

# City of Cotati



**MINUTES  
REGULAR CITY COUNCIL MEETING AND  
JOINT MEETING OF THE CITY COUNCIL  
AND COTATI REDEVELOPMENT AGENCY BOARD OF DIRECTORS  
APRIL 23, 2008  
City Council Chambers, City Hall, 201 W. Sierra Avenue**

**6:30 PM CLOSED SESSION**

**CALL TO ORDER (CITY COUNCIL CHAMBERS)**

Mayor Gilardi called the meeting to order at 6:30 p.m. and adjourned to closed session in the City Manager's office.

**ADJOURNMENT TO CLOSED SESSION (CITY MANAGER'S OFFICE)**

CONFERENCE WITH LEGAL COUNSEL: Anticipated litigation (significant exposure to litigation) (Government Code § 54956.9)

**7:00 PM (CITY COUNCIL CHAMBERS)**

**CALL TO ORDER OF REGULAR CITY COUNCIL MEETING**

Mayor Gilardi called the regular meeting to order at 7:03 p.m.

**ROLL CALL**

Councilmembers present: Fox, Guardino, Minnis, Orchard and Mayor Gilardi  
Staff present: Hayes, Lustig, O'Bid, Rudnansky, Stewart, Taylor, Thompson

**PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE**

Mayor Gilardi led the pledge of allegiance and called for a moment of silence.

**1. APPROVAL OF MINUTES OF APRIL 9, 2008 REGULAR MEETING AND  
NOTICE OF WAIVING OF READING OF ALL ORDINANCES INTRODUCED  
AND/OR ADOPTED UNDER THIS AGENDA (*Action*)**

Moved by Councilmember Orchard, seconded by Vice Mayor Guardino and passed unanimously to approve the minutes of the April 9, 2008 Regular meeting and to waive the reading of all ordinances introduced and/or adopted under this agenda.

**APPROVAL OF FINAL AGENDA**

No changes.

**CITY MANAGER'S REPORT**

City Manager Dianne Thompson reported the following:

- The East Cotati Avenue overlay project is scheduled to commence on April 14.
- Staff has been speaking with representatives of Sonic.net regarding wireless internet for downtown.
- Atomic clocks are being installed throughout City Hall.
- An update to the leash law has been scheduled for the May 14, 2008 City Council agenda.
- Mid-year budget review study sessions have been scheduled for May 20 and June 17, 2008.
- Art work for the Kids' Day parade t-shirt contest is displayed in the Council chamber.

## **CITIZEN BUSINESS**

Peter Chernoff of Sonoma county addressed the Council about child abusers and invited all to the world's biggest party on May 1<sup>st</sup>.

George Barich of Cotati addressed the Council regarding a possible future contract with Sonic.net for wireless internet and asked that any such contract be made public so the public may provide input in order to avoid mistakes.

Robert Coleman-Senghor of Cotati requested that the Council consider a resolution regarding Darfur. He further requested that the City review the intersection of Christensen Court and School Street; children play in the street and are in danger of being hit by cars.

Dave Charlston commended the City Manager and Public Works Department staff for quickly addressing his complaints about a leaking fire hydrant and graffiti. He asked for a legal crosswalk on Page Street.

Linda Ritter of Cotati commended staff for prompt attention to issues she had brought forward; they trimmed a plant on the street that improved sight of the street and took care cleaning up spilled paint. She indicated agreement with Mr. Charlston about the crosswalk on Page Street.

Council directed staff to review the request for the crosswalk and to review traffic safety at the School Street/Christensen Court intersection.

City Manager Thompson noted that the leash law update and Darfur issue are scheduled on the next City Council meeting agenda.

## **COUNCILMEMBER DIRECTION ON FUTURE AGENDA ITEMS (*Discussion*)**

None.

## **ORAL AND WRITTEN COMMUNICATIONS**

### **ANNOUNCEMENTS**

The City of Cotati Recreation Dept is sponsoring a contest for children to design the 2008 t-shirt & poster for Kids' Day. Submit the finished picture by Friday April 25, 2008 to Cotati City Hall, 201 West Sierra Avenue in the City Manager's Office. This year's Kids' Day Parade and Festival is Saturday, July 12 with a theme of "Magical Kingdom of Kotati."

The City of Cotati will be hosting an Energizer Station for the Annual Bike to Work Day on Thursday, May 15; the station will be open from 6:30 – 8:30 AM in La Plaza Park.

Senator Carole Migden will be conducting a town hall entitled, "Reaching a Balanced Budget for California" on April 29 at 5:00 p.m. at the Marin Center Exhibit Hall at 10 Avenue of the Flags in San Rafael.

### **SONOMA STATE UNIVERSITY REPRESENTATIVE REPORT**

No report.

### **STUDENT HONORARY MAYOR**

Honorary Mayor Alan Hernandez of Technology High School reported on school activities, needs and events and introduced his mother in the audience. Mayor Gilardi presented Mr. Hernandez with a certificate of commendation.

