

MINUTES

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

Date: November 18, 2009

POSTING:

The agenda was posted on 11-13-09 at City Hall, the SV Senior Center, and on 11-14-09 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 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 Fodge
City Clerk Ferrara

COMMITTEE REPORTS CM Bustichi reported that the Santa Cruz Metropolitan Transit District met and discussed ridership. He stated that ridership had a drastic increase in 2008, however, they are seeing a decline in 2009, which is being attributed to lower gas prices and the large unemployment numbers in this County right now. He stated that the Santa Cruz to Scotts Valley route has had some of the largest decreases (Route 31), and if it comes to budget cuts, the lower usage routes will be affected. He reported that the SCMTD will also be applying for two grants, a safety grant and an energy grant, through the American Recovery and Reinvestment Act of California.

CM Lind reported that the Seniors Council met and they are working on the process of categorical funding and allocations. She stated that it is an extensive process that will not be completed until June of 2010.

CM Lind reported that the Senior Center Holiday Craft Faire was held this last weekend and appeared to be very successful.

CM Lind reported that she attended the Scotts Valley Chamber of Commerce Annual Awards Dinner at the Scotts Valley Hilton on November 14. She congratulated VM Reed on being named the Man of the Year, and CM Bustichi for being awarded the Beautification Project of the Year for the Tree Circus Center.

CM Lind reported that she attended a Scotts Valley Water District meeting and participated in a discussion on SB 211. She stated that she has expressed her concerns and the City Council's opposition to SB 211. She stated that during the discussion, Water Board Director Joe Miller recommended forming a subcommittee with representatives of the Scotts Valley Water Board and the Scotts Valley City Council, to look at SB 211 and study it further. She stated that although the City Council has gone on the record as opposing SB 211, in the interest of open dialogue, she expressed her interest in participating on an Ad Hoc committee. She recommended a future agenda item to establish an Ad Hoc committee to study SB 211.

CM Bustichi stated that he had also attended the Water District meeting and he would also be willing to participate on the Ad Hoc committee to study SB 211 further.

VM Reed reported that the Library Subcommittee met and took a tour of libraries in the larger bay area, that included two buildings that Group 4, the City's architect, had designed. He reported that they saw a wide range of library design and good information was obtained. He stated that at the December 16 City Council meeting the City's library architect, Group 4, will be giving a detailed presentation on the proposed design for the outside and inside of the library. He also reported that the Library Subcommittee met today to review some preliminary concepts on the new library.

PUBLIC COMMENT

Joe Miller, SV Water District Board of Directors, spoke regarding SB 211 and recommended that an Ad Hoc Committee be formed by the City Council in order to have dialogue with the Scotts Valley Water District regarding SB 211. He stated that SB 211 needs to be changed so that the City can exercise our land use control. He recommended that Scotts Valley have alliances with the other agencies in the County. He stated that he feels that SB 211 will pass and we need to be sure that the appropriate wording is included to make this a win-win for all parties affected.

Ginny Johnson, SV resident, invited the Council and community to attend the United Way of Santa Cruz County Community Assessment Project meeting being held on Monday, November 23 at 10:00 am at the Scotts Valley Community Center. She stated that they will be presenting the 2009, Year 15 Santa Cruz County Community Assessment Project findings, and they will also be announcing the 2009 Santa Cruz County Community Heroes. She stated that light lunch will be provided by sponsors at 11:30 am.

Frank Kertai, SV resident and President of the Monte Fiore Homeowners Association, read the attached letter (Attachment A), regarding the Gateway South retail project.

Les Dittert, SV resident, expressed concerns regarding the public comment process regarding the Gateway South Draft Supplemental Environmental Impact Report (DSEIR). He stated that he was concerned that the public had not been notified earlier than November 4 that the deadline to submit comments on the DSEIR was going to be extended an additional 45 days due to the withdrawal of Target from the project.

