

MINUTES

Meeting of the Scotts Valley City Council

Date: June 6, 2012

POSTING:

The agenda was posted on 6-1-12
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	City Manager Ando
Council Member Aguilar	City Attorney Powell
Council Member Bustichi	Comm Dev Dir/Deputy City Mgr Kates
Council Member Reed	Public Wks Director Anderson
	Police Chief Weiss
	City Clerk Ferrara

Vice Mayor Johnson arrived at 6:40 pm

COMMITTEE REPORTS

None.

PUBLIC COMMENT

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

Ron Shaver, 3014 Granite Creek Road, spoke regarding his concerns about a sewer line in a sewer easement that goes across his property and the City's response. He stated that he believes that raw sewage has been running down and under his driveway for years.

Todd Shaver, 3014 Granite Creek Road, spoke regarding his concerns about the sewage he believes is running down his driveway.

Mark Oliveras, resident of Monte Fiore and representative of the local real estate community, spoke regarding his concerns about the Monte Fiore development/Heritage Parks Association, and requested that the City Council look into the problems raised as it relates to the Monte Fiore development and the outstanding performance bond.

Dene Bustichi, congratulated the 2012 graduating class of Scotts Valley High School.

Dene Bustichi, stated that the City has been very proactive regarding the concerns of the Shaver family at 3014 Granite Creek Road, and stated that the City has performed four separate tests that have verified that there is no sewage running down the Shaver's driveway.

CM Bustichi, responded to some of Mr. Kertai's comments regarding the Monte Fiore bond. He stated that City staff has spent a lot of time providing information that Mr. Kertai has requested from the City.

ALTERATIONS TO CONSENT AGENDA

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

Consent Agenda:

- A. Approve City Council meeting minutes of 5-16-12
- B. Approve check register – 5-29-12, 5-21-12, 5-14-12
- C. Second reading and adoption of Ordinance No. 79.24 amending Title 13, Chapter 13.04, Sections 13.04.200 and 13.04.205, of the Scotts Valley Municipal Code Wastewater Treatment Service Fees
- D. Approve Resolution No. 1007.25 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 2012/2013
- E. Approve designation of City Council Member Stephany E. Aguilar as the voting delegate for the League of California Cities annual business meeting on September 7, 2012 in San Diego
- F. General Municipal Election resolutions:
 - (1) Approve Resolution No. 1876 ordering an election, requesting County Elections to conduct the election, and requesting consolidation of the election on November 6, 2012
 - (2) Approve Resolution No. 1876.1 calling a General Municipal Election for the election of members of the City Council; determining that costs of Candidates Statement of Qualifications shall be paid by the candidate and its maximum number of words; and setting hours the polls will be open and closed
- G. Approve non-collection of fees for The Garden Faire to be held at Skypark Park on June 23, 2012
- H. Approve appointment of Nick Thelen to the Parks & Recreation Commission by Mayor Lind to replace Janet Fogel

ALTERATIONS TO REGULAR AGENDA

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

REGULAR AGENDA

1. Presentation of Scotts Valley Arts Commission Poetry Contest Winners

CDD Kates, introduced Arts Commissioner Trish Melehan.

Trish Melehan, Scotts Valley Arts Commission Chair, announced that this is the 8th year for the "Verse in the Valley" poetry contest. Ms. Melehan presented award certificates for the 2012 Verse in the Valley poetry contest, Kindergarten through adult, and poetry contest winners recited their poems to the City Council.

K - 3rd Grades

- 1st place: Liam Hackett "Candyland"
- 2nd place: Nicole Winters "Fans"
- 3rd place: Sofiya Melehan "My Puppy"

4th - 5th Grades

- 1st place: Emily Truong "I Am From"
- 2nd place: Mika Millan "I Am From"
- 3rd place: Skyler Hughett "I Am From"

Middle School

- 1st place: Lili Manzo "The Hours Are Decaying"
- 2nd place: Taryn Segal "Raven's Glare"
- 3rd place: Madi Volk "High Head Rose"

High School

- 1st place: Maggie Imboden "Structure"
- 2nd place: Mei Manzo "Speaking Up"
- 3rd place: Alyssa Elliott "The Pain"

Adult Level

- 1st place: Meg Reese "One Night My Grandma"
- 2nd place: Nancy Hofmann "As She Walks By..."
- 3rd place: Jonathan Powell "Life is a coin"

Class Poem

Mrs. McDermott's 2nd Grade Class – Brook Knoll School "Zoo Animals"

2. Human Care Alliance presentations/Outside agency funding requests

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

Laura Segura, Women's Crisis Support - Defensa de Mujeres, representing the Human Care Alliance (HCA), gave a PowerPoint presentation that provided an overview and background of the Human Care Alliance and the programs provided by the HCA. She thanked the City Council for their continued support over the years and responded to questions from Council.

The following HCA agency representatives spoke regarding their specific agencies:

David Bianchi, Family Services Agency
Karen Delaney, Volunteer Center
Laura Marcus, Dientes Community Dental Care
Tim Bratton, California Grey Bears
Willy Elliot-McCrea, Second Harvest Food Bank
Terry Przybylinski, Cabrillo College Stroke Center
Clay Kempf, Seniors Council
Kathleen Johnson, Advocacy, Inc.
Terry Hancock, Senior Citizens Legal Services
Meals on Wheels
Daryl Johnson, Seniors Council

Sally Green, Cultural Council of Santa Cruz County, thanked the HCA for their work in the County, and the Council for their support. She spoke about the importance of arts and their positive impact on society and the economy, and gave an overview of the services provided and supported by the Cultural Council of Santa Cruz County.