## **2. PROCLAMATIONS**

### **RECOGNIZING THE ROTARY CLUB OF RANCHO COTATI**

Councilmember Orchard read the proclamation. Joe Perry, President of the Rotary Club of Cotati-Rohnert Park accepted it on behalf of the Rotary Club of Rancho Cotati.

### **RECOGNIZING APRIL AS BLUE RIBBONS' CAMPAIGN AGAINST CHILD ABUSE**

Vice Mayor Guardino read the proclamation. Robin Bowen, Executive Director of the California Parenting Institute, accepted it on behalf of the Institute.

### **RECOGNIZING CHILDRENS' MEMORIAL DAY APRIL 25<sup>TH</sup>, 2008**

Mayor Gilardi read the proclamation. Steve Berry, Secretary for MOVES (Minimizing Occurrences of Violence in Everyday Society), accepted it on behalf of the MOVES organization.

### **RECOGNIZING AFFORDABLE HOUSING WEEK MAY 11<sup>TH</sup> THROUGH 17<sup>TH</sup>, 2008**

Councilmember Fox read the proclamation. Amy Lemmer with Habitat for Humanity, accepted the proclamation on behalf of the Sonoma County Housing Coalition.

Mayor Gilardi opened the floor to public comment regarding proclamations.

George Barich of Cotati requested that proclamations be moved to the end of the agenda.

There being no one else wishing to speak, Mayor Gilardi closed the public comment period.

### **CONSENT CALENDAR**

Mayor Gilardi opened the floor to public comment regarding the item on the Consent Calendar.

Councilmember Minnis recused herself as the subject site is within 500 feet of her property.

There being no one (else) wishing to speak, Mayor Gilardi closed the public comment period and called for a motion.

**Moved** by Vice Mayor Guardino, seconded by Councilmember Orchard and passed 4-0-1 (Councilmember Minnis abstaining) to approve the Consent Calendar as noted below.

#### **3. APPROVAL OF AMPLIFIED MOVIES AT LA PLAZA PARK ON FRIDAYS, JUNE 20, JULY 18, AUGUST 1 & 15, SEPTEMBER 5 & 19, 2008 (Action)**

Motion approving amplified movie events to be held in La Plaza Park on the first and third Fridays from June 20 through September 19, 2008.

### **PUBLIC HEARINGS**

#### **4. PROTEST HEARING ON 2008 WEED ABATEMENT PROGRAM (Action)**

Councilmember Orchard and Vice Mayor Guardino recused themselves because their (fully mowed) properties are on the property list, and left the chamber at this time.

Damien O'Bid, Director of Public Works/City Engineer, presented the staff report.

Mayor Gilardi opened the public protest hearing.

Roland Bruce protested the listing 301 School Street; he indicated belief that the City is responsible for the culvert at the front this property.

There being no one else wishing to speak, Mayor Gilardi closed the public protest hearing.

City Engineer O'Bid clarified that the property owner is responsible for all vegetation on his/her property.

**Moved** by Councilmember Fox and seconded by Councilmember Minnis to adopt Resolution No. 08-12 entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COTATI AUTHORIZING CITY STAFF TO ABATE WEEDS ON PRIVATE PROPERTIES AND TO CHARGE PROPERTY OWNERS ACCORDINGLY

Yes: 3      No: 0      Abstain: 2 (Guardino, Orchard)

Councilmember Orchard and Vice Mayor Guardino returned to the chamber and resumed participation in the meeting.

**5. ADOPTION OF RESOLUTIONS APPROVING A MITIGATED NEGATIVE DECLARATION, TENTATIVE MAP AND DESIGN REVIEW FOR A TWO LOT SUBDIVISION FOR THE PROPERTY LOCATED AT 301 VALPARAISO AVENUE (Continued from April 9, 2008) (Action)**

Alicia Giudice, Associate Planner, presented the staff report and responded to questions from the Council regarding the financing of deferred improvements.

Greg LeDoux (the project architect) summarized the history of the application and described the project, including proposed infrastructure improvements and a hydrology study that was conducted in response to drainage concerns raised by neighbors.

Mayor Gilardi opened the public hearing.

Dave Charleston of Cotati objected to the proposal due to concerns about drainage and flooding, as well as the project's density.

Phil Salazar of Cotati objected to the proposal due to concerns regarding the project's density and about drainage and flooding in Nina Court. He asked how construction traffic could be monitored and whether the entitlement for development could be transferred to a new owner of the property.

L. Russell of Cotati expressed opposition to the proposal due to concerns about drainage and flooding, as well as the project's density.

Roland Bruce of Cotati indicated support for the proposal.

There being no one else wishing to speak, Mayor Gilardi closed the public hearing.

Responding to questions and concerns of the public speakers, Associate Planner Giudice noted that the developer is required to submit a construction traffic plan, the final recorded map runs with the property, and trees are required to be protected during construction.

