



**REGULAR MEETING OF THE BOARD OF DIRECTORS
TUESDAY, NOVEMBER 25, 2008 AT 7:00PM
AT THE SILVERADO COMMUNITY CENTER
27641 SILVERADO CANYON ROAD, SILVERADO 92676**

DIRECTORS

Robert Hunt - President
Deborah Johnson – Vice-President
Brett Peterson – Treasurer
Mark Levy – Secretary
Tricia Evans – Director

STAFF

Aimee Bryer – SCC Director
Elizabeth Martyn – General Counsel
Bev Mileham – Admin. Assistant
Phil McWilliams – Grants Admin.
Steve Reighart – Caretaker
Meghan Warner – Bookkeeper

AGENDA

(A: Action Item) This Agenda is available in PDF format at <http://www.smrpd.org>

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. LAFCO 2008 MSR UPDATE:** Presentation by LAFCO staff of the results of the most recent Municipal Services Review for SMRPD.
- IV. PUBLIC AND BOARD INPUT**
Receive Public written or oral information/reports only; this is to enable Public input to the Board on any relevant subject and is not a forum for discussion, though Directors may ask for clarification of points. Board input is limited to requests to add urgent items to this Agenda.
- IV. CONSENT CALENDAR**
A1: Approve and file the October 28, 2008 Regular Board Meeting Minutes, and Correspondence.
Note: *Directors may remove any item from Consent Calendar to be considered separately.*
- V. PAYMENT OF DISTRICT BILLS**
A2: Transmittal 11-08A for Directors' compensation for Regular Board Meeting of October 28, 2008 to Directors Evans, Johnson, Levy, Peterson and Hunt; \$250.00 total
A3: Transmittal 11-08B, District Bills, \$5,623.76 total
A4: Transmittal 11-08C, Utility Bills and Reimbursements, \$1,205.57 total
- VI. CHILDREN'S CENTER DIRECTOR'S REPORT**

VII. GRANTS ADMINISTRATOR'S REPORT

VIII. OTHER DISTRICT BUSINESS

- (A) **A5:** Selection of an earlier meeting date for the SMRPD Regular Board Meeting scheduled for December 22, 2008 in order to ensure a quorum during holiday travel time.
- (B) Report on status of litigation regarding Silverado (Holtz) Ranch SEIR #587.
- (C) **A6: RESOLUTION 1108-1:** Wherein the SMRPD Board commends departing Director Deborah Johnson for her six years of outstanding service to the District and the Community.
- (D) **DIRECTOR'S COMMENTS: PURSUANT TO GOVERNMENT CODE §54954.2** members of the Board of Directors or Staff may ask questions for clarification, make brief announcements, make brief reports on their activities. The Board or a Board member may provide a reference to Staff or other resources for factual information, request Staff to report back at a subsequent meeting concerning any matter, or direct that a matter of business be placed on a future Agenda.
 - (1) Director Evans (2) Director Hunt (3) Director Johnson
 - (4) Director Levy (5) Director Peterson

IX. COMMITTEES

NOTE: There will be no discussion of Committee issues unless agendized below, or added to the Agenda by majority vote of the Board in Section III to address issues that require immediate attention for reasons to be explained in the motion to add. Other comments can be made under Director Comments.

STANDING COMMITTEES:

- (A) **RECREATION** (Evans, Peterson)
- (B) **FINANCE** (Hunt, Johnson)
- (C) **PERSONNEL** (Evans, Johnson)
- (D) **OPEN SPACE AND TRAILS** (Hunt, Levy)
 - (1) Report on November 17, 2008 meeting.
- (E) **FACILITIES AND SAFETY** (Johnson, Peterson)

AD HOC COMMITTEES:

- (F) **SILVERADO CHILDREN'S CENTER** (Evans, Johnson)
Children's Center Advisory Committee (Evans, Johnson, Bryer) (Public Members: Dawn Lynch, Julia Jones-Tester, Nancy Moore)
- (G) **IRC LIAISON COMMITTEE** (Peterson, Hunt) (Community Members: Judy Myers, Laura Bennet, Kristi Colgan, Carla Anderson)

X. ADJOURNMENT

The next regular meeting of the Board of Directors will be at the Silverado Community Center, 27641 Silverado Canyon Road at 7:00PM on a date to be determined by the Board at this November 25, 2008 Regular Board Meeting.

