

MINUTES

Meeting of the Scotts Valley City Council

Date: April 18, 2012

POSTING:

The agenda was posted on 4-13-12 at City Hall, the SV Senior Center, and 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 Lind
Vice Mayor Johnson
Council Member Aguilar
Council Member Bustichi
Council Member Reed

City Manager Ando
City Attorney Powell
Comm Dev Dir/Deputy City Mgr Kates
Public Wks Director Anderson
Police Chief Weiss
City Clerk Ferrara

COMMITTEE REPORTS

CM Aguilar reported that AMBAG met and received a presentation on the municipal energy efficiency project overview. She also reported that this coming week AMBAG will be meeting with City of Scotts Valley staff to discuss various grants and energy efficiency programs that are available. She stated that they also approved budget amendment number 3, which is specific to what the Santa Cruz County Regional Transportation Commission will be executing this next fiscal year regarding transportation improvements.

CM Bustichi reported that the Santa Cruz Metropolitan Transit District (SCMTD) met and they are in labor negotiations. He reported that due to a small increase in sales tax revenues and the receipt of some federal funding, the SCMTD Board is working to restore some of the services that were cut last year. The Board is also looking to restore routes for those who were most impacted by the cuts, and they are looking to add more service to Highway 17 due to its heavy use. He stated that they are also in the midst of going to bid for an \$11 million project for the SCMTD.

Mayor Lind reported that the Seniors Council met. She reported that Santa Cruz County had the highest number of senior vouchers redeemed at the farmer's market. She also reported that the senior population has increased dramatically in the last ten year, and reviewed the priorities of the recent Senior Needs Assessment Survey that was completed. She reported that Project SCOUT just finished their free tax service program, which generated over \$1 million in refunds for 432 seniors.

PUBLIC COMMENT

Frank Kertai, resident of Monte Fiore development and President of the Heritage Parks Association, representing his community of 81 properties, read the attached statement (Attachment A) regarding the Monte Fiore development.

Jeff Acton, resident of Monte Fiore, read the attached statement (Attachment B) regarding the Monte Fiore development.

Herbert Gunderson, resident of Monte Fiore, read the attached statement (Attachment C) regarding the Monte Fiore development.

Ron Shaver, 3014 Granite Creek Road, spoke regarding concerns about the unknown source of water that is running down his driveway, and distributed a handout including pictures and documents regarding his concerns.

ALTERATIONS TO CONSENT AGENDA

Frank Kertai, Scotts Valley resident, requested that Item E be moved to the regular agenda for comment.

M/S: Aguilar/Bustichi

To approve the Consent Agenda as amended moving Item E to the regular agenda for comment.

Carried 5/0

Consent Agenda:

- A. Approve City Council meeting minutes of 4-4-12
- B. Approve check register – 4-2-12
- C. Approve lot line adjustment between APN 024-152-03 (Bergman residence) and APN 024-152-06 (Bergman property) on Meadow Way
- D. Approve lot line adjustment between APN 024-152-09 (Bergman property) and APN 024-152-06 (Bergman property) on Meadow Way
- F. Approve Resolution No. 1873.1, a resolution of the City Council of the City of Scotts Valley approving the execution of a Cooperative Agreement for advance and reimbursement of administrative, overhead and other expenses by and between the City and the Successor Agency to the Scotts Valley Redevelopment Agency and taking certain actions in connection therewith
- G. Approve Site Rental Agreement between the City of Scotts Valley and Heart to Hearts Parent Involvement Preschool for use of the Siltanen Park Community Room at 127 Vine Hill School Road, Scotts Valley

ALTERATIONS TO REGULAR AGENDA

M/S: Aguilar/Bustichi

To approve the Regular Agenda as amended moving Consent Agenda Item E to the regular agenda for comment.

Carried 5/0

REGULAR AGENDA

E. Approve resolutions for Woodside at Scotts Valley:

- a) Approve Resolution No. 1859.3 approving a final map for Woodside at Scotts Valley, Tract No. 1569, APN's 022-451-01 and 022-451-10; and**
- b) Approve Resolution No. 960.78 authorizing execution of the Subdivision Improvement Agreement**

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

Frank Kertai, resident of Monte Fiore development and President of the Heritage Parks Association, representing his community of 81 properties, read the attached statement (Attachment D) regarding the Woodside development.

M/S: Bustichi/Aguilar

To approve Resolution No. 1859.3 approving a final map for Woodside at Scotts Valley, Tract No. 1569, APN's 022-451-01 and 022-451-10.

Carried 5/0

M/S: Bustichi/Aguilar

To approve Resolution No. 960.78 authorizing execution of the Subdivision Improvement Agreement for Woodside at Scotts Valley, Tract No. 1569, APN's 022-451-01 and 022-451-10..

Carried 5/0

- 1. Consider approval of 5 year Capital Improvement Plan, 2012-2017**

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

M/S: Aguilar/Reed

To approve the 5 year Capital Improvement Plan, 2012-2017.