City Engineer O'Bid responded to questions regarding runoff from the property, noting that the proposed development will not contribute to flooding; there would likely be no change in the existing situation. The bio-swale contributes to the cleaning of the water detains the waterflow to the creek.

Associate Planner Giudice and City Attorney Rudnansky responded to questions regarding bonds, subdivision improvement agreements, the current and future cost of street improvements, building size and lot coverage.

Discussion ensued regarding drainage on the site and in the neighborhood, the hydrology report, dust control, lot coverage, the timing of installation of the street improvements, the cost of street improvements if installed now versus the possibility of burdening a future property owner with the cost of improvements if installed later.

Mr. LeDoux indicated the applicant's willingness to install the street improvements at this time.

The majority of Councilmembers indicated support for the project, citing the change from two driveways to a single driveway, the 40% lot coverage, the need for an infill project close to downtown, previous approvals of the project by the Planning Commission and Design Review Committee, the willingness of the applicant to meet all the requirements for this entitlement and the hydrology report and reports of engineers at the Sonoma County Water Agency indicating that the project would not contribute to flooding. Neighboring residents were encouraged to work with the Sonoma County Water Agency to alleviate problems downstream that are contributing to flooding in the area. The majority further indicated support for installing the street improvements at this time.

Mayor Gilardi indicated opposition to the proposal due to drainage issues, noting her personal experience of increased runoff despite professional engineering reports to the contrary. She expressed unwillingness to subject neighboring property owners to additional development until she is confident that it would not cause additional runoff into adjoining property.

Councilmember Orchard expressed opposition to the proposal, noting that she would support a continuance of this item pending receipt of the hydrology report. She stated that if the project were approved the applicant's dust control plan should include measures beyond watering in order to minimize dust being swept into neighbors' yards. She further indicated that, while she supports infill development she does not believe that this project represents good infill.

**Moved** by Councilmember Minnis and seconded by Councilmember Fox to adopt Resolution No. 07-81 entitled: A RESOLUTION OF THE CITY COUNCIL OF THE

CITY OF COTATI APPROVING A MITIGATED NEGATIVE DECLARATION FOR A TWO-LOT SUBDIVISION AND DESIGN REVIEW ON A PARCEL LOCATED AT 301 VALPARAISO (PA# 20/06, APN 144-392-006)

Yes: 3 No: 2 (Orchard, Gilardi) Abstain: 0

Moved by Councilmember Minnis and seconded by Vice Mayor Guardino to adopt Resolution No. 07-82 entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COTATI APPROVING TENTATIVE MAP AND EXCEPTION TO SECTION 17.78.010 (SUBDIVISION DESIGN AND IMPROVEMENT REQUIREMENTS), FOR A TWO-LOT SUBDIVISION ON A PARCEL LOCATED AT 301 VALPARAISO (PA# 20/06, APN 144-392-006)

Yes: 3 No: 2 (Orchard, Gilardi) Abstain: 0

**Moved** by Councilmember Minnis and seconded by Vice Mayor Guardino to adopt Resolution No. 07-83 entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COTATI APPROVING PRELIMINARY DESIGN REVIEW FOR TWO SINGLE FAMILY RESIDENCES IN CONNECTION WITH A TWO-LOT SUBDIVISION ON A PARCEL LOCATED AT 301 VALPARAISO (PA# 20/06, APN 144-392-006)

Yes: 3 No: 2 (Orchard, Gilardi) Abstain: 0

Mayor Gilardi called a recess at 8:56 p.m. and reconvened at 9:11 p.m.

**6. DISCUSSION AND ACTION REGARDING APPLICATION FOR MEDICAL MARIJUANA DISPENSARY LICENSE AT 150 EAST COTATI AVENUE (APN: 144-360-054) (Action)**

City Manager Dianne Thompson stated that last August the City Council adopted an ordinance which allows one medical marijuana dispensary in Cotati and asked staff review the locations in that ordinance with the Planning Commission. The Planning Commission subsequently determined that the locations were sufficient and suitable for a medical marijuana dispensary. She pointed out that there are challenges in locating a medical marijuana dispensary in a small city like Cotati. She then introduced Marsha Sue Lustig, Assistant to the City Manager, who presented the staff report.

Ms. Lustig stated that an application for a medical marijuana dispensary at 150 East Cotati Avenue was received on December 3, 2008. Prior to that submittal, staff met with the applicants in October and November to review the application criteria and process. The process is similar to that for a use permit, except that the final decision rests with the City Council.

Ms. Lustig indicated that on April 7, the Planning Commission was asked to consider the zoning clearance for the use. This consisted of a review of the regulations for this use

within the East Cotati Avenue zoning corridor for this district. At the conclusion of the hearing the Planning Commission recommended denial of the zoning clearance due to the inadequate parking. The draft minutes of the April 7 Planning Commission meeting were included in the Council packet; the Planning Commission has since approved those minutes with one change: On page 7, in the middle of the page the word 'not' was removed from Commissioner Kurver's statement. The sentence was corrected to read, "He was extremely persuaded by the doctor and does feel that the parking is inadequate".