Materials related to an item on this agenda submitted after distribution of the agenda packet are either available for public inspection at the Silverado Library, or posted on the SMRPD website at <http://www.smrpd.org/agenda-minutes.html>. Materials prepared by SMRPD will be available at the meeting, those provided by others after the meeting.

**LOCALLY GOVERNED DISTRICT
CLAIMS TRANSMITTED FOR PAYMENT**

**DATE: 11/22/2008
REPORT 11-08B**

Sil-Mod Rec. and Parks Dist. P.O.Box 8 Silverado, CA 92676	THE COUNTY AUDITOR IS AUTHORIZED TO DRAW THIS CHECK FROM FUND 728 AGENCY 728
--	---

PAYEE NAME AND ADDRESS SOCIAL SECURITY /TAX ID	DATE INVOICE #	ORGN	OBJT REV/ BS ACCT	SUB OBJT REV	AMOUNT	AC'S USE ONLY DOC NUMBER	SC
X06018 COOKSMITH LANDSCAPING 630 N. TUSTIN AVE #1518 ORANGE, CA 92867	INVOICE #5860		1400		\$360.40		
	INVOICE #5844		1400		\$249.10		
					\$609.50		
X05686 MEGHAN WARNER P.O. BOX 177 SILVERADO, CA 92676	INVOICE #08-164		1900		\$250.00		
					\$250.00		
X07250 RICHARD HALE, CPA 17502 IRVINE BLVD, SUITE F TUSTIN, CA 92780	BILLING STATEMENT DATED: 10/31/08		1900		\$2,975.00		
					\$2,975.00		
X00815-1 HOME DEPOT P.O. BOX 6031 THE LAKES, NV 88901	INVOICE DATED: 11/05/08		1400		\$24.26		
					\$24.26		
SEE TRANSMITTAL #09-08B FOR W-9 PHIL McWILLIAMS 28331 MODJESKA CANYON ROAD MODJESKA, CA 92676	INVOICE: 08/2008 - 09/2008		1900		\$325.00		
					\$325.00		
X06016 STEVE REIGHART 28291 HILLTOP DRIVE MODJESKA, CA 92676	INVOICE #2061		1900		\$240.00		
					\$240.00		
X05603 LEWIS BRISBOIS BISGAARD & SMITH 221 N. FIGUEROA STREET, STE 1200 LOS ANGELES, CA 90012	INVOICE #636968		1900		\$1,200.00		
					\$1,200.00		
					\$0.00		
					\$0.00		

The claims listed above totaling **\$5,623.76** are approved for payment pursuant to an order entered in the Minutes of the Board of Directors of this District and I certify that the payees named who are described in Government Code Section 3101 have taken an oath or affirmation required by Government Code Section 3102.

APPROVED BY _____

COUNTERSIGNED BY _____

ATTESTED AND/OR COUNTERSIGNED _____

**LOCALLY GOVERNED DISTRICT
CLAIMS TRANSMITTED FOR PAYMENT**

**DATE: 11/22/2008
REPORT 11-08C**

Sil-Mod Rec. and Parks Dist. THE COUNTY AUDITOR IS AUTHORIZED TO
P.O.Box 8 DRAW THIS CHECK FROM FUND 728 AGENCY 728
Silverado, CA 92676

PAYEE NAME AND ADDRESS SOCIAL SECURITY /TAX ID	DATE INVOICE #	ORGN	OBJT REV/ BS ACCT	SUB OBJT REV	AMOUNT	AC'S USE ONLY DOC NUMBER	SC
X06022 SMRPD (BofA Account) P.O. Box 8 Silverado, CA 92676	REIMBURSEMENT OF CHECK #1584 PAID TO: JANI-KING INVOICE #LAX11080743		1400		\$210.00		
					\$210.00		
X06022 SMRPD (BofA Account) P.O. Box 8 Silverado, CA 92676	REIMBURSEMENT OF CHECK #1583 PAID TO: WASTE MANAGEMENT INVOICE #0051529-2515-1		2800		\$154.50		
					\$154.50		
X06022 SMRPD (BofA Account) P.O. Box 8 Silverado, CA 92676	REIMBURSEMENT OF CHECK #1581 PAID TO: IRWD METER #56569388		2800		\$236.06		
					\$236.06		
X06022 SMRPD (BofA Account) P.O. Box 8 Silverado, CA 92676	REIMBURSEMENT OF AT&T DEBITS 714-649-2428 11/10/08 714-649-2850 11/10/08		702 702		\$23.55 \$33.71		
					\$57.26		
X06022 SMRPD (BofA Account) P.O. Box 8 Silverado, CA 92676	REIMBURSEMENT OF CHECK #1585 PAID TO: SCE INVOICE DATED: 11/10/08		2800		\$418.75		
					\$418.75		
X06022 SMRPD (BofA Account) P.O. Box 8 Silverado, CA 92676	REIMBURSEMENT OF CHECK #1582 PAID TO: CLEAN PRODUCTS INVOICE #272378		1400		\$129.00		
					\$129.00		