Paul Bach, Scotts Valley Responsible Local Development Political Action Committee (SVRLDPAC), expressed concerns regarding the public comment process regarding the Gateway South Draft Supplemental Environmental Impact Report (DSEIR). He stated that he was concerned that the public had not been notified earlier than November 4 that the deadline to submit comments on the DSEIR was going to be extended an additional 45 days due to the withdrawal of Target from the project. He stated that he feels that the City should stop this process, because in his opinion the reports used in the DSEIR are no longer accurate or complete, and the entire report is flawed at this point. He stated that he cannot believe that the footprint of the building is not changing, because he believes that Target owns the architectural drawings and footprint, and to his knowledge, Title II does not have permission to use those drawings. He stated that a letter from his attorney, Wittwer Parkin, stated that "The City has stated that it is its applicant's decision as to whether to proceed with the environmental documents, or whether to withdraw the documents and start anew. However, this statement is not only incorrect, but it will also lead to further costs and delays for the participant, the applicant, and if the City proceeds with the existing SEIR. Members of the City Council clearly do not find the document to be adequate, and the Council is the body that must certify the SEIR."

VM Reed responded to comments made previously that the entire report is inaccurate. He stated that there is no question that certain components will need to be revised, however, he feels that there are several components that are not changed, regardless of what kind of store may be there, such as the soils report, water quality, light pollution, and endangered species components. He stated that he does not believe it is fair to say that the entire report is not accurate and we will have to start again from scratch. He stated that at the last City Council meeting, CA Powell stated that the City is vested with the responsibility for determining what is an appropriate application, and after this 45 extension that has been granted, the City may then choose to make additional requirements or tell the applicant additional things that have to be done in order to meet the City's standards. He stated that in response to comments made regarding when the public was notified about the withdrawal of Target from the process, the City followed its usual process of letting the public know what was happening at the next regular City Council meeting. He stated that the 45 day time extension for public comment on the DSEIR allows additional time for the public to comment, or re-evaluate their comments, based on the new information that Target is no longer part of the project.

**ALTERATIONS TO
CONSENT AGENDA**

CM Ando stated that there are two additional items regarding Item C. CM Aguilar requested that Item C be moved to the regular agenda for discussion.

M/S: Bustichi/Aguilar

To approve the Consent Agenda as amended moving Item C to the regular agenda for discussion.

Carried 5/0

Consent Agenda:

- A. Approve Joint City Council/RDA meeting minutes of 11-4-09
- B. Approve check register – 11-3-09
- D. Approve closure of the City Hall administrative offices at One Civic Center Drive and the Recreation administrative offices at 361 Kings Village Road for the three days between Christmas and New Year's, December 28, 29, and 30, 2009
- E. Approve the cancellation of the January 6, 2010 regular City Council meeting
- F. Approve Resolution No. 1835 adopting CEQA findings for the Energy Efficiency and Conservation Block Grant (EECBG) program and authorize AMBAG Energy Watch to administer the grant for the City of Scotts Valley
- G. Approve Resolution No. 1836 recommending the appointment of Patricia Spence to the Santa Cruz Metropolitan Transit District Board of Directors

**ALTERATIONS TO
REGULAR AGENDA**

M/S: Reed/Aguilar

To approve the Regular Agenda as amended moving Item C to the regular agenda for discussion.

Carried 5/0

REGULAR AGENDA

- C. **Approve Resolution No. 1820.3 approving the final map for Lone Pine Subdivision, 495 and 497 Lockewood Lane, APN's 021-071-02 and 021-231-09**

CM Aguilar stated that she had received a call from the owner of the golf course (Sandy Woodruff), and she had concerns regarding the wrought iron fence condition. She stated that this piece of property has had a solid wood fence for thirty-eight years, and she does not see why the solid fence should be taken down and replaced. She stated that Ms. Woodruff told her that the City told her the solid fence would have to be removed so that people can have a view of the golf course.

CA Powell stated that the condition does not require the applicant to remove the fence of another property owner. She stated that staff had spoken with the owner of the golf course, and the existing wood fence along the common boundary between this property owner and the subdivision will be retained. She stated that if the applicant wants to continue a solid wood fence, rather than the open fence, staff will work with them for an amendment to the application. She stated that a copy of a letter, dated October 6, 2009, responding to Ms. Woodruff's concerns was in front of the Council tonight.