Ms. Lustig explained that staff has reviewed the application for completeness and consistency with Ordinance No. 787. Regarding application completeness, staff found the following information to be submitted inadequately:

- **Lighting:** The lighting plan submitted does not contain any way to determine if the way the site is lit will impact the neighbors, or whether it would be overlit or underlit; it does not contain a standard lighting assessment that could be interpreted by staff.
- **Tax History:** The applicants participated in the stakeholders' meetings during the drafting of Ordinance 787 and at that time supported the inclusion of tax history as part of the application requirement. The tax history helps to better understand the not-for-profit status and the sales tax income potential for the use. Two LLCs (Limited Liability Corporations) have been established by the applicant for the proposed medical marijuana dispensary. These LLCs have no tax history. Ordinance 787 requires that the applicant provide all tax history for the applicant and the companies the applicant has established. The ordinance also requires that the applicant identify the person(s) responsible for the LLC or who will act in a management capacity for the LLC. This information has not been provided.
- **Landscaping:** The applicants have proposed landscape improvements due to ADA (Americans with Disabilities' Act) parking requirements and to ensure a clear corner site distance for vehicles pulling in and out of the driveway and turning at the corner of Charles Street and East Cotati Avenue. Staff has requested a detailed landscape plan. No landscape plan has been submitted.
- **Parking:** The land use code provides flexibility to increase or decrease the number of parking spaces based on Council's findings. The parking issue before the Council is how many spaces would be required to minimize impacts to the surrounding neighborhood. Some of the Planning Commissioners thought that seven or eight spaces on site might be feasible. The County of Sonoma uses the following formula for parking at medical marijuana dispensaries: two spaces, plus one space for every 200 square feet, plus one space for every employee. For this application, that would total at least 10 spaces. This application proposes three spaces, with one of those reserved for ADA parking.
- **Proximity to "youth-oriented facility," a "school," or a "smoke-shop":** Ordinance 787 requires the dispensary to be at least 500' from a "youth-oriented facility," a

“school,” or a “smoke-shop”. Gravenstones, located at 8246 Old Redwood Highway, sells “paraphernalia for consuming drug or tobacco products.” Both the building and the property boundary containing this local business are located within 500’ of the property boundary for 150 East Cotati Avenue, which is not in compliance with the Ordinance.

The small neighborhood park at Matteri Circle is private with a public access easement. It was designed specifically for minors and is located 279’ from the property boundary of 150 East Cotati Avenue, which is not in compliance with the Ordinance.

The southeast section of La Plaza Park with the flagpole is located 467’ from the property boundary of 150 East Cotati Avenue. This park does not appear to meet the criteria for providing services intended for minors. This is in compliance with the Ordinance.

Based on these inconsistencies with Ordinance No. 787 and the incompleteness of the application, staff believes that findings cannot be made to allow this location; therefore staff recommends denial of the application for a medical marijuana dispensary at 150 East Cotati Avenue. Council is asked to consider two questions: 1) Is the application complete?; And 2) Does the application comply with the Ordinance?

Mayor Gilardi announced that Siska Makmuri, Marc Coopersmith, Kip Diehl and Eric Kirchmann had submitted correspondence regarding this item after the City Council packet was distributed.

Dona Frank of Santa Rosa, the applicant, stated that she does not believe that Cotati was trying to establish an ordinance that was impossible to comply with. She noted that the doctor referred to earlier attempted to outbid them on the building so he could put in a dispensary and be the applicant. She stated that she is an honorably discharged veteran having served in the United States Coast Guard for five years, that she worked for the federal government for 21 years, that she has no criminal record, that she has an impeccable reputation with the county, that she has had zero police calls in the three years that she has had her location, and that on Sunday, when they had their anniversary party, their neighbors came over and took their photo in front of their location; that his how much they (the neighbors) like them. That is why she is perplexed as to why has been treated with such disrespect by the Planning Department, the Planning Commission and the citizens of Cotati. She stated to the Mayor that she is also a little upset that the Mayor did not return any of her emails. She said she emailed the Mayor 4 times and the Mayor returned her email only one time, and she (the applicant) feels as though the Mayor did not show any real concern with the issues they’ve been dealing with. She said she wanted the Council to know that two weeks ago their Planning Department allowed citizens to stand up here and call her a drug dealer. They allowed people to stand up here and hold up pictures of their children and say that she intended somehow to do them harm. She said she wanted the Council to know that she is a parent with three sons and that she has no intention of harming anybody’s children, ever. She also said that she wanted Council to know that one of Cotati’s Planning Commissioners trespassed on her property two weeks ago and was

nearly physically removed from the property because he wouldn't comply with leaving when they asked him. She said she would also like Council to know that three newspapers articles have damaged her personally and they have damaged her group. Regarding the taxes, she stated that they never, ever worked on that. They never talked about that. There is no way that she would allow her taxes to go into the hands of someone who doesn't really know what to do with somebody else's taxes and that if her personal phone number, and her attorney's home phone number that she has had for years, went to the Press Democrat, what would happen to her taxes? She does not trust giving her tax information to anybody who doesn't have a CPA or who could analyze and do something good with that information.