The claims listed above totaling **\$1,205.57** are approved for payment pursuant to an order entered in the Minutes of the Board of Directors of this District and I certify that the payees named who are described in Government Code Section 3101 have taken an oath or affirmation required by Government Code Section 3102.

APPROVED BY _____

COUNTERSIGNED BY _____

ATTESTED AND/OR COUNTERSIGNED _____

History and Status of Silverado Ranch/Arroyo Toad Habitat Litigation

This is an action brought under the California Environmental Quality Act (CEQA). The petitioners/plaintiffs are: the Silverado-Modjeska Recreation and Park District (SMRPD); the Rural Canyons Conservation Fund (RCCF); and Ray Chandos. The action challenges the certification by the County of Orange (County) of a supplemental environmental impact report (SEIR) for a proposed high-end subdivision at Holtz Ranch (project).

An earlier suit brought by RCCF and Chandos was successful in requiring the County to re-do portions of its environmental impact report (EIR) for the project, through preparation and public circulation of an SEIR concerning water quality and coastal sage scrub issues. The County prepared the SEIR. Prior to the Board of Supervisors' decision to certify the SEIR (October 2, 2007), a federally listed endangered species, the southwestern arroyo toad, was discovered at the southwest corner of the project site, immediately downstream of the project and areas subject to mass grading. Though made aware of this important new information, independently verified by the U.S. Fish and Wildlife Service, the County declined to address the project's adverse impacts on the southwestern arroyo toad in its SEIR, contrary to CEQA.

SMRPD, RCCF and Chandos then filed the present lawsuit on November 5, 2007, challenging the SEIR as deficient for ignoring the discovery of the arroyo toad population near, and most likely, on the project site. The suit also challenges the adequacy of the SEIR's water quality studies.

When one public agency within a county sues another public agency, California law (Code of Civil Procedure section 394) allows the suit to be transferred to a neutral county for trial. SMRPD, RCCF and Chandos filed a motion for such a transfer. The Orange County Superior Court granted the motion, rejecting the County's and the project developer's arguments in opposition. The case then was transferred to the San Diego County Superior Court. It was re-filed there on July 7, 2008.

The County and the developer also filed demurrers. A demurrer is an attempt to have a lawsuit thrown out of court based on a claim that it states no viable legal claim(s). In this case, the County and developer claimed that the previous RCCF lawsuit settled all issues, and that the present lawsuit contained no valid new issues. SMRPD, RCCF and Chandos successfully opposed the demurrer on all arroyo toad issues raised in the case: on October 8, 2008, San Diego Superior Court Judge Michael Anello overruled the demurrer, holding that the discovery of the arroyo toad constituted a new issue, thus paving the way for a full trial on the merits. On the water quality issues, the demurrer was partially sustained and partially overruled.

Shortly after his October 8 ruling, Judge Anello was appointed to the federal bench, and the Holtz Ranch lawsuit was transferred to Judge Timothy Taylor. Whenever a case is assigned or reassigned to a judge, California law (Code of Civil Procedure section 170.6) allows the parties to request another judge by filing a "peremptory challenge." SMRPD, RCCF and Chandos successfully filed such a peremptory challenge, seeking to have the

case heard by a judge with long-standing experience in deciding CEQA cases. In response to our challenge, on November 10, 2008, the case was reassigned to Judge Ronald S. Prager. The date of trial before Judge Prager and the related briefing schedule remain to be worked out.

(Preceding prepared on 11/14/2008 by RCCF and Counsel at the request of SMRPD)

On November 19, 2008 an *ex parte* application by opposing counsel that sought to impose an early proceeding or dismissal of the case was considered by Judge Prager and denied. In the process and in response to questions by and to RCCF/SMRPD counsel, Judge Prager also ordered that the scheduled submissions and hearings were to address only the arroyo toad issue. The CEQA hearing on that matter is scheduled for February 17, 2009.

Bob Hunt, reporting for SMRPD
November 19, 2008