselves on this issue. I beg to differ with Ms. Powell's position. In my estimation, Title 2 is clear about the conflict. She could have, and should have, provided better guidance to council members Bustichi, Lind and Reed on this matter. I believe they broke the conflict of interest laws with their actions at the last two city council meetings.

Ms. Lind, as a new council member, you recently attended a meeting in Sacramento where you received some training and overview in these conflict of interest matters. Perhaps you would care to comment on your position concerning your actions as well as those of Mr. Bustichi and Reed?

Mr. Bustichi and Mr. Reed – as long time council members, you should be aware of the conflict of interest laws as defined by Title 2. Effectively, as members of one organization, the city council, you paid yourselves by being members of another

20090701 City Council Meeting Kertai Comments

organization, the Chamber of Commerce. This is not only a conflict of interest and unethical behavior – it is against the law.

Mayor Johnson – as chair of this body, it is incumbent upon you to control discussions of items being considered. You **should** have actively sought legal counsel on this issue from the city attorney, especially when a conflict was pointed out to you while it was occurring. It is disappointing, but not unexpected, to have you and other members of this council once again ignore concerns on matters brought before you. While it is your prerogative to ignore inputs from the community, you should at minimum endeavor to uphold the law in your capacity as mayor. You have failed to do so.

Respectfully,

Frank Z. Kertai