Lisa Gygax, representing the applicant, stated that unfortunately, tonight the Council may hear debate about whether it (medical marijuana) is right or wrong, which shows how heated a situation it is. She thinks that people are actually afraid that they (the applicant) would succeed because it is easier to keep something away and pretend that you're doing something good and it doesn't serve patients. It punishes patients and preserves the business of illicit drug dealers who are not paying taxes and are not regulated in any way. She stated that the application is complete by law under Government Code section 65943 and Cotati Municipal Code section 7.60.070, which require that when you turn in an application, you have to have a response within 30 days or it is deemed complete. It was 44 days before they (the applicant) got anything. In good faith and to exhaust all administrative remedies, they even asked why there was a 10 day deadline to the fact that they did not have to turn anything in because it was complete, they turned in materials on January 29. There's been no response to any of their direct questions, or any of their information asked, or any of their information submitted. Government Code 65943 says if you turn in more information you get a 30-day letter if it's incomplete within 30 days of that; that would have been February 29<sup>th</sup>. They received nothing. It is unfortunate that the only question that has been answered is how much it cost to get fingerprints taken. They haven't been told how much the background checks are going to cost, but they do know they will take four to six weeks, and they've just been told that the process is going forward as of last weekend. Her first meeting with Planning on how to do background checks was September 7, 2007. This is the first question they've had answered in the entire process.

Ms. Gygax continued, stating that during the discussions about the Ordinance, they maintained that it's always better to pass an ordinance than a ban. It's 'ban' vs. 'very tough ordinance' because they believe that the Council takes their job seriously and they know the community. The spirit of the Ordinance is to allow safe access, mitigate impacts in neighborhoods and have something good for the city. She indicated that Cotati is a difficult city; it wants business but not customers, it wants tax revenue but not traffic. There is no other business that's trying to come to Cotati that will compete with no other businesses here. There is no other business that will pay such high sales tax, with a commodity that sells for between two and four thousand dollars a pound. A dispensary is run with a margin of less than eight percent because of the overhead. It costs 25% more for a patient to buy from a dispensary than from an illicit dealer because the dispensary has to follow the law. The applicant agrees that parking is an issue. They turned in a declaration that their people will car pool and another business owner has offered to share parking, but it is not within 300 feet of the site as the Ordinance requires. Staff has called this a pharmacy model for

parking. A medical doctor's office parking is one space for 225 square feet of floor area and Business and Service is one space for 250 square feet. The site has four parking spots. They are much like a business; people are there for between five and eight minutes. They want privacy and safe access. There are three 2-hour parking spots in the front and there are eight street parking spots along East Cotati Avenue. One of the unique things about this business is that it is a closed business; it is not public. You have to be a member. Members have to sign and comply with strict rules. The requirement to have security cameras and keep the tapes for 30 days will increase the city's ability get data about that corner and allows the dispensary to be monitored. She noted that it has taken eight and half months to get a vote on a one-year license. She has put in more conditions than the permit presently requires. It allows a citizen to complain about traffic or parking or any other violation and get the tape from the dispensary to prove the violation. They are confident that they can run a very reputable and professional dispensary. She noted that Cotati is a really difficult town. During discussions they (the applicant) said that it would be impossible without variances because all of East Cotati Business District is within 500 feet of a children's facility or a park or Gravenstones because it is measured by parcel. She asked if the Ordinance is intended to say no to everything? She stated that there is no better building in Cotati easier to patrol than this one. The only other building that might work is the Montana Hawk building, but it has problems with OSHA clean-up and there are concerns about ventilation. Other lots in town will either have housing on them or already do. She asked the Council and public if they read the application? Did they read the Ordinance and its checklist? The checklist has new rules that weren't in the Ordinance, such as writing an essay about statement of need and that they should have their revenue looked at by the City Manager monthly. The applicant did these things in good faith. By law the application is deemed complete. The situation is that you (Council) has to decide if it intends to have a dispensary or not, because when \$5,280 is spent and emails don't get returned that has any substantial answers for eight months, it discourages other people from applying. The way the Ordinance is written it is impossible for anyone to comply with. She agrees with (Planning Commissioner) Coleman that it is not the City's job to find the applicant a building, but when you make it impossible then you have to grant variances. She believes that the patients will cooperate and she believes with good management, security cameras, landscaping it will work. She said that page four of the January 29 application has the lighting information. She encouraged Council to combat the fear environment. She met with reverend George in September, and to think that we are going to save a child from the ravages of drugs by denying patients that have a doctor's recommendation medicine is sad and anti-Christian and goes against her Mennonite upbringing where you have compassion. Don't deny the patients. She and the applicant are already neighbors, having lived in Cotati and ties with Cotati and surrounding area. If the dispensary doesn't work, the license can be revoked.