CM Aguilar questioned the condition stating that replacing the existing wood fence or building a wood fence would require design review approval.

SP Fodge responded that design review is required in this zoning district, however, design review would only be required if the wood fence is extended.

CM Aguilar questioned liability and safety concerns regarding golf balls.

CA Powell responded that the CC&R's disclose the factors regarding golf balls, and puts the owners on notice that this is an existing condition, and they are assuming the risk when they purchase a home constructed adjacent to a golf course.

CM Aguilar stated that she would like to see a condition of approval added regarding the requirement for a net to protect property owners, the golf course owners, and the City.

CA Powell responded that the item before the Council tonight is merely for approval of the final map, it is not a time to impose additional conditions on the applicant, as this project and the conditions of approval were approved over a year ago by the City Council.

Dave McClure, partner and builder for Lone Pine Subdivision, stated that he has met with Sandy Woodruff two times. He stated that he is willing to work with her on this process. He stated that he is also working with the property owners on Estrella regarding the fence and their view corridor.

M/S: Bustichi/Reed

To approve Resolution No. 1820.3 approving the final map for Lone Pine Subdivision, APN's 021-071-02 & 021-231-09, 495 and 497 Lockwood Lane.

Carried 5/0

1. Consideration of ADA Subcommittee recommendations

Mayor Johnson recused himself regarding this item due to the proximity of his residence to the project.

PWD Anderson presented the written staff report and responded to questions from Council.

CM Bustichi expressed concerns that both of these projects benefit one subdivision in Scotts Valley, the Vineyards. He recommended approving the smaller project (southerly ramp for \$1,100) and returning to the ADA Subcommittee to get further input on what other subdivisions have accessibility issues.

CM Aguilar stated that she feels since the northerly ramp provides access to a school and a park, there may be other children who move into the area or live close by, that could use the ramp as a short cut.

CM Lind questioned if any other developments had expressed accessibility concerns.

CM Bustichi responded that these two items had come from ADA Subcommittee member, Ellen Buckingham.

Ellen Buckingham, ADA Subcommittee member, stated that she works with special needs people and is concerned about access difficulties to the school and the park. She stated that the Vineyards is much more accessible than many other subdivisions, because most of the homes have at least one bedroom downstairs, and this area is adjacent to a park and a school. She stated that some of the biggest concerns in Scotts Valley regarding accessibility are realtor and sandwich signs on sidewalks and in the public right-of-ways.

CM Aguilar stated that she believed that a grant for "Safe Ways to Schools" had previously been received for the Bean Creek Road bike path, and questioned if there was any money left that could be used for these projects, as she would like to go forward with both of these projects.

PWD Anderson responded that the City had received a grant for "Safe Routes to School", that he believed had been used to extend the sidewalk to the Middle School. He stated that he did not know if there was any extra money or if it could be used for another project.

CM Aguilar requested a future agenda item regarding the amount of funding remaining from the Safe Routes to School grant that was received for Bean Creek Road.

M/S: Bustichi/Reed

To approve the southerly access work to be done for \$1,100 and set-aside \$7,500 from the General Fund, to be allocated to future ADA accessibility issues throughout the City. Once the ADA Subcommittee has a comprehensive report on other needs throughout the City, if the Vineyards northerly ramp project is still the top project, then that project will be reconsidered at that time.

Carried 4/0/1 (ABSENT: Johnson)

2. Consideration of participation in Clean Energy Pilot Program

CM Ando presented the written staff report and responded to questions from Council. He stated that Virginia Johnson, Executive Director and CEO of Ecology Action, was available to answer questions.

CM Aguilar questioned if there were any constraints on applications for the amounts.

Ginny Johnson, Executive Director and CEO of Ecology Action, reviewed some of the requirements of the California Energy Commission grant and stated that there was very specific criteria for grant applications. She responded to questions from Council and stated that they are in the process of writing the proposal with CaliforniaFIRST and Sacramento County. There are no marketing materials at this time, and they do not have a website at this time. She stated that they are currently working on the program design.

M/S: Bustichi/Reed

To authorize the City Manager to sign and submit the Letter of Commitment to the California Energy Commission, and direct that a public hearing be held to hear public testimony on this pilot program and to consider for approval the appropriate resolution.