Carried 5/0

PUBLIC HEARINGS

- 2. Consider approval of fee adjustments for various Police, Administrative, Public Works, Building, Planning, Facility Rental, and Recreation fees**

CM Ando presented the written staff report and responded to questions from Council.

PUBLIC HEARING OPENED - 7:12 PM

No one came forward.

PUBLIC HEARING CLOSED - 7:12 PM

M/S: Aguilar/Johnson

To approve Resolution No. 1198.61 amending certain fees and charges for City police, administrative, facility rental, planning, building, and public works services.

Carried 5/0

M/S: Aguilar/Bustichi

To approve Resolution No. 1593.14 amending certain fees and charges for City recreation services.

Carried 5/0

REGULAR AGENDA

(Resumed)

3. Future Council agenda items

CM Aguilar requested future agenda items to discuss the Monte Fiore bond and to discuss the requirements of the California Regional Water Quality Control Board regarding holes in sewer laterals/lines.

ADJOURNMENT

The meeting adjourned at 7:13 p.m.

Approved: 
Donna Lind, Mayor

Attest: 
Tracy A. Ferrara, City Clerk

20120418 Scotts Valley City Council Meeting Kertai Public Comments

Good Evening. My name is Frank Kertai. My address is 516 Shasta Park Ct. I am a resident of the Monte Fiore development of Scotts Valley and President of the Heritage Parks Association. I am here tonight representing both myself and my community of eighty-one properties.

For more than a year I have provided members of this City Council and City staff documentation regarding design and construction defects that have been identified in the Monte Fiore development. The documentation provided to you shows that the developer, Ryland and/Kauffmann & Brown, did not meet the conditions of their development agreement. It also shows that the Monte Fiore development was not built according to City approved plans and specifications.

I have repeatedly requested that the City investigate our concerns and claims. *I do so again today.* I believe this investigation should take place in a public forum. Based on the documentation I have provided to the City, I believe my request to be appropriate. All I am asking the City to do is to perform its enforcement responsibilities as outlined in **Municipal Code Chapters 17.54 and 4.26**. The appropriateness of such enforcement efforts is clearly described in **Municipal Code Section 4.02.010**, which begins as follows:

The City Council finds that the enforcement of the Municipal Code and applicable state codes throughout the City is an important public service. Code enforcement is vital to protection of the public's health, safety and quality of life. The Council recognizes that enforcement depends upon clear and precise regulations that can be effectively applied in administrative enforcement hearings and judicial proceedings.

By not taking action, the message you are sending to developers is clear. *What you are effectively saying is that that it is okay for developers to ignore development agreements.* Developers can simply get approval and build things any way they want. It is the City's responsibility to insure that development in the City is performed per conditions of approval and approved plans and specifications. Otherwise, what is the purpose of going through the planning and approval process? In this case, significant deviations from approved plans and specifications occurred. This is not a simple case of a few homes being affected. Most of the defects are hidden from view, are part of the common area and affect all eighty-one property owners of the development. Additionally, the City required the developer to put up a performance bond because of on-going concerns. That bond has not been released. Your inaction leaves that status of that bond in limbo.

Respectfully,

Frank Z. Kertai / President Heritage Parks Association

ATTACHMENT B

My name is Jeff Acton. I moved to Scotts Valley in 1982, then to Ben Lomond and now back to Scotts Valley for the last two years. I currently reside in the Monte Fiore development.

In the most general of terms, I became aware of the issues being presented around the time I purchased my home. At that time, I was told that a cause of action had been filed in the Santa Cruz Court system by our HOA against Ryland and other parties. Like many others, I thought that the concerns were primarily of an economic nature - inadequate road supports, infrastructure not built to specifications, sub-standard materials used, etc. Although the economic damages were not insignificant, I first thought that the court was the proper venue and the homeowner association and the developer were the proper parties.

As the case moved on, so did my understanding of the issues. I soon realized that the issues were more than contractual. I discovered that during its investigations, the homeowners association had used local engineers - soil and civil. As I understand it, the city has used some of these same firms in its engineering work for the new library and other projects. These engineers concluded that the problems with the infrastructures and sub-standard building materials have given rise to a steep road within the development - Saddleback Ridge Road - that is failing. This failure is such that if the road gives out, the debris may well fall into homes and the people living at the bottom of the hill. The same scenario may occur with the debris wall that has allegedly been installed in a substandard manner in another section of the development.

In short, the problems that I first thought were merely economic are, in fact, boding problems for the health and safety of the residents of the association; for families of this community. As one of the prime responsibilities of any city is the health and safety of its citizens, the issues before the court are not merely issues that the city has the authority to investigate, but ones that the city has a responsibility to investigate.

Like many of you who are also longer term residents of this county, I remember the devastation caused by the Love Creek slide in 1982. In that situation, the slide was probably not foreseeable it was just simply tragic. Here, because the problem is foreseeable - moreover, actually foreseen - it is also preventable.