Responding to comments by the applicant, Ms. Lustig clarified the following:

- That this application is for a license and therefore does not fall under the 30-day rule under the permit streamlining act.
- The application needs to be deemed complete before background checks are required. The application is not complete. Although the applicant is not complete,

the applicant demanded a hearing; accordingly, staff moved it forward and requested the background checks.

- A variance is not required; rather, Council may find that the proposal either is or isn't found to be consistent with the ordinance.
- No changes have been made to the ordinance since it was adopted.
- The neighborhood park at Matteri Circle is private but is accessible by a public trail and has a tot lot on it.
- The southeast section of La Plaza Park with the flagpole is does not appear to meet the criteria for providing services intended for minors.

City Attorney Rudnansky clarified that the Ordinance refers to a "youth-oriented facility" rather than a "park".

Mayor Gilardi opened the public hearing.

Adrien of Cotati (Marsh Way) indicated concern that Marsh Way will be used for overflow and traffic will increase on Marsh Way and East Cotati Avenue.

Robert Coleman-Senghor of Cotati explained that he visited the applicant's Santa Rosa dispensary site in his capacity as Planning Commissioner. The site was accessible to the public by an open gate. He explained to personnel there that he was reviewing the site in preparation for an upcoming Planning Commission meeting. He was asked to leave the site proper, which he did. He then parked across the street. Individuals from the dispensary then came across the street and asked him to leave. He refused as he was on public property. He supports medical marijuana but believes that the City is not obliged to find a site for the dispensary. Any business proposing a site that does not meet City requirements is not allowed. The Planning Commission treated the applicant with utmost respect.

Jim Barrett of Cotati and owner of 150 East Cotati Avenue (the subject site) objected to the three-minute time limit for speakers. He indicated support for the proposal. He submitted a petition supporting the proposal and listed many of the people and businesses who signed it.

Robin Birdfeather of Cotati described her health conditions that would benefit from medical use of marijuana and addressed the Council in support of the proposal.

Linell Hardy of Cotati noted that in her review of conditional use permits from approximately December of 2000 through October of 2002, of six conditional use permits issued, none required changes to parking, and only one required minor changes to the landscaping. She requested that Council review the distance to Gravenstones, noting that Gravenstones is located on a portion of the front of the property and the Ordinance indicates that the measurement might pertain to only a rear portion. She does not believe that Matteri park is used much by the public because there is no parking.

Kip Diehl of Cotati (owner of the apartment building directly behind the subject property) indicated opposition to the proposal due to concerns about traffic and lack of parking, and the need to police the site. He also expressed concern that nearby property owners will be required to disclose the proximity of the dispensary to potential buyers.

George Barich spoke in opposition to the three-minute time limit on public speakers. He said that the scheduling of this item on a regular agenda instead of conducting a special meeting lacks the compassion that the ordinance was intended to express. He noted dissatisfaction with how this item was handled, including the location of this item on the agenda and lack of response to emails from citizens, which he believes shows Council's bad faith commitment to responsible leadership. He noted that a 'Walkable Cotati' would reduce concerns about parking.

Tom Scott from Oliver's Market discussed the need and the market for medical marijuana. He indicated disagreement with the previous speaker and commended the Council for their efforts.

Steve L. of Cotati, 7113 Marsh Way spoke in opposition to the proposal; he believes that the proposed site is not appropriate and would negatively impact his neighborhood.

Pru Draper of Cotati indicated agreement with staff's recommendation that parking is inadequate. She stated that when she was a member of the Design Review Committee the parking at the Cotati co-housing project was approved. It turned out to be inadequate and she does not want a similar mistake to be made. Regarding the applicant's comments that it is impossible to comply with the Ordinance, She pointed out that she and the applicant were both on the committee to help draft the Ordinance. She expressed concern as a taxpayer about the amount of staff time that has been spend on this application; if the Ordinance is impossible it should be withdrawn and a location for the dispensary found in a place other than Cotati. She pointed out that there are no medical doctors in Cotati; there are many needs besides medical marijuana that need to be filled.

Lionel, with the church across the street from the subject site, expressed concern over the lack of parking and the traffic on East Cotati Avenue. He expressed concern about Mr. Coleman-Senghor's experience with security personnel on the applicant's Santa Rosa site. He believes that the Church should have the same consideration as a youth-oriented facility as because it holds many youth-related functions.

Marc Coopersmith of Cotati referred to his letter submitted earlier and expressed concern regarding traffic and childrens' safety.

Tim Ritter of Cotati indicated support for the proposal, noting that as a potential employee of the facility he has signed an affidavit that he would walk or carpool to work.