3. **Consider award of contract to Group 4 Architecture Research + Planning, Inc. for consideration of multi-purpose auditorium at the City Library site and authorize the City Manager to execute the agreement with Group 4**

CDD Kates presented the written staff report and responded to questions from Council.

CM Bustichi stated that he would like to have a Town Hall meeting regarding this issue before the architect does any work.

VM Johnson stated that with the loss of Bethany's theater, this may be a good opportunity for the community.

CM Aguilar stated that she would like the ability to have the technical elements of a theater as it relates to sound included.

Dawn Teal, President of Scotts Valley Artisans (non-profit community arts center), announced that Scotts Valley Artisans is hoping to put together an exploratory committee to open a Scotts Valley Performing Arts/Event Center in the vacant space next to the Library at 251 Kings Village Road. She stated that they are willing to play an organizational and fundraising role in this proposal.

Trish Melehan, Scotts Valley Arts Commissioner and Board Member of Scotts Valley Arts, stated that with the loss of Bethany's theater, Scotts Valley is lacking an integral part of its arts community as it relates to theater needs.

CM Reed stated that he has tried to work with the owners of Bethany to continue the use of their theater while the property is for sale, however, he has not had much luck so far. He stated that the City would like to have a multi-use facility, and the plan is to explore what is best for the community. He stated that community involvement will be critical before this can come to fruition.

M/S: Aguilar/Bustichi

**To approve award of contract to Group 4 for preparation of a concept plan for consideration of a multi-purpose auditorium in the vacant space next to the City Library at 251 Kings Village Road and authorize the City Manager to Agreement for Professional Services.
Carried 5/0**

4. Future Council agenda items

CM Aguilar requested that a resolution supporting the League of California Cities, Heal Cities, be placed on a future agenda.

CONVENE TO CLOSED SESSION

The City Council convened to closed session at 8:10 p.m. to discuss the following items:

1. Pursuant to Government Code Section 54956.9a, the City Council met in closed session to confer with their legal counsel regarding existing litigation. Name of Case: City of Scotts Valley vs. County of Santa Cruz, et al Case No. CIV467230 San Mateo County Superior Court and Case No. A126357 Court of Appeal, First District.
2. Pursuant to Government Code Section 54959.8, the City Council met in closed session to confer with their legal counsel regarding real property negotiations. APN No's: 022-048-18, 022-048-19.

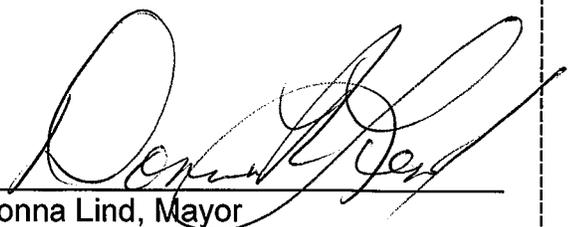
RECONVENE TO OPEN SESSION

The City Council reconvened to open session at 8:45 p.m.

REPORT ON ACTION TAKEN DURING CLOSED SESSION

Mayor Lind announced that there was nothing to report.

ADJOURNMENT The meeting adjourned at 8:46 p.m.

Approved: 
Donna Lind, Mayor

Attest: 
Tracy A. Ferrara, City Clerk

20120606 Scotts Valley City Council Meeting Kertai Public Comments

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

Monte Fiore was constructed in the late 1990s as a joint venture between Ryland and Kauffmann & Brown. In 2005 the developers successfully convinced the City to remove the original \$4 million of construction bonds. But because of on-going concerns, the City required Ryland to put in place a \$414k performance bond. The original \$4 million in bonds were released based upon the recommendation of City Staff and the City Attorney. As it turns out, this was bad advice.

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. **These defects affect all 81 property owners as they are common area issues.** This documentation shows that the developers, 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. The estimated cost to mitigate the issues identified is approximately the amount of the original bonds.

We made Ryland and Kauffmann & Brown aware of the design and construction defects and they have refused to appropriately address the issues. In order to protect our interests, we initiated a legal action with **Case No. CISCV166510** in the Superior Court of the State of California for the Court of Santa Cruz.

During construction, the developers managed to get a number of waivers, exceptions and variances approved. The developers ended up not having to live up to things they had agreed to as part of their original agreement. These include such things as: 1) **2:1** slope requirements, 2) street widths, 3) sidewalks and 4) occupancy permits prior to developer meeting their obligations. These waivers were not in the best interest of the home owners. In return the City was provided with indemnification from the developer. ***Effectively, the City gave the developers a number of free passes.*** Unfortunately, the developers didn't properly do a number of other things which were effectively hidden from view.

I have requested on multiple occasions that the City investigate our concerns and act on our claims. ***I do so again today.*** Based on the documentation I have provided to the City, I believe my request to be appropriate. **I am not asking for any free pass** – I am simply asking the City to perform its enforcement responsibilities as outlined in **Municipal Code Chapters 17.54 and 4.26**. The appropriateness of such enforcement actions is clearly described in **Municipal Code Section 4.02.010**.

I ask again today - why has the city not addressed this bond issue? The city is protected not only by State Law in this matter, but also by indemnification agreements with the developers. I don't believe there is any statute of limitation on development agreements. **The intent of the performance bond was clear --its sole purpose is for performance related issues regarding the construction of the Monte Fiore development.** The developers clearly did not perform per their agreements. We ask again that the City call in this bond for the purposes of doing what the developers will not do – help mitigate the engineering and construction defects that have been identified by reputable soils and civil engineers.

Respectfully,

Frank Z. Kertai / President Heritage Parks Association