Yes, the courts should remain involved. But the city should not simply sit back and watch when there are potentially grave issues of health and safety for its people. Every homeowner bought their property with the reasonable reliance that the development was built to the specifications demanded by the city. If, in fact, that is not the case, those same homeowners have the same reasonable reliance that the city will investigate. At the very least, failure to do so is a breach of the assurances that all people reasonably rely upon from its municipality.

More significantly, if the city fails to become involved, on some level, and the infrastructure failings give rise to the devastation suggested by competent, local engineers, the result would be even more tragic than an unforeseen debris slide. It actually would be condemnable because the those in a position to intervene did nothing to prevent the unthinkable from occurring. Thank you for your time and considerations.

My name is Herbert Gunderson. I live at 916 Kings Canyon Court in the Monte Fiore development of Scotts Valley. I have lived at this address for over ten years. I am a member of the Heritage Parks Homeowners Association. I was President of the Association when the City of Scotts Valley replaced the **\$4 million** construction bonds with a **\$414,000** performance bond.

At the time the bonds were reduced, I was not certain whether all of the promised repairs had been properly implemented. However, I was told, as was the city, by Ryland's experts and representatives that our development had been built per City approved plans and specifications. I understand the city's decision to lower the bond was based on those representations. Based on recent investigation these claims were misrepresentations by both Ryland and their experts.

It has been brought to my attention that Saddleback Ridge Road, the only road leading to my home, is **failing** because it was not constructed per the developer's soils engineers own specifications.

My concerns regarding any economic consequences are minor compared to any potential loss of life as a result of **when, not if**, the road fails. This is a possibility for anyone on the road during a road failure as well as to one or more of seven homes below Saddleback Ridge Road.

Additional concerns are potential lack of access to homes not only by 18 property owners, but public safety vehicles (police, fire, medical emergency) and sanitation services.

In January 1982, a single, catastrophic rainstorm triggered 18,000 landslides throughout the San Francisco Bay area. The most destructive of these was in the Love Creek area of the Santa Cruz Mountains, where a 1000-foot slab of heavily wooded hill slope crashed down **without warning** on sleeping residents of Love Creek Heights. Ten of the Love Creek residents were buried by that slide.

Unlike Love Creek, we are aware of the possibility of road failure. The problem with Saddleback Ridge Road is not of our making – ***this was a failure in construction by the developer.*** It would be negligent of our local government not to get involved in investigating the root cause of the issues that have been identified to prevent construction deficiencies such as this from occurring in future developments.

The question I raise to you tonight is how will any of you on this City Council sleep at night should these failures occur on your watch? **All we are asking of the City Council of Scotts Valley is to investigate the legitimacy of our claims in a public forum.** We are not asking for financial support from the City. We are asking for acknowledgement of our concerns and for the City to initiate a review of the design and construction defects that we have brought to your attention. I am sure the HOA would be willing to assist with any outside soils and/or engineering costs incurred by the city as part of any investigation.

To sum up, we know failures will occur – we just don't know when. By not investigating our concerns, the city is effectively siding with the developer over its own citizens.

20120418 Scotts Valley City Council Comments re: Item E Woodside

Good Evening. My name is Frank Kertai. My address is 516 Shasta Park Ct. I am a resident of the Monte Fiore development of Scotts Valley and President of the Heritage Parks Association. I am here tonight representing both myself and my community of eighty-one properties.

I have some comments and questions regarding the Woodside development.

1. How was the development costs derived?
 - a. Where they peer reviewed?
 - b. What happens if the actual costs are higher? Does the City get additional development fees?
 - c. Are 6% of these estimated costs used to pay for inspection during progress of this project? Are these inspections performed by City personnel or outside contractors? Do these inspectors report to the developer or to the City?
2. What happens if the developer does not meet the conditions of approval?
 - a. What if this is discovered after you have accepted this project based on the developer's representations that they have been met?
 - b. If the conditions of approval are discovered to have not been met after the City has accepted the project, what is the legal impact on the final map filed with the county?
 - c. Is this project subject to **Municipal code Section 16.48.010** where the subdivider shall pay the city engineer the actual cost of checking the improvement plans, inspecting the work, testing the materials, and preparing as-built plans?

On its' face, the Subdivision Agreement Exhibit A Conditions of Approval is very impressive. This document includes nearly 100 conditions of approval. What is the City prepared to do if this project is accepted and then later discovers that the developer did *not* construct the project per City approved plans and specifications? Will the City take any enforcement action or leave the property owners to their own devices? Will property owners be required to pursue their claims via legal means on their own, without city support?

The development plans for Woodside include a very complex underground storm runoff capture system to help recharge the aquifer at this development. What happens if the developer gets this wrong? Will the property owners be on the hook for correcting a possibly very expensive problem?

20120418 Scotts Valley City Council Comments re: Item E Woodside

The City has fewer employees now than when the Vineyards, Skypark and Monte Fiore Developments were built. What processes are in place to insure that development occurs per approved plans and specifications? There is something to be said for a policy of trust but verify.

Respectfully,

Frank Z. Kertai