Sarah Schrader spoke in support of the proposal and believes that the proposed location meets all the requirements of the ordinance. She proposed several solutions to reduce

parking needs such as a shuttle, carpooling and home delivery.

Enis of Marsh Way spoke in opposition to the proposal due to the location; lack of parking and concerns related to traffic.

Linda Ritter of Cotati spoke in support of the proposal. She indicated belief that traffic and parking are separate issues. She offered to speak with her landlord about renting parking spaces to the business. She said to add her business to the list of supporters on the previously submitted petition. She noted that this item was placed on the agenda to accommodate applicant and pointed out that the applicant is buying, not renting, the building.

John Rock of Cotati indicated that the applicant has not complied with the Ordinance. He believes that the location is not suitable and that the applicant lied about not being within 500 feet of a smokeshop.

There being no one else wishing to speak, Mayor Gilardi closed the public hearing.

In response to a question from Council regarding traffic flow, Ms. Lustig indicated that based on analysis of other sites and the applicant's statement of the number of patients, staff estimates that there would be approximately eight to 10 visits per hour. The applicants have noted that this is an untested model and don't know the number of visits. Because the applicant's other dispensary is located in Sonoma County, staff reviewed the County's parking requirements.

Responding to Council's question about traffic flow, Ms. Gyax described the ingress and egress to the property and stated that, with 1000 possible members, they have developed a color-coded system for members to come a specified times to help alleviate the parking situation. Except for the first visit, which is longer because the rules are reviewed and signed, most people are in and out quickly, no matter how they get there. She estimates 8 visits per hour but can't give actual statistics until after they're open. They would include in the rules that the patients use the system regulating when they come and that membership could be revoked if they park on Marsh Way. She noted that Santa Rosa requires memberships to be renewed once per month which causes a rush at the first of the month. Cotati requires membership renewal once per year, so there wouldn't be a monthly rush. She listed infractions that would cause a membership to be revoked and stated that customers are not allowed to drive an unregistered vehicle because it becomes probable cause to arrest.

Discussion ensued relative to the proposal. Councilmember Minnis indicated that she is a supporter of medical marijuana. She noted that perhaps the Ordinance should be revoked because Cotati is too small. She had hoped to have a facility located in an industrial area but the applicants have said that they can't find space small enough. She believes that the proposed location is unsuitable because it is too close to residential uses and she gets calls now about parking problems in that area. She is concerned that Mr. Coleman's treatment at

the Santa Rosa location is an indication of what type of neighbors they would be and does not want to test it so close to a residential area.

Council discussed the application's consistency with Ordinance 787 with respect to youth-oriented facilities within 500 feet of the proposed location; specifically, Gravenstones and Matteri Park.

City Attorney read the definition of a "youth-oriented facility".

Mayor Gilardi confirmed that the church across the street from the proposed location was not considered by staff to be a youth-oriented facility.

Councilmember Fox expressed opposition to the proposal due to lack of parking. He noted that it use permit applications take time to process in every city; it took his boss nine months to get a use permit for light manufacturing in an industrial zone. He would be opposed to approving the application and allow the applicant to invest in the business only to pull the license a year later. He stated that this site has a parking problem and pointed out the measures proposed by the applicant such as the color-coded system. A better parking plan must be submitted before he would approve this use.

Vice Mayor Guardino indicated agreement with Councilmember Fox; he believes that despite the applicant's best efforts the parking mitigation won't work; it can't be contained. He noted that much community time and effort went into creating the ordinance and it will take continued effort to make it work; he is not ready to rescind it.

Councilmember Orchard stated that she would need professional engineering information about the parking and traffic before she can make a decision regarding this proposal and indicated her support for requesting this information from the applicant.

Mayor Gilardi stated that most of the issues could be worked out, but the parking issue remains; this is not an appropriate location because parking is a problem on Marsh Way; she does support the Ordinance.

**Moved** by Councilmember Minnis to adopt Resolution No. 08-13 entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COTATI DENYING A REQUEST FOR A MEDICAL MARIJUANA DISPENSARY LICENSE AT 150 EAST COTATI AVENUE. APN 144-360-054 – PA# 22/07 – Organic CARE Center of Cotati/Dona Frank

Councilmember Fox stated that he would second the motion if there could be further discussion. Mayor Gilardi accepted the motion and second with further discussion.

Councilmember Fox indicated that Council could deny the application, or else find the application to be incomplete and request that the applicant submit a traffic engineering report.

Ms. Gygax responded that the option (on the property) ends April 30. She stated that she met with the traffic engineer and that intersection already gets a 'D' rating. They can't rent parking across the street because it is part of the downtown plan so they're only real mitigation except shuttle service is lost. She stated that, to be honest, she has already tried to mitigate the parking.

The majority of Council concurred that, based on the applicant's statement about trying to mitigate parking, deeming the application incomplete pending submittal of a parking plan is no longer under consideration.