Carried 5/0

3. Future Council/RDA agenda items

CM Aguilar requested a future agenda item regarding the amount of funding remaining from the Safe Routes to School grant that was received for Bean Creek Road.

CM Lind requested a future agenda item to establish a Council Ad Hoc Subcommittee regarding SB 211.

ADJOURNMENT

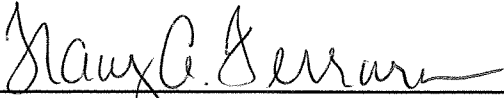
The meeting adjourned at 7:35 p.m.

Approved:



Randy Johnson, Mayor / Chair

Attest:



Tracy A. Ferrara, City Clerk / Secretary

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

On a number of occasions over the past two years I have brought to your attention actions of this city council majority that lack transparency. The Gateway South Retail project is a poster child of non-transparent activity by both Mayor Johnson and Vice-Mayor Reed. Let's review a few of these actions.

First, Mayor Johnson would not release a preliminary traffic report despite repeated requests verbally and in writing. This action necessitated a California Public Records Act (CPRA) request from our legal counsel. Upon receipt of this final CPRA request, the Mayor revealed that the project proponents had access to the preliminary traffic report months before other members of the public. The traffic report was released to the general public just one day prior to the first public meeting about this project.

Next, this city council passed a contract extension to ESA Development's EIR contract with the city for this project via consent agenda mechanism, thereby stifling public debate about the contract. This was done despite the fact that earlier in that same city council meeting during the open comment period, I had remarked that I intended to speak on that matter later in the City Council meeting. Consequently, the ESA contract amendment was approved with two major flaws. First it clearly referenced a project other than the Gateway South Retail proposal. Second, it had a paragraph that obviously simply ended mid sentence. We still do not know if this contract amendment has been corrected.

Scotts Valley politics at its worst was again on full-fledged display at the Nov. 4, 2009 City Council meeting. It is evident that Mayor Randy Johnson and Vice Mayor Jim Reed fail to understand the importance of transparency and the negative impact the lack of it has. This was apparent during council member Reed's Gateway South Commercial subcommittee report.

During Reed's report, he revealed that on Oct. 22, the city had received a letter from Title II regarding the proposed retail project at Gateway South. In that letter, Title II asked that all references to "Target store" be changed to "retail store." Vice-Mayor Reed stated that he considered this "significant" or "meaningful" information.

Because of this, Reed and Johnson contacted Target representatives early the week of Oct. 26. In the phone meeting with Target representatives, Target revealed that "they are not under contract with Title II" and that "they are not part of this project".

Vice-Mayor Reed even mentioned in his remarks that consultants had earlier informed the Gateway South Commercial subcommittee that the impact a Target store has would be significantly different than the impact of other stores.

Why did council members Johnson and Reed wait until after the 5 p.m. Nov. 4 deadline for comments on the Gateway South SEIR to reveal this news? Did they believe that this information was not important enough to share with members of the public immediately?

20091118 City Council Meeting Kertai Comments

Meanwhile, concerned citizens were working feverishly through hundreds of pages of documents to frame appropriate comments and questions regarding the SEIR ahead of the deadline set by the city. Because Target is no longer part of the Gateway South Retail project, many of those comments and questions are no longer applicable.

Mayor Johnson and Vice-Mayor Reed deliberately deceived the public by withholding information that Target had pulled out of this project. Why was the public not informed as soon as possible about this news? What state secrets needed to be preserved? Bad news? Why were other city council members kept in the dark as well? What about City Manager Ando and Development Director Westman? Why did they not see fit to release this information sooner? Were they under orders from the Mayor and Vice-Mayor to stay silent on this issue? Will the Mayor and Vice-Mayor answer any of these questions?

The actions of council members Johnson and Reed are not only disappointing, they were disrespectful and a disservice to the community. The public deserves better. In fact, we deserve a public apology.

I close my remarks today with the following quote from Aldous Huxley:

“Facts do not cease to exist because they are ignored.”
- Aldous Huxley

Respectfully,

Frank Z. Kertai