Mayor Gilardi called for the vote:

Yes: 4      No: 1 (Orchard)      Abstain: 0

**7. APPEAL OF PLANNING COMMISSION RESOLUTION NO. 08-01  
DISAPPROVING THE LOT LINE ADJUSTMENT BETWEEN 301 AND 343 EAST  
SCHOOL STREET (PA# 13/07) (Action)**

Vice Mayor Guardino recused himself from this item because he lives within 500 feet of the subject site; he left the chamber at this time.

Misti Harris, Assistant Planner, presented the staff report.

Mayor Gilardi opened the floor to public comment.

Rollin Bruce, the appellant, indicated that he should not have had to file an appeal. These issues have been resolved but he was told that he cannot withdraw this appeal. He noted his concern about the money and time this process has cost.

Robert Coleman-Senghor addressed Council regarding his opposition to the lot line adjustment.

There being no one else wishing to speak, Mayor Gilardi closed the public hearing.

**Moved** by Councilmember Orchard and seconded by Councilmember Minnis to adopt Resolution No. 08-14 entitled: A RESOLUTION OF THE CITY OF COTATI CITY COUNCIL UPHOLDING THE PLANNING COMMISSION'S DECISION TO DISAPPROVE A LOT LINE ADJUSTMENT LOCATED AT 301 AND 343 EAST SCHOOL STREET, APNs 144-241-021 and 144-241-022 – PA# 13/07 – Bruce, Rollin

Yes: 4      No: 0      Abstain: 1 (Guardino)

**ADJOURNMENT OF REGULAR MEETING OF THE CITY COUNCIL AND CALL TO  
ORDER AND ROLL CALL FOR JOINT MEETING OF CITY COUNCIL AND COTATI  
REDEVELOPMENT AGENCY BOARD OF DIRECTORS**

Mayor/Chair Gilardi called the joint meeting to order at 11:35 p.m.

### **CALL TO ORDER AND ROLL CALL FOR JOINT MEETING**

Members present: Fox, Guardino, Minnis, Orchard, and Chair/Mayor Gilardi  
Staff present: Hayes, O'Bid, Rudnansky, Taylor, Thompson

### **CONSENT CALENDAR**

Chair/Mayor Gilardi opened the floor for public comment.

There being no one wishing to speak, Mayor Gilardi closed the public comment period.

Council concurred to pull item no. 8 for discussion.

motion 9, 10, 11 jo/jg unanimous

**Moved** by Member Orchard, seconded by Vice Mayor Guardino and passed unanimously to approve items 9 and 10 on the Consent Calendar.

#### **8. MOTION AUTHORIZING MAYOR TO SIGN A LETTER OF SUPPORT FOR SENATE BILL 900 (CORBETT) (*Action*)**

City Manager Thompson presented a brief staff report.

George Barich of Cotati suggested that, in order to save money and time, the Council hold a private meeting and conduct a letter writing campaign involving more people because the state doesn't pay attention to these letters.

Linda Ritter of Cotati asked whether this bill would address the mobilehome park that is up for sale and whether action could be taken at the City level.

Mayor Gilardi explained that Senate bill 900 closes a loophole allowing mobilehome park owners to subdivide their mobilehome park properties.

**Moved** by Member Councilmember Orchard, seconded by Councilmember Minnis and passed unanimously to authorize the Mayor to sign a letter to the state legislature in support of Senate Bill 900 (Corbett) which would allow continued local rent control within a mobile home park.

#### **9. APPROVAL OF RESOLUTIONS IN OPPOSITION TO PROPOSITION 98 AND IN SUPPORT OF PROPOSITION 99 (*Action*)**

Resolution No. 08-15 and CRA – 200 entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COTATI AND THE BOARD OF DIRECTORS OF THE COTATI REDEVELOPMENT AGENCY IN OPPOSITION OF PROPOSITION 98

Resolution No. 08-16 and CRA – 201 entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COTATI AND THE BOARD OF DIRECTORS OF THE COTATI REDEVELOPMENT AGENCY IN SUPPORT OF PROPOSITION 99

**10. RECEIVE AND FILE WARRANTS AND AUDITED CLAIMS (*Action*)**

Motion to receive and file warrants and audited claims for March 27th, 2008 – April 9th, 2008.

**11. RECEIVE AND FILE 2006-2007 AUDITED FINANCIAL STATEMENTS (*Action*)**

Motion to receive and file 2006-2007 audited financial statements.

**ADJOURNMENT OF JOINT MEETING; RECONVENING OF REGULAR MEETING OF CITY COUNCIL**

Mayor Gilardi adjourned the joint meeting and reconvened the regular meeting at 11:41 p.m.

**CITY COUNCIL REPORTS AND COMMENTS**

Councilmembers reported on recent and upcoming activities, including reports from meetings attended at City expense.

**ADJOURNMENT OF REGULAR CITY COUNCIL MEETING**

Mayor Gilardi adjourned the meeting at 11:43 p.m.

Respectfully submitted,

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Deputy City Clerk